

Fort Collins City Council Agenda

Regular Meeting

6:00 p.m. Tuesday, February 7, 2023

City Council Chambers at City Hall, 300 Laporte Ave, Fort Collins, CO 80521

Zoom Webinar link: <https://zoom.us/j/98241416497>

NOTICE:

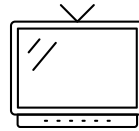
Regular meetings of the City Council are held on the 1st and 3rd Tuesdays of each month in the City Council Chambers. Meetings are conducted in a hybrid format, with a Zoom webinar in addition to the in person meeting in Council Chambers.

City Council members may participate in this meeting via electronic means pursuant to their adopted policies and protocol.

How to view this Meeting:



Meetings are open to the public and can be attended in person by anyone.



Meetings are televised live on Channels 14 & 881 on cable television.



Meetings are available through the Zoom platform, electronically or by phone.



Meetings are livestreamed on the City's website, fcgov.com/fctv

Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 970.221.6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide advance notice. Requests for interpretation at a meeting should be made by noon the day before.

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There are in person and remote options for members of the public who would like to participate in Council meetings:

Comment in real time:

During the public comment portion of the meeting and discussion items:



In person attendees can address the Council in the Chambers. The public can join the Zoom webinar and comment from the remote meeting, joining online or via phone.



All speakers are required to sign up to speak using the online sign up system available at www.fcgov.com/council-meeting-participation-signup/. Staff is also available outside of Chambers prior to meetings to assist with the sign up process for in person attendees.

Full instructions for online participation are available at fcgov.com/councilcomments.

Join the online meeting using the link in this agenda to log in on an internet-enabled smartphone, laptop or computer with a speaker and microphone. Using earphones with a microphone will greatly improve audio experience.

To be recognized to speak during public participation portions of the meeting, click the 'Raise Hand' button.

Participate via phone using this call in number and meeting ID:

Call in number: 720 928 9299

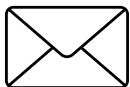
Meeting ID: 982 4141 6497

During public participation opportunities in the meeting, press *9 to indicate a desire to speak.

Submit written comments:



Email comments about any item on the agenda to cityleaders@fcgov.com



Written comments can be mailed or dropped off at the City Manager's Office at City Hall, at 300 Laporte Ave, Fort Collins, CO 80521

Documents to Share during public participation: *Persons wishing to display presentation materials using the City's display equipment under the Public Participation portion of a meeting or during discussion of any Council item must provide any such materials to the City Clerk in a form or format readily usable on the City's display technology no later than two (2) hours prior to the beginning of the meeting at which the materials are to be presented.*

NOTE: All presentation materials for appeals, addition of permitted use applications or protests related to election matters must be provided to the City Clerk no later than noon on the day of the meeting at which the item will be considered. See Council Rules of Conduct in Meetings for details.



City Council Regular Meeting Agenda

February 07, 2023 at 6:00 PM

Jeni Arndt, Mayor
Emily Francis, District 6, Mayor Pro Tem
Susan Gutowsky, District 1
Julie Pignataro, District 2
Tricia Canonico, District 3
Shirley Peel, District 4
Kelly Ohlson, District 5

City Council Chambers
300 Laporte Avenue, Fort Collins
& via Zoom at
<https://zoom.us/j/98241416497>

Cablecast on FCTV
Channel 14 on Connexion
Channel 14 and 881 on Xfinity

Carrie Daggett
City Attorney

Kelly DiMartino
City Manager

Anissa Hollingshead
City Clerk

PROCLAMATIONS & PRESENTATIONS 5:00 PM

A) PROCLAMATIONS AND PRESENTATIONS

[PP 1.](#) Proclaiming February 19-25, 2023 as National Engineers Week.

REGULAR MEETING 6:00 PM

B) CALL MEETING TO ORDER

C) PLEDGE OF ALLEGIANCE

D) ROLL CALL

E) CITY MANAGER'S AGENDA REVIEW

- City Manager Review of Agenda
- Consent Calendar Review, including removal of items from Consent Calendar for individual discussion.

F) COMMUNITY REPORTS

G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS

(Including requests for removal of items from Consent Calendar for individual discussion.)

*Individuals may comment regarding any topics of concern, whether or not included on this agenda. Comments regarding land use projects for which a development application has been filed should be submitted in the development review process** and not to Council.*

- Those who wish to speak are required to sign up using the online sign-up system available at www.fcgov.com/council-meeting-participation-signup/

- *Each speaker will be allowed to speak one time during public comment. If a speaker comments on a particular agenda item during general public comment, that speaker will not also be entitled to speak during discussion on the same agenda item.*
- *All speakers will be called to speak by the presiding officer from the list of those signed up. After everyone signed up is called on, the presiding officer may ask others wishing to speak to identify themselves by raising their hand (in person or using the Raise Hand option on Zoom), and if in person then will be asked to move to one of the two lines of speakers (or to a seat nearby, for those who are not able to stand while waiting).*
- *The presiding officer will determine and announce the length of time allowed for each speaker.*
- *Each speaker will be asked to state his or her name and general address for the record, and, if their comments relate to a particular agenda item, to identify the agenda item number. Any written comments or materials intended for the Council should be provided to the City Clerk.*
- *A timer will beep one time and turn yellow to indicate that 30 seconds of speaking time remain and will beep again and turn red when a speaker's time has ended.*

*[**For questions about the development review process or the status of any particular development, consult the Development Review Center page on the city's website at <https://www.fcgov.com/developmentreview/>, or contact the Development Review Center at 970.221.6760.]*

H) PUBLIC COMMENT FOLLOW-UP

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

CONSENT CALENDAR

The Consent Calendar is intended to allow council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Calendar. Agenda items pulled from the Consent Calendar by either Council or the City Manager will be considered separately under their own Section, titled "Consideration of Items Removed from Consent Calendar for Individual Discussion." Items remaining on the Consent Calendar will be approved by Council with one vote. The Consent Calendar consists of:

- *Ordinances on First Reading that are routine;*
- *Ordinances on Second Reading that are routine;*
- *Those of no perceived controversy;*
- *Routine administrative actions.*

1. Consideration and Approval of the Minutes of the December 6, 2022 and December 20, 2022, Regular Council Meetings.

The purpose of this item is to approve the minutes of the December 6, 2022 and December 20, 2022 regular Council meetings.

2. Second Reading of Ordinance No. 001, 2023, Appropriating Funds in the General Fund for 2023 Increases in Salary Compensation for the Mayor and Councilmembers as Approved by the City of Fort Collins Voters on November 8, 2022, by the Amendment of Section 3 in Article II of the City Charter.

The purpose of this Ordinance, unanimously adopted on First Reading on January 17, 2023, is a General Fund supplemental appropriation to fund 2023-2024 Budget Offer 28.12 - City Council Voter Approved Pay Increase but only for fiscal year 2023. This budget request was not funded in the 2023 annual appropriation since the election results of the 2022 City-Initiated Charter Amendment No. 1 (Council Compensation) ballot initiative would not be known until after First Reading of the City's annual appropriation ordinance for 2023. The initiative was approved by Fort Collins voters and this action is to appropriate the increased spending in the General Fund to implement the ballot initiative for the salary increases in 2023.

3. Second Reading of Ordinance No. 002, 2023, Appropriating Philanthropic Revenue Received Through City Give for the Acquisition of a Community Soundstage in the Parks Department.

This Ordinance, unanimously adopted on First Reading on January 17, 2023, requests appropriation of \$250,000.00 in philanthropic revenue received by City Give for Parks for the purchase and acquisition of a community soundstage.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

4. Second Reading of Ordinance No. 003, 2023, Declaring a Portion of City-Owned Property at 835 Wood Street as Right-of-Way.

The purpose of this item is to declare a strip of property owned by the City as road right-of-way (ROW) via the proposed plat for the Fort Collins Fleet Maintenance Subdivision. City staff recently discovered that a portion of the City's property at 835 Wood Street is being used for public street purposes, but was never dedicated or declared to be public ROW. This Ordinance, which was unanimously adopted on First Reading on January 17, 2023, establishes this portion of the property as ROW for Wood Street and authorizes the City Manager to dedicate such ROW through execution of the plat.

5. Second Reading of Ordinance No. 004, 2023, Authorizing the Sale of the Real Property Located at 945 East Prospect Road to Kum & Go, L.C.

The purpose of this item, which was unanimously adopted on First Reading on January 17, 2023, is to authorize the sale of the City-owned property located at 945 East Prospect Road to Kum & Go, L.C., an Iowa limited liability company (Kum & Go), for \$403,000. The sales price was determined by an appraisal by CBRE Valuation and Advisory Services, which provides on-call property appraisals for the City. A purchase and sale agreement was executed by Kum & Go and the City Manager on November 3, 2022. Completion of the purchase is contingent on City Council's approval of the sale by its final adoption of this Ordinance in accordance with Section 23-111 of the City Code, and approval of the final development plans by the City's Director of Community Services and Neighborhood Development.

6. Second Reading of Ordinance No. 005, 2023, Appropriating Prior Year Reserves and Authorizing Transfers of Appropriations for the 215 North Mason Municipal Court 15-Year Buildout Design and Related Art in Public Places.

The purpose of this item is to receive Council approval for an appropriation for Design of the 215 North Mason Municipal Court 15-year build-out using Capital Expansion Fees. This Ordinance was unanimously adopted on First Reading on January 17, 2023.

7. Second Reading of Ordinance No. 006, 2023, Appropriating Prior Year Reserves in the Transportation Capital Expansion Fee Fund for Eligible Reimbursement to the Northfield Developer for the Construction of Suniga Road Improvements.

The purpose of this item is to appropriate \$2,081,548 of Transportation Capital Expansion Fee (TCEF) Funds for expenditure from the Transportation Capital Expansion Fee Program Budget to reimburse the Northfield developer for its oversizing construction of Suniga Road. The Northfield developer has constructed Suniga Road as a four-lane arterial to City standards as part of its development requirements. Per Section 24-112 of the City Code, the developer is eligible for reimbursement from Transportation Capital Expansion Fee (TCEF) funds for the oversized, non-local portion of Suniga Road not attributed to the local portion obligation. This Ordinance was unanimously adopted on First Reading on January 17, 2023.

8. Second Reading of Ordinance No. 007, 2023, Repealing Ordinance No. 114, 2022, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt the Land Development Code and Separately Codifying the 1997 Land Use Code as “2022 Transitional Land Use Regulations”.

On January 17, 2023, Council unanimously adopted this Ordinance on First Reading from the options available to it upon the presentation of a petition certified as sufficient for referendum.

9. Items Related to Code Amendments to Update and Align Wireless Communication Facility Regulations with the Wireless Telecommunications Master Plan

A. Second Reading of Ordinance No. 011, 2023, Amending the Fort Collins Land Use Code to Update Standards for Wireless Communications Facilities Consistent with the Wireless Telecommunications Master Plan.

B. Second Reading of Ordinance No. 012, 2023, Amending the Code of the City of Fort Collins to Update Standards for Wireless Communications Facilities in Public Highways Consistent with the Wireless Telecommunications Master Plan.

The purpose of the update to the Wireless Communication section of the Land Use Code and corresponding revisions to the City Code is to ensure City standards and requirements for wireless communication development proposals align with the goals, policies, and implementation strategies of the recently adopted Wireless Telecommunications Master Plan and current state and federal regulatory standards. Doing so will enable the City to fully exercise its regulatory authority during the review and siting of new wireless communication infrastructure throughout the community. The Planning and Zoning Commission has reviewed and recommended approval of the revised City Code and Land Use Code language. These Ordinances were unanimously adopted on First Reading on January 17, 2023.

To avoid confusion with the Codifier in accurately updating the Land Use Code, a new Section 47 has been added to Ordinance No. 011, 2023, to specifically state that the definitions of “Wireless telecommunication equipment”, “Wireless telecommunication facility” and “Wireless

telecommunication services” are deleted from Section 5.1.2 of the Land Use Code. This is not a substantial change to the Code language Council approved on First Reading.

10. First Reading of Ordinance No. 013, 2023, Appropriating Unanticipated Grant Revenue From the Colorado Community Revitalization Grant Program in the Cultural Services & Facilities Fund for the Renovation of the Carnegie Center for Creativity and Approving the Associated Grant Agreement.

The purpose of this item is to appropriate unanticipated grant revenue in the Cultural Services & Facilities Fund for the renovation of the Carnegie Center for Creativity. This appropriation includes \$2,400,000 of supplemental grant revenues awarded on November 25, 2022, provided by the State of Colorado through the Colorado Creative Industries Office.

11. First Reading of Ordinance No. 014, 2023, Appropriating Philanthropic Revenue Received by City Give for Tree Planting in the Forestry Department.

The purpose of this item is to request appropriation of \$50,000.00 in philanthropic revenue received by City Give for Forestry, Community Services.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

12. First Reading of Ordinance No. 015, 2023, Appropriating Philanthropic Revenue By City Give and Conservation Trust Funds for the Construction of the 9/11 Memorial at Spring Park and Related Art in Public Places.

The purpose of this item is to request appropriation of \$480,765.00 for the designated purpose toward the construction of the 9/11 Memorial at Spring Park, 2100 Mathews Steet, Fort Collins, CO.

A partnership between the City of Fort Collins and Poudre Fire Authority, the 9/11 Memorial will be located in midtown Fort Collins, and will honor firefighters, emergency medical technicians, law enforcement officers, and nearly 3,000 others who lost their lives on September 11, 2001.

13. Items Relating to the 2023 City Classified Employee Pay Plan as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.

A. First Reading of Ordinance No. 016, 2023, Adopting the 2023 Amended City Classified Employee Pay Plan to Update Classified Positions as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.

B. First Reading of Ordinance No. 017, 2023, Appropriating Prior Year Reserves in the General Fund for the Cost of Police Services Salary and Benefit Increases as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.

The purpose of this item is to recommend changes to the 2023 City Classified Employee Pay Plan based on an annual market analysis conducted as agreed upon through the 2022-2024 Collective Bargaining Agreement (the “Agreement”) with the Northern Colorado Lodge #3 of the Fraternal Order of Police (“FOP”). The Agreement was approved by Council by Resolution on December 7, 2021. The Agreement specifies a salary data collection method and evaluation process that includes market data as of early January. This data has been collected and analyzed, resulting in the revised 2023 City Classified Employee Pay Plan.

14. Items Relating to The Landing at Lemay Plan Amendment to the City Structure Plan Map and Rezoning.

A. First Reading of Ordinance No. 018, 2023 Amending the City's Structure Plan Map.

B. Public Hearing and First Reading of Ordinance No. 019, 2023 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification of that Certain Property Known as The Landing at Lemay Rezoning.

The purpose of this item is to amend the City's Structure Plan Map, which is part of City Plan, to change the place type land use designation of approximately 17 acres of land east of the Lemay Avenue and Duff Drive intersection from the Industrial Place Type to the Mixed Neighborhood Place Type and to rezone the property from the Industrial (I) District to the Medium Density Mixed Use Neighborhood (MMN) District.

In order to approve a Structure Plan Map change, Council must determine that the Structure Plan Map is in need of the proposed amendment, and that the proposed amendment will promote the public welfare and will be consistent with the vision, goals, principles, and policies of City Plan and its elements.

The rezoning request is subject to criteria in Section 2.9.4 of the Land Use Code. The rezoning may be approved, approved with conditions, or denied by Council after receiving a recommendation from the Planning and Zoning Commission, which voted 5-1 at their December 2022 hearing to recommend approval of the request with two conditions as recommended in the staff report and with agreement from the petitioner.

The rezoning is a quasi-judicial matter and if it is considered on the discussion agenda, it will be considered in accordance with Section 2(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2022-068. The Structure Plan Map amendment is a legislative matter.

15. Items Relating to Victim Services Grants.

A. First Reading of Ordinance No. 020, 2023, Making Supplemental Appropriation from the Eighth Judicial District Victim Assistance and Law Enforcement Board for the Fort Collins Police Services Victim Services Unit.

B. First Reading of Ordinance No. 021, 2023, Making Supplemental Appropriation from the Colorado Division of Criminal Justice under the Federal Victim of Crime Act for the Fort Collins Police Services Victim Services Unit.

The purpose of these items is to help fund the Victim Services Unit of Fort Collins Police Services for victim advocacy services which are required under the Colorado Victim Rights Amendment for victims of crime and their family members.

The Victim Services Unit has been awarded a \$70,000 VALE grant for the period from January 1, 2023, to December 31, 2023. The VALE grant is awarded through the Eighth Judicial District Victim Assistance and Law Enforcement (VALE) Board to help fund services provided by the Victim Services team. This grant will fund one part-time victim advocate, as well as 65% of the salary of a contractual 40-hour per week victim advocate.

The Victim Services Unit has also been awarded a 24-month grant in the amount of \$47,959 for the period from January 1, 2023, to December 31, 2024, by the Colorado Division of Criminal Justice under the Federal Victim of Crime Act (VOCA). The amount to be received in 2023 is \$23,979 with the remaining amount to be received in 2024. This grant will help fund services

provided by the Victim Services Unit. These funds will be used to pay 35% of the salary for the victim advocate who provides crisis intervention services for sexual assault victims between the school ages of kindergarten through 12th grade.

16. First Reading of Ordinance No. 022, 2023, Making Supplemental Appropriations and Authorizing Transfers for the Environmental Services Radon Program.

The purpose of this item is to appropriate unanticipated grant revenue in the General Fund for the Environmental Services Radon Program. This appropriation includes \$9,000 of grant revenues provided by the Colorado Department of Public Health and Environment (CDPHE) to support radon testing and mitigation programs. The grant directly supports radon activities identified in the Environmental Services Department’s core budget offer and requires a local match of \$6,000. Matching funds are appropriated and unexpended in the 2023 Environmental Services operating budget and will be transferred to the Environmental Services Radon Program.

17. Resolution 2023-015 Making an Appointment to the Youth Advisory Board.

The purpose of this item is to fill a vacancy on the Youth Advisory Board.

18. Resolution 2023-016 Authorizing the Initiation of Exclusion Proceedings of Annexed Properties Within the Territory of the Poudre Valley Fire Protection District and Authorizing an Intergovernmental Agreement with Said District.

The purpose of this item is to authorize the City Attorney to file a petition in Larimer County District Court to exclude properties annexed into the City in 2022 from the Poudre Valley Fire Protection District (the “District”) in accordance with state law. The properties affected by this Resolution are the Peakview Annexation Number One and the Timber Lark Annexation. Colorado Revised Statutes Section 32-1-502 requires an order of exclusion from the District Court to remove these annexed properties from special district territories. The properties have been receiving fire protection services from the Poudre Fire Authority and will continue to do so. The City Attorney’s Office files the petition in Larimer County District Court each year seeking exclusion for all properties annexed in the previous year that should be removed from the District to avoid double taxation.

19. Resolution 2023-017 Adopting Amendments to the City’s Financial Management Policies.

The purpose of this item is to update three of the internal Financial Management Policies:

Policy 5 – Fund Balance

Policy 7 – Debt

Policy 8 – Investment

The policies are reviewed on a three-year rolling schedule. The recommended changes have been presented to the Council Finance Committee which supported the changes recommended.

END OF CONSENT CALENDAR

J) ADOPTION OF CONSENT CALENDAR

K) CONSENT CALENDAR FOLLOW-UP *(This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.)*

L) STAFF REPORTS

Multicultural Business and Entrepreneur Center (MBEC) Update.

M) COUNCILMEMBER REPORTS

N) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

The method of debate for discussion items is as follows:

- *Mayor introduced the item number and subject; asks if formal presentation will be made by staff*
- *Staff presentation (optional)*
- *Mayor requests public comment on the item (three minute limit for each person)*
- *Council questions of staff on the item*
- *Council motion on the item*
- *Council discussion*
- *Final Council comments*
- *Council vote on the item*

Note: Time limits for individual agenda items may be revised, at the discretion of the Mayor, to ensure all have an opportunity to speak. The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker's time.

20. First Reading of Ordinance No. 023, 2023, Amending the Land Use Code to Include Regulations for Areas and Activities of State Interest.

The purpose of this ordinance is to amend the Fort Collins Land Use Code to include regulations for reviewing and permitting designated areas and activities of statewide interest - a new 1041 permit process for major domestic water, sewage treatment and highway projects. 1041 powers give local governments the ability to regulate particular development projects occurring within their jurisdiction, even when the project has broader impacts.

If Council wishes to provide additional time for review and consideration of the Ordinance, a postponement by motion to a date certain would be appropriate or providing additional time between first and second reading. Regardless, staff recommends Council use February 7th for discussion and further clarifications. If there will not be a hearing on February 21st, a new notice will need to be published in a newspaper of general circulation at least 30 days prior to the hearing.

P) OTHER BUSINESS

OB 1. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.

(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)

Q) ADJOURNMENT

Every regular Council meeting will end no later than midnight, except that: (1) any item of business commenced before midnight may be concluded before the meeting is adjourned and (2) the Council may, at any time prior to adjournment, by majority vote, extend a meeting beyond midnight for the purpose of considering additional items of business. Any matter that has been commenced and is still pending at the conclusion of the Council meeting, and all matters for consideration at the meeting that have not yet been considered by the Council, will be deemed continued to the next regular Council meeting, unless Council determines otherwise.

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PROCLAMATION

WHEREAS, Engineers Week was started in 1951 by the National Society of Professional Engineers to raise public awareness of engineers’ positive contributions to quality of life; and

WHEREAS, we the citizens of Fort Collins, Colorado, value local control of our community services and have chosen to operate a community-owned, locally controlled, not-for-profit utility; additionally, city-services including engineering, design, planning, streets, and more and

WHEREAS, Engineers use their scientific and technical knowledge and skills in creative and innovative ways to fulfill society’s needs; and

WHEREAS, Fort Collins Utilities provides our homes, businesses and schools with safe, reliable, environmentally responsible and cost-effective electricity and drinking water that is critical to maintaining public health protection, economic vitality, fire protection, and quality of life and;

WHEREAS, the engineers in our community actively help to maintain and sustain the vital infrastructure of our civilized and natural environments, progressing innovation and maximizing safety; and

WHEREAS, Engineers face the major challenges of our time – from rebuilding communities devastated by natural disasters, cleaning up the environment, and assuring safe, clean, and efficient sources of water and energy, to designing information systems that will speed our country into the future; and

NOW, THEREFORE, I, Jeni Arndt, Mayor of the City of Fort Collins, do hereby proclaim the week of February 19 - 25, 2023, as

NATIONAL ENGINEERS WEEK

in Fort Collins to honor all of our engineers within the City of Fort Collins and those that we partner with throughout our community to provide the best possible services and solutions.

Mayor

ATTEST:

City Clerk



AGENDA ITEM SUMMARY

City Council

STAFF

Anissa N. Hollingshead, City Clerk

SUBJECT

Consideration and Approval of the Minutes of the December 6, 2022 and December 20, 2022, Regular Council Meetings.

EXECUTIVE SUMMARY

The purpose of this item is to approve the minutes of the December 6, 2022 and December 20, 2022 regular Council meetings.

ATTACHMENTS

1. Draft Minutes, December 6, 2022
2. Draft Minutes, December 20, 2022

December 6, 2022

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

PROCLAMATIONS & PRESENTATIONS

5:00 PM

A) PROCLAMATIONS AND PRESENTATIONS

PP1.Proclamation Retroactively Declaring October 2022 as Domestic Violence Awareness Month and Designating November 25 - December 10 as 16 Days of Activism Against Gender-Based Violence.

Mayor Jeni Arndt presented the above proclamation at 5:00 p.m. in the City Council Chambers.

REGULAR MEETING

6:00 PM

B) CALL MEETING TO ORDER

Mayor Jeni Arndt called the meeting to order at 6:00 p.m. in the City Council Chambers at 300 Laporte Avenue, Fort Collins, Colorado, with hybrid participation available via the City’s Zoom platform.

C) PLEDGE OF ALLEGIANCE

Mayor Jeni Arndt led the Pledge of Allegiance to the American Flag.

D) ROLL CALL

PRESENT

- Mayor Jeni Arndt
- Mayor Pro Tem Emily Francis
- Councilmember Susan Gutowsky
- Councilmember Julie Pignataro
- Councilmember Tricia Canonico
- Councilmember Shirley Peel
- Councilmember Kelly Ohlson

STAFF PRESENT

- City Manager Kelly DiMartino
- City Attorney Carrie Daggett
- City Clerk Anissa Hollingshead

E) CITY MANAGER'S AGENDA REVIEW

City Manager Kelly DiMartino provided an overview of the agenda, including:

- There were no changes to the published agenda.
- The agenda includes three potential executive sessions: the first is possible prior to the first discussion item on the agenda. If Council chooses to enter executive session prior to taking

action on the items relating to salary ordinances for Council direct reports, there is a motion under item 14. At the conclusion of the agenda, there are also two additional executive session topics, each requiring their own motion while in open session.

- Resolution B on item 12 is being removed from the agenda for later action at a future meeting. The remaining resolutions as part of item 12 making appointments to boards and commissions are still moving forward on the consent calendar.
- There are 13 items on the consent calendar, all recommended for approval with the exception of Resolution 12B.

F) COMMUNITY REPORTS

None.

G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS

Jimmy Gilman, Fort Collins resident and representative with Spin, spoke to put a face to a name on operations in Fort Collins and to share highlights of the first year of operations for Spin in the city.

Adam Eggleston, Fort Collins resident, came forward to speak in support of the new Land Development Code. He also spoke to promote Colorado Give Day today and the opportunity to give to local nonprofits.

Linda Holland, Fort Collins resident, spoke against the adoption of the Land Development Code for promoting unbridled development in a city with poor air quality and resource challenges, expressing concerns about the lack of public engagement. She requested the new code be repealed.

Duncan Eccleston, Fort Collins resident, spoke regarding the Land Development Code adoption, asking what will be done to ensure its successful implementation, expressing concern with Council's change in direction regarding Old Town in this adoption with limited public information and involvement. He spoke about his attempts to find information about the process followed and to get questions answered by the Planning and Zoning department as well as his Council representative. He asked the code be repealed and for Council to not conduct business in the dark.

Mary Lou Berven, Fort Collins resident, spoke about the adoption of the Land Development Code and the challenges she encountered as a resident of a community named Meldo Park in Texas that suffered challenges after zoning changes that led to inadvertent changes to the community as a cautionary tale.

Kelly Evans, Fort Collins resident, spoke in support of the adoption of the Land Development Code, detailing her attendance at City and community meetings over the last 10 years that all focused on housing as a critical issue. She noted this did not seem to be a topic of consideration for the City until recently, which this adoption has shifted, sharing the Land Use Code was clearly in need of an update.

Kristin Candella, Fort Collins resident and leader of Habitat for Humanity, noted her favorite thing about Habitat's work is finding common ground and shared humanity, and spoke in support of the Land Development Code as a win for Fort Collins as something that is also neighbors helping neighbors, including making space for more people to live here, including those who work here. She asked that people not sign the petition but also for a return to civility. She referenced work done by the League of Women Voters to validate the public involvement process that was part of the adoption of the Land Development Code. She shared the new code does encourage affordability by providing new options, alternatives, and tools.

Nicole Pansire, a vendor for multifamily housing and board member for Northern Colorado rental Housing Association, spoke regarding potential rental registration and licensing and the challenges

that would come with that. She shared about the impacts on multiple levels, including to vendors, who will be impacted by the increases in costs to rent units in Fort Collins. She asked why this is needed when so many inspections already occur and there are already protections for renters in place.

Steve Keuhneman, Care Housing Executive Director, spoke about the Land Development Code adoption and the need for it. He also spoke to the quality of work done by staff and the thoughtful deliberations of Council. He noted the LDC does not codify inclusionary zoning but does lay the groundwork to make it possible. He encouraged people to view the video of the November 29 information session held by the City about the LDC and to not sign the petition.

Sarah Grismore, Fort Collins resident, spoke about her experience working with multi family housing and what she has seen in terms of rent increases over the several years she has been in the community. She asked the Council how rental registration and licensing will help the city and if it will help lower rents. She asked if inspections will encourage landlords to make needed repairs and not to retaliate against residents. She also asked about how implementation would work and what kind of costs would be associated with this program, both for its implementation and for property owners, as well as considering what the impacts on rents will be of a new program.

Alison Korionoff participating remotely, was not able to be heard in Chambers.

Dale Mary Grenfell, Fort Collins resident, spoke against the Land Development Code in respect to concerns about air quality, crime, and other key issues. She noted affordable housing and growth are separate issues and should be addressed separately. She requested a freeze on the LDC's adoption until this separation is acknowledged. In the 25 years since she has lived in Fort Collins she noted she has attended a number of development meetings and has never encountered a developer interested in affordable housing. She acknowledged the code does need to be changed but that this change does not include adequate attention to ethics of development and honoring quality of life in Fort Collins. She noted she doesn't have an issue with affordable housing in her own neighborhood.

Joe Rowan, Fort Collins resident, thanked the Council once again for passing the Land Development Code. He also expressed concerns about some of the statements made by Councilmembers, including that the process was corrupt and similar accusations that lead to creating a toxic environment for both other Councilmembers as well as staff. He requested that either evidence is produced about such accusations or that they be publicly rescinded.

Lori Pivonka, Fort Collins resident, thanked the Council for allowing residents to speak tonight and listening to what residents have to say. She spoke about her concerns with the Land Development Code, while also supporting affordable housing. She shared she was not aware of the adoption of the LDC and that no one she has talked to while collecting signatures was aware of them either. She also expressed concerns with assertions on the City's website that these code changes will not impact the character of neighborhoods. She noted 33% of all carbon comes from the production of concrete and similar materials, in conflict with net zero goals.

Melinda Alexander, Fort Collins resident, shared she has been in the multi family industry for the last 16 years and spoke against the rental licensing and registration program. She noted the costs associated with a program will be passed on directly to residents. In working at three different large apartment communities she noted all the communities had robust systems in place to ensure resident could submit needed work orders and get things fixed as quickly as possible. She noted frequent inspections are also already done. She spoke in support of instead focusing on ways to address violators and educate renters on how to get help when in negative situations.

Lisa Winchester, president of Northern Colorado Rental Housing Association, spoke against the adoption of a rental registration and licensing program, noting the many failures of similar programs

in other communities, and the existence of other measures already in place to help address the issues this type of program purports to try to alleviate.

Jan Stallones, Fort Collins resident, spoke about two topics, including the vacant grocery store property on North College as well as the needs of unsheltered people in her neighborhood. She shared her desire to have input on the use for the land on the prior grocery store. She expressed concerns about the encampments on Conifer and the complex needs of people in these areas. She shared she would like to be part of helping with solutions to these issues.

Brian Tracy, Fort Collins resident in Old Town East, asked people with an orange piece of paper to show it. He shared the papers are blank to indicate these residents feel they don't feel heard. He indicated he considers himself a liberal and is pained by having to stand before the Council to speak against the Land Use Code, and the concerns it brings about for him, including the potential for large multi family developments in single family neighborhoods leading to change over time in neighborhood character as a result. He read a real estate advertisement for a property for sale already noting the potential for increased development levels.

Jeff Heaberlin, Fort Collins resident, spoke regarding the Land Development Code and thanked the Council for the opportunity to speak. He noted as a long time resident this is the first time he has attended a Council meeting and has always trusted the Council would take reasonable actions on behalf of residents. He shared his belief that we do need more housing but he wished he knew this new code would absorb some of authority of the HOAs and would no longer allow them to choose what is in their area, after thinking in buying a home in an HOA he was in a place where he would know what the character of the neighborhood would be.

Rory Heath, Fort Collins resident, also asked people to hold up their orange pieces of paper and shared his concerns with asking people to not pursue their right to petition. He noted his vote will not be silenced.

Mary Alice Grant, participating remotely, was not able to be heard in Chambers.

Eric Sutherland, Fort Collins resident (not on the sign in sheet), spoke regarding Connexion and the amount of expenditures made and debt incurred for the Connexion system that will not have enough revenues to cover. He shared concerns about the ability of the Council to discuss this topic in executive session. To avoid rate payers from bearing these costs, he encouraged empaneling a citizen advisory board.

Evan Wells, Fort Collins resident (not on the sign in sheet), spoke as a CSU student about his experience as the director of governmental affairs with CSU's student government. He shared about the desire to work together with the City.

David Scheel, Fort Collins resident (not on the sign in sheet), asked the Council how much will it cost, and the lack of resources to support a large project. He shared his thoughts about what Council is proposing is a \$1-2 billion program. He shared statistics about 28% of all properties sold last year being investment properties.

Chris Cannon, Fort Collins resident (not on the sign in sheet), shared her experience walking many neighborhoods with Preserve Fort Collins to circulate petitions, noting it is rare she comes across people who are aware of the changes that have been made. People are shocked and think she is a little crazy when she explains what has been adopted in the Land Development Code.

Mary Janzen, Fort Collins resident (not on the sign in sheet), shared about her experiences with the City and the great programs in place for rental housing. She asked who runs the Fort Collins mediation program because she was referred there and has had challenges with that services. She encouraged

the City to be more aware of its programs and how they operate. She also spoke support for Police Services to have the resources they need.

Technology issues were not able to be resolved to allow public comment. City Manager Kelly DiMartino noted each of those wishing to comment but who were not able to would be allowed to provide written comments that would be included in the meeting record, including in the meeting proceedings.

WRITTEN COMMENTS RECEIVED FROM THOSE UNABLE TO PARTICIPATE IN THE MEETING REMOTELY:

1.

Hello,

I am Alison Korionoff. I was born and raised here in Fort Collins and now I work here. I am here today to talk to you about transitioning Fort Collins to the 4-day work week. The idea of the 4-day work week is that people would work 4 days a week without a decrease in pay or benefits. Essentially taking the work week from 40 hours to 32 hours.

Some of the benefits of this are that

- Productivity doesn't decrease, people are less burnt out so they take less breaks during the day getting work done faster*
- There is Less burnout, because they have more time to spend with family and do what they love*
- There are Less health problems because there is less stress and more time to go to the doctor*
- It is Better for the climate, this would not only reduce emissions from people commuting less but when people aren't stressed for time they often choose the more fuel efficient way or to bike instead of choosing the fastest way.*
- While this is new it is not unfounded. Studies have already been conducted around the world that show this works.*

This transition would also include the K-12 schools. During the 41-week school year there are 14 weeks that have at least one day off. This is 1/3 of the weeks of the school year that parents have to find alternate childcare which often requires them to take time off to watch their kids, reducing the already meager time they have off. Many mountain schools already have a 4-day school week and while it decreases costs spent on bus fuel and electricity, student learning doesn't decrease.

I am here though because this needs to be a top down approach. If the city led the switch to a 4-day work week then other companies would begin to follow suit. I work for a company that regularly has the City of Fort Collins as a client and I even talked to them about a 4-day work week. Their answer, "I don't see that happening unless the industry or our clients move that way".

We are so privileged to live in one of the most amazing towns with so many opportunities to get out and hike, bike, explore but how are we supposed to enjoy our community we've worked so hard to build when we're all so burnt out? I love dogs and if I had an extra day a week given back to me I would want to spend that time volunteering at one of our local animal shelters but I don't have that time.

What I want you to take away from this is just because people are working more doesn't mean they're being more productive. Switching to the 4-day work week would lead to a happier, healthier, more involved community.

*Thank you again so much and for your time,
Alison Korionoff*

2.

My name is Mary Alice Grant. I live in zip code 80521 and as a resident of Fort Collins, I am very concerned about the new Land Development Codes. I grew up in Baltimore Maryland. I have seen what happens to thriving communities when decisions are made in a vacuum, limit the community voice, and make growth a primary goal. It is not pretty. As a trained facilitator in conflict resolution, I know it is hard and takes time, effort and lots of listening to develop truly workable solutions that survive over time, but it can be done.

So why am I concerned?

1. *The Land Development Code is a huge document, over 400 pages, with 19 amendments and it is complicated. When the community asked for time to read, understand, and digest the contents they were ignored. **No Voice.***
2. *Article 6 of The Land Development Code places a great deal of authority in the hands of the City for approving development requests, limiting P & Z involvement in decisions, and community involvement in decisions affecting their lives. A must read. **No Voice.***
3. *Current Residents of Fort Collins purchased houses in communities for reasons that are important to them. They agreed to and signed HOA Covenants expecting stability in the decision they just made. Read 1.3.3 of the code, Conflicts with Private Housing. The City can override the HOA for reasons including but not limited to provisions that conflict with the Code for increased density, height, and occupancy. **No Voice***
4. *Two of our Council Members started FOCO Forward. As council members, elected by the citizens, their job is to listen, learn and represent their district the best of their ability. I have no problem with Council Members having their own opinions. I do have a problem when they form groups, actively campaign for their opinion, and then go ahead and vote on the issue. This is a blatant conflict of interest, and the members should recuse themselves from any official vote or official communication regarding the codes.*

The Land Development Code provides an excellent foundation for a final document; however, our citizens need a place at the table. It is exciting that our population is becoming more diverse. We need to fully understand the wants and needs of this diverse community and develop creative and in some cases unique solutions that meets the needs of this diversity and ensures success for the future. Cities are never static and therefore our codes need to evolve. Let's do this right!

H) PUBLIC COMMENT FOLLOW-UP

Councilmember Kelly Ohlson

- Noted he has been consciously not participating in Dialogue regarding the Land Development Code since the second vote.
- Referenced his comments made at the time the Land Development Code was adopted and did not question and will not question the motives of those with different policy viewpoints.
- Noted the same has happened in questioning the motive and attacking the petition representatives.
- When using the word 'corrupt' he noted he uses small 'c' corrupt and is not addressing other members of council or specific staff members, but rather is speaking regarding the overall process.
- Noted this issue isn't going to go away regardless of whether a petition effort is successful and Council and the City organization will have a lot of work to do in any circumstance to build a workable path forward.

- Spoke against increased density supporting increased affordability.
- Encouraged stopping attacking one another on all sides.

Councilmember Susan Gutowsky

- Asked if anyone on staff is comfortable enough to provide an update on the situation relating to unhoused people in the Greenbrier neighborhood and work going on in response to Jan Stallones. Assistant City Manager Rupa Venkatesh will respond via email.

Councilmember Julie Pignataro

- Encouraged people to continue providing feedback regarding rental licensing and registration as policy decisions come forward for Council consideration.
- Noted there is a Connexion citizen group formed already. Connexion Director Chad Crager shared about the resident feedback group that has been formed and that staff is meeting with every other month.

Clerk's Note: Mayor Arndt called for a brief recess at 7:25. The meeting reconvened at 7:37 p.m.

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

Councilmember Ohlson pulled items 8 and 10 from the consent calendar. He shared he has concerns with allowing voting in quasi-judicial hearings as item 8 would allow. On item 10, he has areas he would like to get some clarity from staff.

J) CONSENT CALENDAR

1. Consideration and Approval of the Minutes of the October 18, 2022 Regular Council Meeting and the October 25, 2022 Adjourned Council Meeting.

The purpose of this item is to approve the minutes of the October 18, 2022 regular Council meeting and the October 25, 2022 adjourned Council meeting.

Approved.

2. Second Reading of Ordinance No. 136, 2022, Repealing and Reenacting Article IX of City Code Chapter 20 Concerning Public Nuisances and Making Conforming Changes to City Code Section 19-3.

This Ordinance, unanimously adopted on First Reading on November 15, 2022, adopts a new public nuisance ordinance (PNO) that allows for a clearer, broader definition of public nuisance and adds new enforcement mechanism for abating public nuisances and chronic nuisance properties. The new PNO will allow staff to address the current community issues and nuisance situations more effectively.

Councilmembers asked at First Reading whether the PNO needs to be amended since the voters recently approved Proposition 122 legalizing in Colorado the use, possession, and cultivation of "natural medicine," which includes psilocybin mushrooms. The PNO does not need to be amended because Proposition 122 also approved amendments to the Colorado statutes criminalizing controlled substances to exempt natural medicine from their provisions. Consequently, the PNO provisions defining "nuisance activity" and "drug-related activity" to include the State's crimes concerning controlled substances no longer include, by definition, the possession, use, and cultivation of natural medicine as now allowed by Proposition 122. The PNO therefore does not need to be amended.

Adopted on Second Reading.

3. Second Reading of Ordinance No. 137, 2022, Appropriating Prior Year Reserves in the Light & Power Fund and the Water Fund for the Purchase of Vendor Services to Support a Major Version Upgrade to the Utilities Meter Data Management System.

This Ordinance, unanimously adopted on First Reading on November 15, 2022, appropriates Light & Power and Water Fund reserves to fund vendor services needed to support a major version upgrade to the Utilities Meter Data Management System.

The Meter Data Management System (MDMS) owned and operated by Utilities has been in place since the inception of the Advanced Meter Fort Collins implementation in 2010. It receives water and electric meter data for all advanced meters deployed across Fort Collins Utility Service's territory throughout the day, performs quality checks on that data, and then at the end of the billing cycle it calculates the billing determinants for each customer that are necessary to generate individual customer bills.

Fort Collins Utilities has utilized the same version of the EnergyIP software since it was installed. For the reasons described below, this software must be upgraded to a more current version and the upgrade cannot wait for the new budget cycle to begin (i.e. January 2023). Utilities staff will need vendor support to complete this major software version upgrade.

As the MDMS system supports both the water and electric utilities, the cost of the upgrade will be shared between them. Utilities has historically allocated costs for shared software based on customer counts as determined by the number of deployed meters to establish the cost share for each utility. Applying this method here, the Water Enterprise's share of this expense would be 31.6% and the Electric Utility Enterprise's share would be 68.4%.

The total supplemental appropriation being proposed for your consideration is for \$629,588.

Adopted on Second Reading.

4. Second Reading of Ordinance No. 138, 2022, Adopting the 2023 Classified Employee Pay Plan.

This Ordinance, unanimously adopted on First Reading on November 15, 2022, adopts the 2023 City Classified Employee Pay Plan. Classified jobs are grouped according to job functions, a business practice commonly used by both the public and private sectors. Pay ranges are developed by career group (management, professional, administrative, operations and trades) and level for each job function. The result of this work is a City Classified Employee Pay Plan which sets the minimum, midpoint and maximum of pay ranges for the level, within each career group and function. Actual employee pay increases are awarded through a separate administrative process in accordance with the budgeted amount approved by Council.

During First Reading, the City Manager noted that the Pay Plan as presented required limited clerical corrections that had been incorporated prior to First Reading for adoption. The Second Reading version of the Ordinance reflects the corrections that were incorporated at First Reading.

Adopted on Second Reading.

5. Second Reading of Ordinance No. 139, 2022, Extending the Moratorium on Certain Activities of State Interest Designated in Ordinance No. 122, 2021.

This Ordinance, unanimously adopted on First Reading on November 15, 2022, extends the length of a moratorium previously imposed through Ordinance No. 122, 2021, on two designated activities of state interest. The proposed Ordinance extends the length of the existing moratorium for three months beyond December 31, 2022, or until Council adopts guidelines for the administration of the two designated activities. Extending the moratorium allows staff to continue public engagement and seek feedback on version 2 of the Draft 1041 regulations discussed during the Council work session held on November 7, 2022.

Adopted on Second Reading.

- 6. First Reading of Ordinance No. 141, 2022, Making Supplemental Appropriations from the State of Colorado Childcare Operations Stabilization and Workforce Sustainability Grant Program and Reviewing and Approving of the Grant Funding.**

The purpose of this item is to accept two State of Colorado grants funded by the American Rescue Plan Act. The Childcare Operations Stabilization and Workforce Sustainability Grant Program will fund childcare enhancements in City childcare programs.

Adopted on First Reading.

- 7. First Reading of Ordinance No. 142, 2022, Adopting the 2023 Larimer County Regional Transportation Capital Expansion Fee Schedule.**

The purpose of this item is to adopt the 2023 Larimer County Regional Transportation Capital Expansion Fee Schedule.

Adopted on First Reading.

- 8. First Reading of Ordinance No. 143, 2022, Amending Section 2-73 of the Code of the City of Fort Collins to Allow City Commissions to Conduct Quasi-Judicial Hearings Using Remote Technology.**

The purpose of this item is to amend provisions of Article III of Chapter 2 of the City Code to permit boards and commissions considering quasi-judicial matters to incorporate participation by remote technology into proceedings. The proposed amendments would enable the presiding officer of the board or commission, upon consultation with the staff liaison, to allow remote participation by members of the public, parties-in-interest, and members of the board or commission.

Pulled from Consent Calendar to Allow for Discussion.

- 9. First Reading of Ordinance No. 144, 2022, Designating the Leslie P. and Ruth A. Ware Property, 1801 Sheely Drive, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins.**

The purpose of this item is to request City Landmark designation for the Leslie P. and Ruth A. Ware Property at 1801 Sheely Drive. In cooperation with the property owner, City staff and the Historic Preservation Commission have determined the property to be eligible for designation under Standard 3, Design/Construction, for the property's embodiment of the Usonian style of architecture and for the public's interest in the property during the time of construction. The owner is requesting designation, which will provide protection of the property's exterior and access to financial incentives for historic property owners.

Adopted on First Reading.

10. First Reading of Ordinance No. 145, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Extend and Clarify the Water Annual Allotment Management Program.

The purpose of this item is to amend Chapter 26 of the City Code to extend the Allotment Management Program to allow for applications to be filed through December 31, 2024 for the benefit of eligible nonresidential Utilities water customers. The Allotment Management Program serves eligible nonresidential Utilities water customers by waiving excess water use surcharges during the implementation of a landscape project intended to reduce the long-term water use on a property. The ordinance also includes a few language revisions to clarify certain aspects of the program.

Pulled from Consent Calendar to Allow for Discussion.

11. Resolution 2022-123 Making Appointments to the Commission Governing Housing Catalyst.

The purpose of this item is to fill vacancies on the Housing Catalyst Commission.

Adopted.

12. Items Relating to Appointments to Various Boards and Commissions.

A. Resolution 2022-124 Making Appointments to the Affordable Housing Board.

B. Resolution 2022-125 Making Appointments to the Air Quality Advisory Board.

C. Resolution 2022-126 Making an Appointment to the Building Review Commission.

D. Resolution 2022-127 Making Appointments to the Citizen Review Board.

E. Resolution 2022-128 Making Appointments to the Cultural Resources Board.

F. Resolution 2022-129 Making Appointments to the Disability Advisory Board.

G. Resolution 2022-130 Making an Appointment to the Economic Advisory Board.

H. Resolution 2022-131 Making an Appointment to the Golf Board.

I. Resolution 2022-132 Making Appointments to the Land Conservation and Stewardship Board.

J. Resolution 2022-133 Making Appointments to the Land Use Review Commission.

K. Resolution 2022-134 Making Appointments to the Parks and Recreation Board.

L. Resolution 2022-135 Making Appointments to the Senior Advisory Board.

M. Resolution 2022-136 Making Appointments to the Transportation Board.

N. Resolution 2022-137 Making an Appointment to the Youth Advisory Board.

The purpose of this item is to fill vacancies on various boards and commissions.

Item 12B was removed from the agenda. Adopted Resolutions A and C-N.

13. Resolution 2022-138 Updating Council Committee and Various External Boards and Authority Assignments.

The purpose of this item is to update Council Committee and various external boards and authority assignments.

Adopted.

END OF CONSENT CALENDAR

Councilmember Francis moved, seconded by Councilmember Gutowsky, to approve the recommended actions on items 1-7, 9, 10-11, 12 A, C-N on the consent calendar.

The motion carried 7-0.

K) CONSENT CALENDAR FOLLOW-UP *(This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.)*

Councilmember Kelly Ohlson noted on item 7 he wants to share before second reading at the next meeting he is not in support of adopting the County's methodology for calculating construction costs and prefers the way the City calculates inflation.

Mayor Jeni Arndt thanked everyone who applied for a board or commission, whether they were appointed or not. She noted boards and commissions are an important part of public engagement and outreach, and things like the Land Development Code are vetted by several boards and commissions, sometimes multiple times, to garner additional feedback and input.

L) STAFF REPORTS

None.

M) COUNCILMEMBER REPORTS

Councilmember Julie Pignataro

- Drew attention to the disposable bag ordinance and the information both in the packet and in a Coloradoan article about the success of this ordinance's roll out.

Councilmember Shirley Peel

- Honored to attend Police and Fire graduations this week, and enjoyed watching them with their families, knowing the sacrifices made by public safety officers and their families.
- Attended the Natural Areas celebration last week and found it inspiring, Also recognized CM Ohlson and his role in forming that area of work at the City.
- Noted her listening session was well attended and included good civil and honest dialogue about the Land Development Code.
- It is Colorado Gives Day and there is still time to give.

Councilmember Susan Gutowsky

- Also noted the privilege of attending the police and fire graduations.
- Each month attends the Behavioral Health Policy Committee. Still on schedule to open the facility in August with move in by September. Delighted to hear both Thompson School District and PSD are a lot more willing to invite community in and collaborate together to meet the mental health needs of students.
- On Sunday attended Alianza Norco five-year celebration of their work for the benefit of immigrant residents.
- Yesterday attended the North Fort Collins Business Association holiday party. Acknowledged 16 years of work in providing coats and boots as part of this celebration.

Councilmember Tricia Canonico

- Shared while on vacation with her family in Portugal she was able to visit Fort Collins' sister city in Portugal and connect on issues of commonality.

N) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION

8. **First Reading of Ordinance No. 143, 2022, Amending Section 2-73 of the Code of the City of Fort Collins to Allow City Commissions to Conduct Quasi-Judicial Hearings Using Remote Technology.**

The purpose of this item is to amend provisions of Article III of Chapter 2 of the City Code to permit boards and commissions considering quasi-judicial matters to incorporate participation by remote technology into proceedings. The proposed amendments would enable the presiding officer of the board or commission, upon consultation with the staff liaison, to allow remote participation by members of the public, parties-in-interest, and members of the board or commission.

Councilmember Ohlson noted his support for remote participation, especially for residents, as well as in appropriate circumstances for boards. He noted the bridge too far for him is on actual votes on quasi-judicial hearings. He shared his support for participation in quasi-judicial hearings remotely aside from voting.

Paul Sizemore, CDNS Director, noted this proposal was brought forward to mirror as closely as possible the provisions that were in place during the declared public health emergency. Feedback was sought from the land use related commissions, and three commissions offered input on this. Two of the three commissions offered support for commission member inclusion, while one commission discussed the topic while declining to make a recommendation.

There was Council discussion on the provisions being considered.

Councilmember Ohlson moved to postpone indefinitely, seconded by Peel,

Mayor Pro Tem Francis asked about the potential to move this forward with amendments on second reading

The motion was withdrawn with the consent of the mover and seconder.

Mayor Pro Tem Francis moved, seconded by Mayor Arndt to adopt Ordinance No. 143, 2022, on first reading, removing provisions allowing commission members to vote when participating remotely during quasi-judicial hearings.

The motion carried 7-0.

10. **First Reading of Ordinance No. 145, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Extend and Clarify the Water Annual Allotment Management Program.**

The purpose of this item is to amend Chapter 26 of the City Code to extend the Allotment Management Program to allow for applications to be filed through December 31, 2024 for the benefit of eligible nonresidential Utilities water customers. The Allotment Management Program serves eligible nonresidential Utilities water customers by waiving excess water use surcharges during the implementation of a landscape project intended to reduce the long-term water use on a property. The ordinance also includes a few language revisions to clarify certain aspects of the program.

Councilmember Ohlson reviewed areas within the materials provided that on initial reading appear to be contradictory and asked for clarification on whether this does or does not reduce water use. Given technology issues that are preventing participation by staff remotely in the meeting, additional information will be provided.

Mayor Pro Tem Francis moved, seconded by Councilmember Ohlson, to adopt Ordinance No. 145, 2022, on first reading.

The motion carried 7-0.

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

- 14. Consider a motion to go into Executive Session to discuss performance and compensation of Council's direct report employees.**

No motion was made.

- 15. First Reading of Ordinance No. 146, 2022, Amending Section 2-596 of the Code of the City of Fort Collins and Setting the Salary of the City Manager.**

The purpose of this item is to establish the 2023 salary of the City Manager. Council met in executive session on November 22, 2022, to conduct the performance review of Kelly DiMartino, City Manager. This Ordinance sets the 2023 salary of the City Manager.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 146, 2022, on first reading.

The motion carried 7-0.

- 16. Items Relating to the Salary and Employment Agreement of the Chief Judge.**

A. First Reading of Ordinance No. 147, 2022, Amending Section 2-606 of the Code of the City of Fort Collins and Setting the Salary of the Chief Judge.

B. Resolution 2022-139 Authorizing the Second Addendum to Chief Judge Jill Hueser's Employment Agreement and Appointing Her to a New Two-Year Term.

The purpose of this item is to establish the 2023 compensation of the Chief Judge and to create a new two-year term for her employment. Council met in executive session on November 22, 2022, to conduct the performance review of Chief Judge Jill Hueser.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt Ordinance No. 147, 2022, on first reading.

The motion carried 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt Resolution 2022-139.

The motion carried 7-0.

- 17. First Reading of Ordinance No. 148, 2022, Amending Section 2-581 of the Code of the City of Fort Collins and Setting the Salary of the City Attorney.**

The purpose of this item is to establish the 2023 compensation of the City Attorney. Council met

in executive session on November 22, 2022, to conduct the performance review of Carrie Daggett, City Attorney.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 148, 2022, on first reading.

The motion carried 7-0.

18. First Reading of Ordinance No. 149, 2022, Adopting the Active Modes Plan as a Component of City Plan.

The purpose of this item is to consider adoption of the Active Modes Plan.

Caryn Champine, PDT Director, provided an introduction for this item, outlining how this plan fits into other City policies and adopted plans as well as the focus of this plan.

Active Modes Manager Cortney Geary presented as set forth in the presentation in the agenda packet.

COUNCIL DISCUSSION

Councilmember Ohlson asked about any plans for addressing through education and other measures concerns about people feeling comfortable using trail networks alongside other users, including high speed users. Manager Geary provided information about education and engagement areas of focus in the plan, noting that feedback can help inform both needed educational efforts as well as potential evaluation of trail infrastructure, including signage, trail width and other features.

Councilmember Ohlson requested additional follow up on how many existing signs are in place that are not pop up signs encouraging speed limits as well as sharing the trail across different users, including educating people about speed on bicycles and being respectful to other users. This request is specific to off street residential trails.

Councilmember Canonico thanked staff for the excellent work on this staff. She also asked about bell usage and if that was part of education programming. Geary confirmed it is.

Councilmember Pignataro spoke about the Vision Zero work coming forward. She asked about the picture shown at the end of the presentation and whether the alleyway pictured is a dismount zone. Geary clarified this and some other improved alleyways downtown do allow riding.

Mayor Arndt asked about safety as well, with the loss of a resident in a horrible accident and requested more information on the geofence and how we decide where to put it and when we can extend it, including when we can consider using that tool to limit speeds. Geary provided some initial information on this topic.

Mayor Pro Tem Francis asked regarding safety about safety on trails, particularly for women running or using trails alone. Geary noted lighting is an area of consideration and is something for additional future consideration in forthcoming plans.

Mayor Arndt asked about the bike law passed last year statewide allowing bikes to make rolling stops and whether the City is keeping data on this. Geary noted there are regular coordination meetings looking at all fatal and serious injury involved crashes and do look at whether any of those involve this situation.

Councilmember Gutowsky noted the recent event at the Museo that FCMoves also was a part of and helped in collecting bikers to make safe travel to the event site and expressed appreciation. She also noted appreciation for continued efforts to include the senior population in this work. She shared a concern about cyclists flying through intersections, asking about plans for education for cyclists. Geary referenced the Safe Routes to School program as a tool to reinforce good education messages about safe behavior through intersections from an early age. She also shared concerns she is hearing about high speeds on paved trails as well.

Councilmember Ohlson shared appreciation for the great work that has been done while also noting we are not yet scratching the surface on safety on paved trails and related education efforts. City Manager DiMartino noted these concerns are being heard and will be included in a broader follow up memo focused on education and safety. Councilmember Ohlson also noted dismount zone signs are in need of replacement.

Councilmember Canonico stated she would like to explore what they do in the Netherlands, based more on the infrastructure itself rather than signage and would like to see a discussion on that as well.

Councilmember Peel noted in the area of safety when using the trails around her home she does not have cell service through a lot of that area, and how someone might get help quickly, including possibly looking at call boxes. She also thanked staff for their work.

Councilmember Gutowsky asked if feedback has been received on signage placed on Pitkin and if it is being considered in other locations. Geary noted feedback has come in from residents, including on the need for ongoing permanent signage, not just sandwich board signs, especially given the more transitory CSU population in the area.

Mayor Pro Tem Francis reiterated her comments from the work session on this topic shifting the onus from cyclists to cars for safety.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt Ordinance No. 149, 2022 on first reading.

The motion carried 7-0.

P) OTHER BUSINESS

A. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.

(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)

Councilmember Pignataro noted the Human Relations Commission annual awards were today and were amazing. She also requested support from Council to make a shift to City code for more inclusive language as recommended by the HRC in a memo to Council, provided in last Thursday's mail packet. Support was given.

Mayor Pro Tem Francis thanked Tim Duran, in the audience tonight, at his final meeting before becoming Chief of Police in the City of Loveland.

B. Consider a motion to go into Executive Session to discuss Connexion.

"I move that City Council go into executive session to consider matters pertaining to issues of competition in providing telecommunication facilities and services including matters subject to negotiation, strategic plan, price, sales and marketing, development phasing and any other related matter allowed under Colorado Law, as permitted under Article Roman Numeral Twelve, Section 7(d) of the City Charter and Section 2-31(a)(5) of the City Code.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to enter executive session.

The motion carried 7-0.

Entered into executive session at 8:52 p.m.

The meeting returned to open session at 9:39 p.m.

C. Consider a motion to go into Executive Session to discuss certain Charter requirements for Council Candidacy.

"I move that the City Council go into executive session pursuant to:

City Charter Article Roman Numeral Two, Section 11(2),

City Code Section 2-31(a)(2) and

Colorado Revised Statutes Section 24-6-402(4)(b),

for the purpose of discussing with the City's attorneys and appropriate management staff the manner in which the particular policies, practices or regulations of the City related to eligibility to run for or serve on City Council may be affected by existing or proposed provisions of federal, state or local law and specific legal questions about the related potential for litigation."

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to enter executive session.

The motion carried 7-0.

Entered into executive session at 9:45 p.m.

The meeting returned to open session at 10:07 p.m.

Q) ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 10:08 p.m.

Mayor

ATTEST:

City Clerk

December 20, 2022

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

PROCLAMATIONS & PRESENTATIONS

5:00 PM

A) PROCLAMATIONS AND PRESENTATIONS

PP1.Proclamation Declaring December 21, 2022, as Interfaith Holidays of Light Day.

Mayor Jeni Arndt presented the above proclamation at 5:00 p.m. in the City Council Chambers.

REGULAR MEETING

6:00 PM

B) CALL MEETING TO ORDER

Mayor Jeni Arndt called the meeting to order at 6:00 p.m. in the City Council Chambers at 300 Laporte Avenue, Fort Collins, Colorado, with hybrid participation available via the City’s Zoom platform.

C) PLEDGE OF ALLEGIANCE

Mayor Jeni Arndt led the Pledge of Allegiance to the American Flag.

D) ROLL CALL

PRESENT

- Mayor Jeni Arndt
- Mayor Pro Tem Emily Francis
- Councilmember Julie Pignataro
- Councilmember Tricia Canonico
- Councilmember Shirley Peel
- Councilmember Kelly Ohlson

ABSENT

- Councilmember Gutowsky

STAFF PRESENT

- City Manager Kelly DiMartino
- City Attorney Carrie Daggett
- City Clerk Anissa Hollingshead

E) CITY MANAGER'S AGENDA REVIEW

City Manager Kelly DiMartino provided an overview of the agenda, including:

- A staff report has been added to the agenda tonight to report on the referendum process. There were no other changes to the published agenda.
- There are five discussion items, including an appeal.
- All 15 items on the consent agenda were recommended for approval.

F) COMMUNITY REPORTS

None.

G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS

(Including requests for removal of items from Consent Calendar for individual discussion.)

Susan Huse, Fort Collins resident, spoke regarding the petition relating to the adoption of the Land Development Code and urged the Council to delay action on the amendments to the LDC relating to oil and gas.

Frankie Harlin, Fort Collins resident, spoke in opposition to the homeless cleanup at the Murphy Center last week.

Madeleine Grigg, Fort Collins resident, spoke in opposition to the recent sweep of the Murphy Center and the displacement of unhoused people, contrasting it to the exceptions made for businesses during the pandemic due to the difficulties they faced, drawing corollaries to population control.

Adam Eggleston, Fort Collins resident, expressed gratitude for the new Land Development Code and the work of staff over five years in conducting outreach to inform the framework for its development. He shared the benefits of the LDC for housing needs and contrasted it to the costs over benefits of a rental licensing program.

Kelly Evans, Fort Collins resident, spoke regarding the petition for a referendum on the Land Development Code and its conduct in oversimplifying a complex topic with alarmist information, and encouraged residents who signed the petition to learn more about the land use code in depth.

Steve Kuehneman, Fort Collins resident and Executive Director of CARE Housing, spoke in support of the Land Development Code on behalf of a coalition of groups providing affordable housing in Fort Collins.

Jen Bray, Fort Collins resident, spoke as a member of the Affordable Housing Board on her own behalf in support of the Land Development Code, sharing personal stories from her family about people unable to live where they work, as well as the robust engagement on the LDC she was able to participate in.

Rachel Fish, Fort Collins resident, spoke about the treatment of homeless people by the police and City workers, as a resident living near the Murphy Center who has not encountered harassment or concerns from people staying near there. Conducting sweeps of homeless camps does nothing to solve any issues but creates more problems for those who are already in difficult circumstances.

Rev. Melissa St. Clair, Fort Collins resident, senior minister of Heart of Rockies church speaking on her behalf about the recent sweeps near the Murphy Center. She spoke to the work of communities of faith sheltering migrants and the importance of providing that support for all our residents.

Kate Weimer, Fort Collins resident, spoke about her experience onsite at the Murphy Center last week, witnessing punishing community members for being poor. She spoke in support of repealing the camping ban and redirecting some level of police funding for providing services to those who need it. She also added a word of support for the current land use code.

James Tilmant, Fort Collins resident, spoke about his amazement that the Council would adopt the new Land Development Code given the significant changes it ushers in. He spoke regarding his concern about how the new code supersedes existing covenants in HOAs and existing developments rather than just being applicable going forward.

Bobbie Tilmant, Fort Collins resident, spoke about Ordinance No. 114, 2022, implementing the new Land Development Code. She spoke to her belief that everyone believes people can live in the place that they work, sharing also about how she and her husband both worked like dogs to be able to buy their home in a subdivision that now can allow duplexes and larger properties in place of the existing single family homes, significantly altering her neighborhood.

Suzanne Murray, Fort Collins resident, expressed her concerns with the new Land Development Code and stated how pleased she was to be a part of the Preserve Fort Collins petition effort. She spoke about having eight short term rentals in her immediate area, and how challenging that is for the neighborhood. She also shared concerns about the potential for six plexes replacing historic homes in Old Town.

Bill King asked regarding the new Land Development Code what factors led to not putting such an important action on the ballot for citizens and why the Council prefers to reduce citizen involvement.

Makayla Griffith spoke as a neighbor of Fort Collins who volunteers with the homeless at shelters and the heartbreak she felt after the sweep of the Murphy Center.

Lindsey Garchar spoke about the homeless sweeps that have occurred and their concern for homeless neighbors who face these unethical, inefficient and cruel sweeps, especially in the face of upcoming unsurvivable low temperatures. They asked for an end to the sweeps and for more practical approaches to be taken.

Esme Holden, Fort Collins resident, spoke about the ongoing sweeps the City is conducting against unhoused residents. She spoke about her concerns with what she termed so called public space clean up done at the Murphy Center to force the local unhoused community to relocate while also throwing out all of their belonging. She spoke about some of the displaced people who were arrested on warrants as well as facing charges for leaving chattel on sidewalks.

Kiiva, Fort Collins resident, spoke about the ongoing sweeps the City is conducting against the unhoused community, reading from the preamble of the U.S. Constitution and sections of the Colorado State Constitution noting they both support the rights of community members. The City failed to promote general welfare and created a need for further services.

Sabrina, Fort Collins resident, spoke about the ongoing sweeps the City has been conducting against the unhoused portions of our community, noting the concerns raised about costs incurred by the community for those experiencing homelessness do not take into account accurate figures. Sabrina provided information about the costs that are saved by providing housing for people, reducing other ancillary costs.

Sterling Hunter Linville spoke to demand housing justice reform from the Council. They stated most members of Council are taking money from special interests that are also buying off other entities, including nonprofits. They asked if Council members will disclose how much money they have taken from Pat Stryker as well as Super PACs, what tax benefits Pat Stryker has received from the City,

and what each Council member's net worth is. They spoke about the inadequate inaction and corruption of the Council in failing residents.

Mary Alice Grant, Fort Collins resident, spoke about living in a diverse community with diverse needs, and her belief the Land Development Code does not represent many of the citizens in our community. She shared the viewpoint of FoCo Forward calling those who oppose the LDC as NIMBYs is not accurate, and it is the citizen's right to protest via petition, requesting that the Council let us all develop a process together that meets the needs of the greater population.

Patrick Cramer, Fort Collins resident, spoke about the incredible effort seen from the community and volunteers during the Land Development Code petition effort. He noted a number of people wanted to talk during this busy holiday season about their concerns regarding the LDC and their experiences in other communities. He spoke regarding putting a new potential plan together with input from cross sections of the public to development a truly inclusive plan.

Ross Cunniff, Fort Collins resident, thanked the Council for their work and for listening to speakers tonight on behalf of Preserve Fort Collins. He shared about turning in the petition yesterday and the petition representative's belief in its likely success. He also shared that several of the proposed changes are good and should be supported but are packaged in with other changes that are not sustainable. He encouraged the Council to repeal the Code themselves and then have a dialogue with the community to make changes to craft a new plan that can be taken to the voters.

Lydia Tillman spoke about the homeless sweep last week, noting the eloquent comments of many speakers already tonight. She shared we can do so much better for our community, urging the City to stop the sweeps and focus on housing the unhoused.

Joceyln Lavallee, resident of Fort Collins, spoke about the recent sweeps of homeless camps near the Murphy Center. She noted community members were not given an opportunity to speak at a City Council meeting given the timing of announcing the sweep after the last meeting and conducting it before this one. She encouraged that how we treat the least among us.

Mysticka Stricker-Romero, resident of Wyoming, spoke about first amendment rights, noting they were one of the people arrested at the Murphy Center due to a warrant for a camping ticket, explaining the difficulty in making court dates without transportation leading to warrants, including while dealing with full physical disability. Mysticka requested the City work with the Red Cross to get beds for unhoused residents now.

Sophia Parmenter spoke about the need for help for the unhoused community, addressing stereotypes about the homeless population, sharing figures about those who are part of this community to dispel those stereotypes.

Tenaya spoke to urge the Council to open a temporary shelter with the cold weather coming up, as well as to repeal the camping ban, noting the ban creates more barriers for employment and housing. Working or not working does not entitle you to housing but most unhoused people are working. Long term, Tenaya urged putting more resources towards housing and away from policing the unhoused.

Alex Krausz, Fort Collins resident, spoke regarding seeing good intentions in the Land Development Code yet encouraged the Council to rescind the Code that has been adopted and consider a new decision making process moving forward.

Brian Tracy (not on the sign in), Fort Collins Resident, spoke regarding the Land Development Code, sharing something an 87 year old resident of Fort Collins said, noting sometimes committees

and Councils make mistakes and this appears to be one of those times. The petition process was reasonable people exercising their rights.

Dan (not on the sign in), Fort Collins resident, spoke in support of repealing the Land Development Code that was just adopted, as he just learned about it and is concerned with the overall net effect of increased density being something that should be voted on by all residents of the City.

Arlo (not on the sign in) spoke as a community member and service provider and harm reductionist speaking on behalf of themselves, noting a love for the community while working directly with the unhoused population, sharing they are also people who love the community. It is sad to see people who need help and who have things they desperately need thrown away in a sweep. We can't leave anyone behind. Everyone deserves the right to have housing.

H) PUBLIC COMMENT FOLLOW-UP

Mayor Pro Tem Francis requested to have someone speak about Homeless Alliance. Assistant City Manager Rupa Venkatesh shared details about the work being done in partnership between the City and the Murphy Center regarding concerns with growing encampments in the area of the Murphy Center. She also shared the seasonal temporary overflow shelter has been open since December 5 and has not been full yet, and also provided information about the City's commitment to addressing underlying issues around homelessness.

David Rout, Executive Director of the Murphy Center, also addressed Council, acknowledging that the issue is not people camping it is people not having homes, and the issues that compound in the criminal justice system. He also shared we do know there are people who will not stay in shelters for valid reasons. The encampment at the Murphy Center started in July or August. This sort of thing had not previously been an issue, in part because extended hours for the center which ended with the end of funding. What has been occurring since this time is a significant rise in criminal behavior around the center, much of it from outsiders, resulting in people feeling unsafe accessing the center. We do not believe this is a long-term solution to homelessness, but we needed to do something to ensure the safety of people coming to the center as well as those who were camping.

Rupa Venkatesh also spoke to programs in other communities to establish managed safe places, which is something that is being explored in collaboration with partners.

Mayor Pro Tem Francis noted nearly all comments tonight under public comment have in one way or another been about housing.

Councilmember Tricia Canonico thanked everyone for coming out tonight. She also emphasized that because so many people here tonight do work with those experiencing homelessness to encourage everyone to get out of the cold, including taking advantage of services from the Humane Society to provide shelter to pets for 72 hours to allow them and their owners to be able to get out of the cold. She also responded to concerns about Council finances, noting it is possible to see who donated to Council campaigns and Councilmember financial disclosures all on the City's website. She noted Councilmembers are limited to \$75 donations from any individual while the Mayor is limited to \$100.

Clerk's Note: Mayor Arndt called for a 15-minute recess at 7:25 p.m. The meeting resumed at 7:37 p.m.

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

J) CONSENT CALENDAR

1. **Consideration and Approval of the Minutes of the November 1, 2022 and November 15, 2022, Regular Council Meetings and the November 22, 2022 Adjourned Council Meeting.**

The purpose of this item is to approve the minutes of the November 1, 2022 and November 15, 2022 regular Council meetings and the November 22, 2022 adjourned Council meeting.

Approved.

2. **Second Reading of Ordinance No. 141, 2022, Making Supplemental Appropriations from the State of Colorado Childcare Operations Stabilization and Workforce Sustainability Grant Program and Reviewing and Approving of the Grant Funding.**

This Ordinance, unanimously adopted on First Reading on December 6, 2022, accepts two State of Colorado grants funded by the American Rescue Plan Act. The Childcare Operations Stabilization and Workforce Sustainability Grant Program will fund childcare enhancements in City childcare programs.

Adopted on Second Reading.

3. **Second Reading of Ordinance No. 142, 2022, Adopting the 2023 Larimer County Regional Transportation Capital Expansion Fee Schedule.**

This Ordinance, unanimously adopted on First Reading on December 6, 2022, adopts the 2023 Larimer County Regional Transportation Capital Expansion Fee Schedule.

Adopted on Second Reading.

4. **Second Reading of Ordinance No. 144, 2022, Designating the Leslie P. and Ruth A. Ware Property, 1801 Sheely Drive, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins.**

This Ordinance, unanimously adopted on First Reading on December 6, 2022, requests City Landmark designation for the Leslie P. and Ruth A. Ware Property at 1801 Sheely Drive. In cooperation with the property owner, City staff and the Historic Preservation Commission have determined the property to be eligible for designation under Standard 3, Design/Construction, for the property's embodiment of the Usonian style of architecture and for the public's interest in the property during the time of construction. The owner is requesting designation, which will provide protection of the property's exterior and access to financial incentives for historic property owners.

Adopted on Second Reading.

5. **Second Reading of Ordinance No. 145, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Extend and Clarify the Water Annual Allotment Management Program.**

This Ordinance, unanimously adopted on First Reading on December 6, 2022, amends Chapter 26 of the City Code to extend the Allotment Management Program to allow for applications to be filed through December 31, 2024 for the benefit of eligible nonresidential Utilities water customers. The Allotment Management Program serves eligible nonresidential Utilities water customers by waiving excess water use surcharges during the implementation of a landscape project intended to reduce the long-term water use on a property. The ordinance also includes a few language revisions to clarify certain aspects of the program.

Adopted on Second Reading.

6. Second Reading of Ordinance No. 146, 2022, Amending Section 2-596 of the Code of the City of Fort Collins and Setting the Salary of the City Manager.

This Ordinance, unanimously adopted on First Reading on December 6, 2022, establishes the 2023 salary of the City Manager. Council met in executive session on November 22, 2022, to conduct the performance review of Kelly DiMartino, City Manager. This Ordinance sets the 2023 salary of the City Manager.

Adopted on Second Reading.

7. Second Reading of Ordinance No. 147, 2022, Amending Section 2-606 of the Code of the City of Fort Collins and Setting the Salary of the Chief Judge.

This Ordinance, unanimously adopted on First Reading on December 6, 2022, establishes the 2023 compensation of the Chief Judge. Council met in executive session on November 22, 2022, to conduct the performance review of Chief Judge Jill Hueser.

Adopted on Second Reading.

8. Second Reading of Ordinance No. 148, 2022, Amending Section 2-581 of the Code of the City of Fort Collins and Setting the Salary of the City Attorney.

This Ordinance, unanimously adopted on First Reading on December 6, 2022, establishes the 2023 compensation of the City Attorney. Council met in executive session on November 22, 2022, to conduct the performance review of Carrie Daggett, City Attorney.

Adopted on Second Reading.

9. Second Reading of Ordinance No. 149, 2022, Adopting the Active Modes Plan as a Component of City Plan.

This Ordinance, unanimously adopted on First Reading on December 6, 2022, adopts the Active Modes Plan.

Adopted on Second Reading.

10. First Reading of Ordinance No. 150, 2022, Amending Ordinance No. 084, 2022 to Amend the Effective Date of the 2022 Council District-Precinct Map.

This item amends Ordinance No. 084, 2022, Amending the City of Fort Collins District-Precinct Map, adopted on second reading on July 19, 2022, in order to move forward clarification and amendment of the District-Precinct Map in order to eliminate confusion and practical impacts and inconsistencies in Councilmember districts.

Adopted on First Reading.

11. Resolution 2022-140 Approving Expenditures from the Art in Public Places Reserve Account in the Cultural Services and Facilities Fund to Commission an Artist to Create an Art Project for the Vine and Lemay Project Pursuant to the Art in Public Places Program and Approving the Art Project.

The purpose of this item is to approve expenditures from the Art in Public Places (APP) Reserve Account to commission an artist to create art for the Vine & Lemay Project and to approve the art project. The expenditures of \$160,000 will be for design, engineering, materials, signage,

fabrication, delivery, installation, and contingency for Joshua Wiener of Flowcus to create the art for the overpass at Vine & Lemay.

Adopted.

12. Resolution 2022-141 Authorizing the Mayor to Execute City-Sponsored 457(b) and Police 401(a) Restated Adoption Agreements.

The purpose of this item concerns an administrative requirement to restate adoption agreements and related documents for City-sponsored 457(b) and Police 401(a) plans. Restatement of the City 457(b) and Police 401(a) adoption agreements is required in order to bring into alignment the internal procedural operation of each Plan with the governing documents controlling the plan. Restating the plans is an administrative action and will have no financial impact on the City or on benefits provided to participating employees. The City's deadline to restate its plan documents is December 31, 2022.

Adopted.

13. Resolution 2022-142 Adopting the 2022 Update to the Three-Mile Plan for the City of Fort Collins.

The purpose of this item is to adopt the annual update of the Three-Mile Plan for the City of Fort Collins. The Three-Mile Plan is a reference document of plans and policies coordinating the general location, character, utilities, infrastructure, and land uses for areas of potential annexation within three miles of the municipal boundary.

An annual update of the Three-Mile Plan is required by Colorado Revised Statutes and highlights applicable plans and policies adopted or amended by City Council over the preceding year.

Adopted.

14. Resolution 2022-144 Superseding and Replacing Resolution 2022-119 Making Appointments to the Natural Resources Advisory Board.

The purpose of this item is to amend the appointment made to Seat E on Resolution 2022-119 to list Lisa Andrews as the appointed member on the Natural Resources Advisory Board. This matches the initial determinations made for appointments by the Council liaison and the decisions communicated to applicants at that time.

Adopted.

15. Resolution 2022-145 Making an Appointment to the Art in Public Places Board

The purpose of this item is to fill a vacancy on the Art in Public Places Board created by the resignation of Miriam Chase.

Adopted.

END OF CONSENT CALENDAR

ADOPTION OF CONSENT CALENDAR

Councilmember Francis moved, seconded by Councilmember Canonico, to approve the recommended actions on items 1-15 on the consent calendar.

The motion carried 6-0.

Absent: Councilmember Gutowsky.

K) CONSENT CALENDAR FOLLOW-UP *(This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.)*

None.

L) STAFF REPORTS

City Clerk Anissa Hollingshead provided a brief update on the referendum process following the protest of an ordinance, including what has occurred so far in the protest of Ordinance No. 114, 2022, what to expect next, and what the remaining significant time points are. The presentation included a slide deck which is included in the meeting record.

M) COUNCILMEMBER REPORTS

Councilmember Shirley Peel

- Bill and Jean Jackson through the Community Foundation have established a FoCo Parks Forever fund and are currently doing a dollar-for-dollar match for donations.

Councilmember Tricia Canonico

- Visited Compass Community School with Councilmember Gutowsky last week to share some of the work happening with the Council.

N) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION

None.

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

16. Second Reading of Ordinance No. 143, 2022, Amending Section 2-73 of the Code of the City of Fort Collins to Allow City Commissions to Conduct Quasi-Judicial Hearings Using Remote Technology.

This Ordinance, unanimously adopted as amended on First Reading on December 6, 2022, amends provisions of Article III of Chapter 2 of the City Code to permit boards and commissions considering quasi-judicial matters to incorporate participation by remote technology into proceedings.

The proposed amendment would enable the presiding officer of the board or commission, upon consultation with the staff liaison, to allow remote participation by members of the public and parties-in-interest. As it was presented at First Reading, the Ordinance would have also allowed remote participation and voting by commission members. Council removed the provision allowing participation and voting by commission members at First Reading, and this change is reflected in the revised ordinance.

Councilmember Francis moved, seconded by Councilmember Canonico, to adopt on second reading Ordinance No. 143, 2022.

**The motion carried 6-0.
Absent: Councilmember Gutowsky.**

17. First Reading of Ordinance No. 151, 2022, Amending the Land Development Code to Regulate Oil and Gas Facilities and Pipelines.

The purpose of this item is to update the Land Development Code to regulate new oil and gas facilities and pipelines within City limits. These regulations include zoning standards, setbacks, development standards and a process for development review. Per new authority granted through Senate Bill 19-181, these local regulations exceed Colorado Oil and Gas Conservation Commission (COGCC) requirements related to surface oil and gas activities and are designed to ensure the protection of public health, safety, welfare, the environment, and wildlife resources.

Rebecca Everette, Planning Manager, introduced the item. Kirk Longstein, Senior Environmental Planner, presented as set forth in the presentation provided in the Council read before packet.

PUBLIC COMMENT

Rick Casey, Fort Collins resident, spoke in opposition to the passage of the ordinance in its current form and requested a rewrite with more stringent regulations.

Ed Behan, Fort Collins resident, spoke regarding the weaknesses seen in the current ordinance language which have been communicated via documents provided to the Council.

John McDonagh, Fort Collins resident, urged the Council to go back and look at the memos provided by different environmental groups, and specifically spoke to support expanding the regulatory framework beyond just setbacks. He also noted public trust is a limited resource like oil that cannot be replaced once it is used up, urging doing this right the first time it comes up.

Kevin Cross, Fort Collins resident speaking on behalf of the Fort Collins Sustainability Group, spoke in support of broadening the regulatory approach, encouraging expanding insurance requirements to set money aside for decommissioning and repair of any damages. He encouraged reliance on less oil and gas and reducing any new oil and gas development.

Barbara Krupnik-Goldman, Fort Collins resident, spoke in support of the proposals of the Larimer Alliance, including consideration of banning new oil and gas development and drawing down as quickly as we can on current use. The radical thing is continuing to do something known to be damaging to life on our planet.

COUNCIL DISCUSSION

Councilmember Julie Pignataro

- Noted been working on this for so long.
- Did attend recent Air Quality Board and heard their discussion.
- If Council is amenable, would propose moving second reading out to March to leave time for additional discussion.

Mayor Pro Tem Francis asked how delaying second reading is more advantageous to postponing the item all together.

Mayor Arndt asked how a delay or stop in the implementation of the Land Development Code would impact the provisions in this ordinance. Planning Manager Everette noted staff would make

changes to the ordinance to allow it to amend the Land Use Code instead of the Land Development Code. City Attorney Carrie Daggett shared it would be possible to either amend the ordinance between first and second reading or to postpone the item and bring back an amended ordinance for consideration.

Councilmember Canonico shared her desire to see this item move forward, with a pause on second reading.

Councilmember Peel stated her preference to see the item postponed and considered for first reading in March.

Planning Manager Everette noted staff would struggle to bring this item back in March given overlapping workload concerns, stating April would be the timeframe that is possible.

Mayor Pro Tem Francis stated her support for adopting the ordinance on first reading tonight and scheduling second reading with a delayed cadence.

Councilmember Kelly Ohlson requested more information from staff, legal, and boards about expanding the regulatory approach before second reading. He would also like to see financial assurances around closing out wells as well as the restoration of the habitat. Councilmember Ohlson asked staff why the downtown district was included with the commercial areas. Planner Longstein shared information about the conversations about the districts and the preponderance of comments focusing on removing mixed residential districts.

Councilmember Peel noted that as part of the process staff was listening to people and incorporating changes accordingly, however there are a lot of concerns in the memo from API that came in late this afternoon that did not appear to be addressed by staff. Planner Longstein noted drafts had been circulated to that group and others, but no feedback was received until the memo. Councilmember Peel requested follow up from staff to the issues raised in that memo.

Councilmember Pignataro moved, seconded by Councilmember Canonico, to adopt on first reading Ordinance No. 151, 2022, with second reading of the ordinance set for April 4, 2022.

The motion carried 6-0.

Absent: Gutowsky.

18. First Reading of Ordinance No. 152, 2022, Amending the Definition of Discrimination in City Code Chapter 13 to Prohibit Discrimination on the Bases of Sexual Orientation, Gender Identity and Gender Expression.

The Ordinance modifies anti-discrimination language in City Code Chapter 13, Article II, to prohibit discrimination on the bases of "sexual orientation, gender identity and gender expression." Absent this new language, our residents in these classes feel unprotected from discrimination, resulting in not including "all" in our growing community. The amendment advances the City of Fort Collins' vision to be a safe and welcoming community for all.

PUBLIC COMMENT

Barb Kistler, Fort Collins resident and president of the Human Relations Commission, read a statement from the HRC.

COUNCIL DISCUSSION

Councilmember Pignataro thanked staff for bringing this item forward so quickly.

Mayor Francis noted her delight in being able to be part of the Council to vote on this item.

Mayor Pro Tem Francis also shared her support.

Councilmember Peel asked about a pending case before the Supreme Court and what that would look like to our Charter depending upon the decision in the case. City Attorney Daggett noted if the Supreme Court issues decisions that contradict Code or Charter provisions, those contradictions would be brought forward to the Council for their awareness and consideration of further action. Senior Assistant City Attorney Jenny Lopez Filkins also responded about the option to wait for that decision.

Councilmember Ohlson stated his support for moving forward tonight and making the changes as they have been presented.

Councilmember Canonico also stated support for moving forward tonight and demonstrating the values of the Fort Collins community.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt on First Reading Ordinance No. 152, 2022, and set second reading for January 17, 2022.

**The motion carried 6-0.
Absent: Gutowsky.**

19. First Reading of Ordinance No. 153, 2022, Amending Section 2-569 of the Code of the City of Fort Collins to Update and Clarify the Process for Review of Ethics Complaints.

This Ordinance updates the Code provisions describing the ethics complaint process and establishing a new process for screening and investigation of complaints alleging ethics violations by councilmembers. The Ethics Review Board met in November 2021, January 2022, May 2022, and October to discuss options for improvements to the ethics complaint screening and review process. The Ethics Review Board recommended the changes in the Ordinance for adoption.

City Attorney Carrie Daggett presented as set forth in a presentation provided in Council's read before packet earlier in the day.

Councilmember Ohlson thanked the Committee for their work on this topic. He asked about the one year provision and why that was the selected time frame. City Attorney Daggett responded it matches the statute of limitations for code or charter violations.

Councilmember Pignataro noted this is something the Ethics Review Board has been working on at its meetings for some time.

Councilmember Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 153, 2022, on first reading.

**The motion carried 6-0.
Absent: Gutowsky.**

Clerk's Note: Mayor Arndt called for a 9-minute recess at 8:51 p.m. The meeting resumed at 9:00 p.m.

20. Appeal of the Historic Preservation Commission's Decision Finding 825 North College Avenue Eligible for Landmark Designation.

The purpose of this quasi-judicial item is to consider an appeal of the decision of the Historic Preservation Commission (“HPC”) on October 19, 2022, determining that a portion of the property at 825 North College Avenue (historically, the M-K Service Station/North College Standard Service, is eligible for designation as a Fort Collins Landmark.

Appellant, GARA, LLC, the owner of the property, raises two issues on appeal:

First, Appellant argues that the HPC considered evidence relevant to its findings that was grossly misleading. More specifically, Appellant alleges that the HPC was prejudiced by City staff’s “overuse and emphasis of the history of the property, which caused a lack of proper consideration as to whether the Quick Lube Building retains sufficient integrity today to qualify as an historic structure.”

Second, Appellant argues that the HPC failed to properly interpret and apply provisions of the City Code Section 14-22, which establishes standards for determining the eligibility of structures for designation as landmarks or landmark districts. Specifically, Appellant alleges that the HPC failed to properly determine whether the service station located on the property retained the significance and integrity required for Landmark designation under the Code.

Mayor Arndt announced the item.

City Attorney Carrie Daggett provided a brief overview of the appeal process.

CONFLICTS

Mayor Arndt asked if any Councilmembers wished to disclose any potential conflict of interest issues. No conflicts were disclosed.

SITE VISITS

Councilmember Peel shared her observations at the site visit, seeing a business but not a historical resource with an overall sense of place, time and purpose.

Councilmember Ohlson also participated in the site visit where he got a sense of the site.

PARTIES PRESENT

Tim Goddard, representing GARA LLC, introduced himself and noted there was a procedural issue he would like to bring up. City Attorney Daggett noted that issue would be appropriate to bring up at the designated time in the appeal process.

There were no parties opposed to the appeal present.

TIME ALLOCATIONS

Mayor Arndt announced time allocations, with 20 minutes for a presentation in support of the appeal.

PROCEDURAL ISSUES

Attorney Goddard came forward regarding a request to have an article admitted into evidence of an article he believes the commission members reviewed as part of their decision making, but that was never part of the record and was never provided to the owners.

There are also materials that were submitted following the rules for new evidence. Mayor Arndt ruled the evidence submitted in advance would be admitted.

There was further discussion on the request for the additional inclusion of the article being brought forward tonight. Attorney Goddard noted he did not make the request within the 10 days provided for new evidence to be submitted because the transcript was not available at that time. City Attorney Daggett noted and confirmed with Planning staff excerpts of the article were included in the hearing packet.

Mayor Arndt ruled not to admit the article into evidence, following precedent in past hearings.

Discussion continued on the new evidence. Councilmember Peel asked about whether the article was provided to the Commission. Staff noted a link to the article was added to the presentation; at the time of the hearing the current appellants objected to having the article admitted into evidence and the assistant city attorney advised the commission not to consider the article in its deliberations.

Attorney Goddard objected to the decision to not allow the article as new evidence.

APPELLANT'S PRESENTATION

Attorney Tim Goddard presented the appellant's case. He opened by stating the issue he wanted to bring to the Council was does the architectural design of a building that is common throughout the area and the country qualify as significant under the Code. He also noted the original building had been torn down in the 1930s and was rebuilt and then substantially remodeled subsequently and has only been in its current form since 1977. He referred to the hearing transcript in the agenda packet, pointing to comments by members of the commission specifically referencing an article published by History Colorado that was never made part of the record. The article calls out unornate oblong box service stations to which commissioners compared this building. In their deliberations, this was the primary point called out in the Commission's decision and the motion that was made. Attorney Goddard noted the oblong box style is a term of art, which was introduced to the Commission via the History Colorado article. He also noted it is also well known these gas stations are a dime a dozen. He stated to be a historic building it has to have historic significance to the city of Fort Collins, but asked how it can have historic significance to Fort Collins when they were everywhere.

Attorney Goddard referenced a book and DVDs that were submitted within the 10-day new evidence period but were withdrawn when they were notified any materials submitted could not be returned. He shared the book was filled with historical buildings in Fort Collins as did some videos made by the same professor that include buildings that have been deemed historical buildings, none of which are similar to this building. He therefore requested the Council find that the HPC erred in not considering that this architecture is common in this area and therefore does not have significance specifically to Fort Collins and not the entire United States. He also requested a finding that the building lacks the integrity in remaining design to qualify,

City Attorney Daggett noted a procedural issue in failing to allow the staff presentation prior to the appellant's presentation. She suggested allowing the staff presentation and then additional time for the appellant to respond to information provided by staff.

STAFF EXPLANATION AND PRESENTATION

Paul Sizemore, CDNS Director, presented as set forth in the staff presentation in the agenda packet.

The appellant was provided an additional 10 minutes to respond to the staff explanation and presentation. Attorney Goddard asked Council to look at the official determination made by the HPC and look at the two buildings juxtaposed, noting there is no way to get from the old style of building to the current building without a complete deconstruction and rebuilding. Therefore there is nothing to tie the building to the historic integrity criteria.

COUNCIL QUESTIONS

Mayor Pro Tem Francis asked about the standards that were to be applied to determine significance. Planner Bertolini provided information about allowances for common architecture within the standards. It is intended to be a semi-professional judgement based on determination of historic significance.

Mayor Arndt asked if this is the same structure. Planner Bertolini noted the staff's judgement this was the same building was based on building permits from 1960 for a significant remodel and addition.

Councilmember Peel asked if the Commission members are allowed to do their own research. City Attorney Daggett responded commission members need to rely on the information presented at the appeal. Councilmember Peel asked for clarification for what specifically the attorney for the appellants is arguing at issue in this instance. Attorney Goddard noted he believes this issue can be part of the argument laid out for the appeal initially on fair hearing issues, although he acknowledged he was not aware of this breach until reviewing the full transcript last week.

Councilmember Peel asked additional questions of staff regarding the contention that the staff's overuse and emphasis on the history of the property answered by Planner Bertolini.

There being no further questions for the appellant or staff, the hearing was closed at 10:00 p.m.

DISCUSSION

Mayor Pro Tem Francis stated the appellant's basis for appeal does not reference the outside research contention being brought up now, and therefore she does not believe there was not a fair hearing.

Councilmember Peel stated in a quasi-judicial hearing only things presented in the record should be considered.

Councilmember Pignataro asked about the timing for receipt of the transcript and if there is a standard for that timing. Planning staff present was not able to provide an answer to that question. City Attorney Daggett provided general information about when transcripts are ordered, following the submission of an appeal.

Councilmember Kelly Ohlson stated he agreed it was a fair hearing.

Councilmember Canonico noted it was unfortunate external information was brought in, but she believes it was a fair hearing.

Mayor Arndt stated agreement it was a fair hearing, but noted it should be a point of emphasis for training for quasi-judicial commissions to ensure the hearing only considers evidence in the record.

Councilmember Pignataro asked if the Council is only allowed to consider the grounds for appeal and if issues that weren't identified in the notice of appeal are final. City Attorney Daggett noted the notice of appeal does define the scope of what is in front of the Council.

The appellant interjected and noted the transcript was not received until November 1, which was after the deadline for filing an appeal. Planner Bertolini noted staff typically orders transcripts shortly after the hearing. He also noted the video of the hearing was produced on November 8. Mayor Arndt summarized and confirmed with staff it appeared there was not access to the transcript or video more than one day prior to the appeal deadline. There was discussion by the Council with concerns

about a fair appeal process, but not fair hearing issues. City Attorney Daggett noted that recordings are made of all meetings and can be requested by anyone at anytime.

There was discussion about process concerns and consideration around remanding the decision to the HPC for a new hearing for new information to look at.

Mayor Pro Tem Francis moved, seconded by Councilmember Ohlson, that the Council find that the Historic Preservation Commission conducted a fair hearing in their consideration of the eligibility for designation of the property located at 825 North College Avenue finding that the appellant did not establish with confidence evidence in the record that relevant evidence considered by the Commission was substantially false or grossly misleading and I further move that, based on the evidence in the record and presented at this hearing, the appeal allegation that the HPC did not conduct a fair hearing is hereby found to be without merit and is denied.

The motion carried 6-0.

Absent: Councilmember Gutowsky.

Mayor Pro Tem Francis moved, seconded by Councilmember Peel, that the City Council remand the matter for Historic Preservation Commission rehearing with the direction that they provide additional information regarding the events, building and integrity due to the modification of the building. In light of this remand, I further move to dismiss the appeal with respect to all other issues not addressed in the remand to the Commission.

The motion carried 6-0.

Absent: Councilmember Gutowsky.

P) OTHER BUSINESS

A. Consider a motion to direct the City Clerk to add an editor's note to the City Charter.

Councilmember Francis moved, seconded by Councilmember Pignataro, to direct the City Clerk to work with the City's codifier to add an editor's note into the City Charter to be published at Charter Article II, Section 2, to state "With respect to eligibility to be a candidate for, or hold, the office of Councilmember, see also article VII, section 10 and article XII, section 4 of the Colorado Constitution", or substantially similar language the City Clerk may determine appropriate in consultation with the City Attorney, and to include substantially similar language in the City's election guideline materials."

The motion carried 6-0.

Absent: Gutowsky.

B. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.

(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)

Councilmember Pignataro noted under the minimum wage conversations there was discussion about regional conversations, but she is understanding those conversations are not formal. She requested support to form a regional ask force of elected officials to involve other Northern Colorado municipalities and counties. Senior Project Manager Ginny Sawyer noted work has occurred around additional conversations and collaborations. The request was modified to include

Item 1.

within the scope of the existing work occurring to make contact by mid-February to see if there is interest within Northern Colorado for further regional collaboration. Support for this suggestion was obtained.

Q) ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 10:31 p.m.

Mayor

ATTEST:

City Clerk

DRAFT

February 7, 2023

AGENDA ITEM SUMMARY

City Council



STAFF

Travis Storin, Chief Financial Officer
Kelly DiMartino, City Manager
John Duval, Legal

SUBJECT

Second Reading of Ordinance No. 001, 2023, Appropriating Funds in the General Fund for 2023 Increases in Salary Compensation for the Mayor and Councilmembers as Approved by the City of Fort Collins Voters on November 8, 2022, by the Amendment of Section 3 in Article II of the City Charter.

EXECUTIVE SUMMARY

The purpose of this Ordinance, unanimously adopted on First Reading on January 17, 2023, is a General Fund supplemental appropriation to fund 2023-2024 Budget Offer 28.12 - City Council Voter Approved Pay Increase but only for fiscal year 2023. This budget request was not funded in the 2023 annual appropriation since the election results of the 2022 City-Initiated Charter Amendment No. 1 (Council Compensation) ballot initiative would not be known until after First Reading of the City's annual appropriation ordinance for 2023. The initiative was approved by Fort Collins voters and this action is to appropriate the increased spending in the General Fund to implement the ballot initiative for the salary increases in 2023.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

The 2023-2024 City of Fort Collins' Recommended Budget included unfunded Offer 28.12 - City Council Voter Approved Pay Increase. This offer was not recommended for funding since the Recommended Budget would be published prior to knowing the result of the 2022 City-Initiated Charter Amendment No. 1 (Council Compensation) ballot initiative. Now that the voters have approved that item, this ordinance is to appropriate for 2023 the increased expenses associated with that budget request (offer). This increase will be incurred within the General Fund from prior year reserves, which is where current Council pay is expensed. Attachment #1 includes the narrative and financial details associated with that budget request.

The City Manager is recommending this supplemental appropriation and has determined that this appropriation will not cause the total amount appropriated in the General Fund in fiscal year 2023 to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during 2023.

CITY FINANCIAL IMPACTS

This Ordinance increases General Fund expenses by \$313,172 in 2023, with an estimated total financial impact in 2024 of just over \$332,000.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Not applicable as this reflects the necessary Council actions to implement the voter-approved ballot initiative.

PUBLIC OUTREACH

Not applicable as this reflects the necessary Council actions to implement the voter-approved ballot initiative.

ATTACHMENTS

First Reading attachment not included.

1. Ordinance for Consideration

ORDINANCE NO. 001, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING FUNDS IN THE GENERAL FUND
FOR 2023 INCREASES IN SALARY COMPENSATION FOR
THE MAYOR AND COUNCILMEMBERS AS APPROVED
BY THE CITY OF FORT COLLINS VOTERS ON NOVEMBER 8, 2022, BY THE
AMENDMENT OF SECTION 3 IN ARTICLE II OF THE CITY CHARTER

WHEREAS, on July 5, 2022, the City Council adopted Ordinance No. 082, 2022, in which it submitted to the City’s registered electors for their consideration at a special municipal election held on November 8, 2022, a ballot title proposing the amendment of Section 3 of Article II of the City Charter with the title “City-Initiated Proposed Charter Amendment No. 1 (Council Compensation)” (“Charter Amendment”); and

WHEREAS, the Charter Amendment, if approved by the electors, would increase the salary compensation of the Mayor and Councilmembers by a percentage of the area median income for a single household for the Fort Collins/Loveland Metropolitan Statistical Area, as determined and adjusted annually by the U. S. Department of Housing and Urban Development, and it would also authorize the Mayor and Councilmembers to elect to participate in the City’s healthcare-related benefits provided to the City’s employees; and

WHEREAS, a majority of the City’s electors voting in the November 2022 election approved the Charter Amendment; and

WHEREAS, in anticipation that the Charter Amendment might be approved by the voters, there was included in the City’s 2023-2024 Budget unfunded Budget Offer 28.12 for the salary increases of the Mayor and Councilmembers, but since it was unfunded, it was not included in the City’s annual appropriation for fiscal year 2023; and

WHEREAS, the supplemental appropriation appropriates from the City’s General Fund the additional funds needed to pay the increases in the salaries of the Mayor and Councilmembers as approved in the Charter Amendment; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year; and

WHEREAS, this appropriation benefits the public health, safety and welfare of the residents of Fort Collins and serves the public purpose of funding the salary compensation of the Mayor and Councilmembers as provided in the Charter Amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated in fiscal year 2023 from prior year reserves in the General Fund the sum of THREE HUNDRED THIRTEEN THOUSAND ONE HUNDRED SEVENTY-TWO DOLLARS (\$313,172) to be expended for the implementation of the salary increases in 2023 for the Mayor and Councilmembers as authorized in the Charter Amendment.

Introduced, considered favorably on first reading, and ordered published this 17th day of January, 2023, and to be presented for final passage on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk



AGENDA ITEM SUMMARY

City Council

STAFF

Nina Bodenhamer
Ted Hewitt, Legal

SUBJECT

Second Reading of Ordinance No. 002, 2023, Appropriating Philanthropic Revenue Received Through City Give for the Acquisition of a Community Soundstage in the Parks Department.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on January 17, 2023, requests appropriation of \$250,000.00 in philanthropic revenue received by City Give for Parks for the purchase and acquisition of a community soundstage.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

A community soundstage is a self-contained trailer which converts into a portable stage and band shell. With a useful life of 20 years, the current 21-year-old Showmobile was identified as opportunity for private funding. The Showmobile is a versatile platform (literally) utilized by nonprofit organizations, businesses, and community organizers.

The replacement stage includes a 32' x 32' stage surface, upgraded lighting capabilities, ADA accessibility, and an onboard generator to allow for flexible locations.

Purchased over 20 years ago, the current mobile stage provides nonprofit organizations, businesses, community organizers with a versatile platform to bring community events to life and engage local audiences and residents. The current Showmobile is now 21+ years old and nearing the end of her useful life. With an average 2-3 events each month, the mobile stage allows nonprofits and community events an affordable forum to present residents with diverse range of musical & theater experiences.

Two (2) charitable gifts of \$125,000 each were solicited of and received by generous community donors as an investment in the City's service to the community. While the City of Fort Collins does not accept anonymous charitable giving, the City does respect a donor's request for confidentiality.

CITY FINANCIAL IMPACTS

This Ordinance will appropriate \$250,000.00 in philanthropic revenue received by City Give for expenditure in the General Fund by the Parks Department.

The City Manager has also determined that these appropriations are available and previously unappropriated in the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in the General Fund during fiscal year 2023.

These donations have been received and accepted per the City Give Administrative and Financial Policy.

ATTACHMENTS

1. Ordinance for Consideration

ORDINANCE NO. 002, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PHILANTHROPIC REVENUE RECEIVED THROUGH
CITY GIVE FOR ACQUISITION OF A COMMUNITY SOUNDSTAGE
IN THE PARKS DEPARTMENT

WHEREAS, the City’s Showmobile, a community soundstage used by nonprofit organizations, businesses, and community organizers, has been in use for more than twenty-one years and is nearing the end of its useful life; and

WHEREAS, the City has received two charitable gifts of \$125,000 each to procure a new mobile soundstage to replace the City’s Showmobile; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of allowing the City to procure a new mobile soundstage for use in community musical and theater events; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from new philanthropic revenue in the General Fund the sum of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) to be expended in the General Fund by the Parks Department for the acquisition of a community soundstage.

Introduced, considered favorably on first reading, and ordered published this 17th day of, January 2023, and to be presented for final passage on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk



AGENDA ITEM SUMMARY

City Council

STAFF

Blake Visser, Sr. Facilities Project Manager
John Von Nieda, Manager, Civil Engineering
Ingrid Decker, Legal

SUBJECT

Second Reading of Ordinance No. 003, 2023, Declaring a Portion of City-Owned Property at 835 Wood Street as Right-of-Way.

EXECUTIVE SUMMARY

The purpose of this item is to declare a strip of property owned by the City as road right-of-way (ROW) via the proposed plat for the Fort Collins Fleet Maintenance Subdivision. City staff recently discovered that a portion of the City’s property at 835 Wood Street is being used for public street purposes, but was never dedicated or declared to be public ROW. This Ordinance, which was unanimously adopted on First Reading on January 17, 2023, establishes this portion of the property as ROW for Wood Street and authorizes the City Manager to dedicate such ROW through execution of the plat.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

During Building Development Review for the City’s 835 Wood Street CNG (Compressed Natural Gas) Shop Expansion project, it was discovered that the property has never had a plat recorded. Operation Services hired a surveyor to plat the property. A Draft Plat was submitted for BDR review. Upon staff review of the Draft Plat, it was determined that a ~9,300 sf portion of the Wood Street property is being used as public ROW (see attachment). However, there is nothing in the public records to indicate that this portion of the property was ever dedicated as ROW. Operation Services worked with City Engineering and the Attorneys Office to include appropriate language on the plat to declare this area as public ROW upon signature by the City Manager following approval by the City Council.

CITY FINANCIAL IMPACTS

NA

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

NA

PUBLIC OUTREACH

NA

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration
2. Ordinance Exhibit A

ORDINANCE NO. 003, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
DECLARING A PORTION OF CITY-OWNED PROPERTY
AT 835 WOOD STREET AS RIGHT-OF-WAY

WHEREAS, the City owns a parcel of property located west of the Utility Service Center at 835 Wood Street (the “Property”); and

WHEREAS, the Property is managed by the City’s Operation Services department as a fleet maintenance facility for compressed natural gas (CNG) vehicles; and

WHEREAS, Operation Services hired a surveyor to plat the Property as part of the planned CNG Shop Expansion Project and discovered that a portion of the Property is being used as a right-of-way for Wood Street, but there is no public record of that portion of the Property ever being dedicated as public right-of-way; and

WHEREAS, the draft plat includes a dedication of a portion of the Property totaling approximately 9,300 square feet (approximately .21 acres) as right-of-way for Wood Street in the area indicated on Exhibit “A”, attached and incorporated herein by reference; and

WHEREAS, converting a piece of property owned by the City in fee simple to right-of-way is tantamount to a conveyance of an interest in the property, as doing so creates certain public rights in the property that would not otherwise exist on City-owned property; and

WHEREAS, Section 23-111 of the City Code provides that the City Council is authorized to sell, convey or otherwise dispose of any interests in real property owned by the City, provided the City Council first finds, by ordinance, that such sale or other disposition is in the best interest of the City; and

WHEREAS, the City Council determines that converting .21 acres of the Property to right-of-way to facilitate the continued use of the existing Wood Street improvements is in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby declares that the real property described on Exhibit “A” shall constitute right-of-way for Wood Street and related improvements, including without limitation public utilities, pedestrian, transit and bicycle access and improvements, landscaping, and such other related purposes as may now or in the future be determined appropriate, and hereby finds that such declaration is in the best interest of the City.

Section 3. That the City Manager is hereby authorized to execute the final plat for the Fort Collins Fleet Maintenance Subdivision, including dedication of the right-of-way as shown on Exhibit "A", in substantially the form attached as Exhibit "A" along with such modifications as the City Manager, in consultation with the City Attorney, determines to be necessary or appropriate to protect the interests of the City, so long as such modifications do not substantially increase the portion of the City's property being dedicated as right-of-way.

Introduced, considered favorably on first reading, and ordered published this 17th day of January, 2023, and to be presented for final passage on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 7th day of February, 2023.

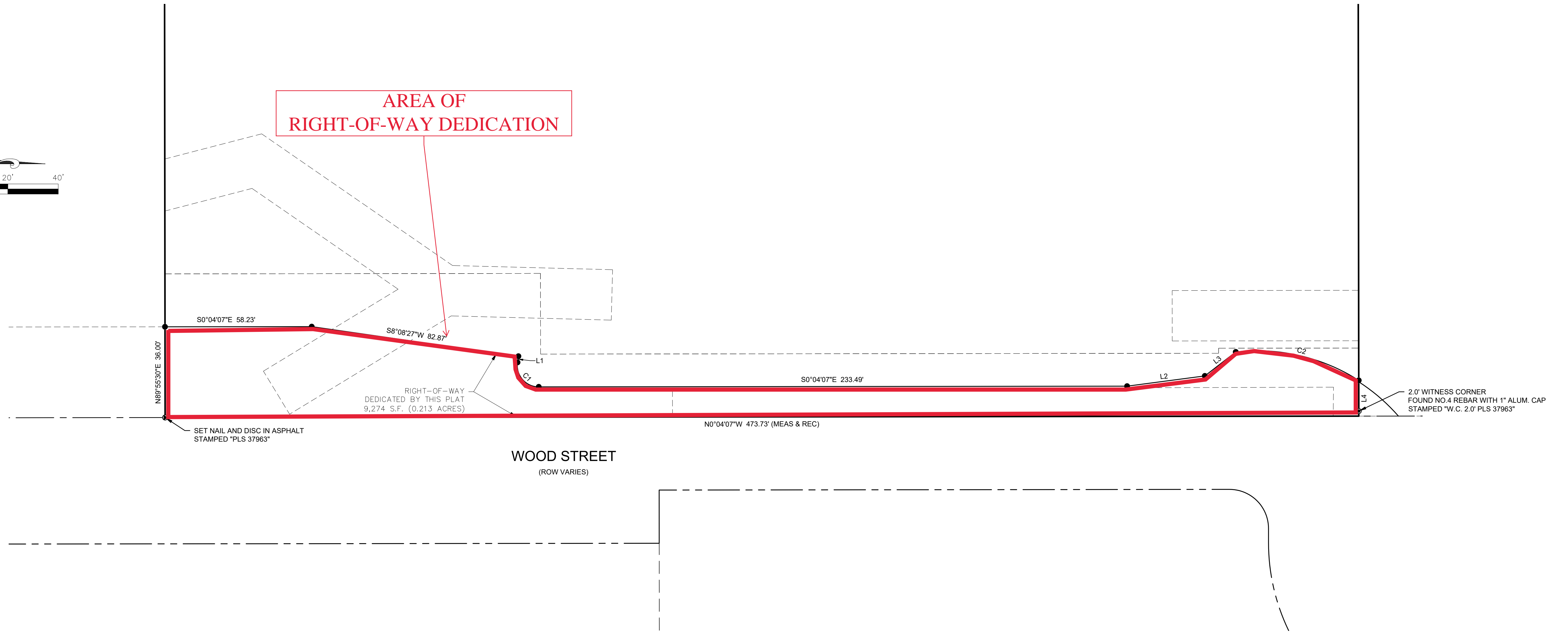
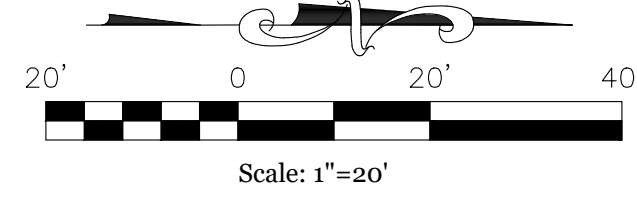
Mayor

ATTEST:

City Clerk

FORT COLLINS FLEET MAINTENANCE SUBDIVISION

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO



LINE TABLE		
LINE #	BEARING	DISTANCE
L4	N89°55'30"E	14.19'
L1	N81°51'33"W	2.48'
L2	S07°30'22"E	31.13'
L3	S37°49'07"E	15.51'

CURVE TABLE					
CURVE #	RADIUS	DELTA	LENGTH	CHORD	DISTANCE
C1	8.50'	98°12'35"	14.57'	S49°02'10"W	12.85'
C2	75.00'	39°01'44"	51.09'	S13°00'20"W	50.11'

- LEGEND**
- FOUND NO. 4 REBAR
 - ⊙ FOUND NO.4 REBAR WITH 1" ALUM. CAP STAMPED *W.C. 2.0' PLS 37963*
 - SET NO.4 REBAR WITH PLASTIC CAP STAMPED *PLS 37963*

NOTICE

ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS AFTER THE DATE OF CERTIFICATION.



AGENDA ITEM SUMMARY

City Council

STAFF

Keith Hanson, Real Estate Manager
Kai Kleer, City Planner
Ryan Malarky, Legal

SUBJECT

Second Reading of Ordinance No. 004, 2023, Authorizing the Sale of the Real Property Located at 945 East Prospect Road to Kum & Go, L.C.

EXECUTIVE SUMMARY

The purpose of this item, which was unanimously adopted on First Reading on January 17, 2023, is to authorize the sale of the City-owned property located at 945 East Prospect Road to Kum & Go, L.C., an Iowa limited liability company (Kum & Go), for \$403,000. The sales price was determined by an appraisal by CBRE Valuation and Advisory Services, which provides on-call property appraisals for the City. A purchase and sale agreement was executed by Kum & Go and the City Manager on November 3, 2022. Completion of the purchase is contingent on City Council's approval of the sale by its final adoption of this Ordinance in accordance with Section 23-111 of the City Code, and approval of the final development plans by the City's Director of Community Services and Neighborhood Development.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

Kum & Go intends to redevelop the current gas station at the southwest corner of East Prospect Road and Lemay Avenue. The current gas station property is to the east of the City's property at 945 East Prospect Road. The plans also include expanding the redevelopment footprint across the properties directly to the west along East Prospect Road, including a portion of the rear lot of 945 East Prospect Road (see attached diagram), and creating a right turn lane from eastbound East Prospect Road to southbound Lemay Avenue. The current development plans are in development review with the City. An Administrative Hearing Officer conditionally approved the project (file number PDP210013) on December 11, 2022. Conditions include limits to the hours of operation, added bike parking, and additional landscaping.

The City bought 945 East Prospect Road in 1991 for \$41,000 as part of the Prospect/Lemay Intersection Project. The project has since been completed apart from the eastbound right turn lane, which at the time was expected to be constructed as part of the proposed redevelopment plan for a 13,800-square-foot Rite Aid store. This plan was never approved and the City has held the property for the purpose of constructing the right turn lane that was originally envisioned by the Prospect/Lemay Intersection Project.

with Kum & Go's proposal that includes the development of the eastbound right turn lane and the purchase of 945 East Prospect Road, the City negotiated the sale directly with Kum & Go for fair market value and did not market the property to sell to the general public. A purchase and sale agreement was executed by Kum & Go and the City Manager on November 3, 2022. The 60-day contingency period for general due diligence has expired and Kum & Go has released these contingencies. The two remaining contingencies are (1) approval of the sale by City Council, and (2) approval of the final development plans by City staff.

A residence is located on the City-owned property at 945 East Prospect Road. The City currently rents the residence and the lease is now on a month-to-month term. The lease will be assigned to Kum & Go upon closing. Built in 1936, the house is not designated as a City Landmark, but it was recently determined that it is eligible for designation, requiring it to be preserved and rehabilitated under the City of Fort Collins Land Use Code. It can be relocated, but not demolished at this time. Therefore, Kum & Go can carve out the section of the rear of the lot to use as needed for the redevelopment, and either keep the house, or divide the parcel and sell the remaining area with the house separately.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

CITY FINANCIAL IMPACTS

The sales price is \$403,000, which is the fair market value as determined by CBRE Valuation and Advisory Services. Net proceeds after costs associated with the sale, including title/escrow fees, will be deposited in the General Fund.

PUBLIC OUTREACH

None.

ATTACHMENTS

First Reading attachment not included.

1. Ordinance for Consideration

ORDINANCE NO. 004, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE SALE OF THE REAL PROPERTY LOCATED
AT 945 EAST PROSPECT ROAD TO KUM & GO, L.C.

WHEREAS, the City has owned the real property located at 945 East Prospect Road (the “Property”) since 1991; and

WHEREAS, the Property was purchased as part of an intersection improvement project at East Prospect Road and Lemay Avenue, which included plans to construct an eastbound right turn lane on East Prospect Road; and

WHEREAS, the right turn lane was to be constructed as part of the proposed commercial redevelopment of the southwest corner of the intersection, but the redevelopment never occurred and the right turn lane was not constructed; and

WHEREAS, since acquiring the Property the City has leased the residence located on it and the current tenant is residing on the Property under a month-to-month tenancy; and

WHEREAS, Kum & Go, L.C., an Iowa limited liability company (“Kum & Go”), intends to redevelop the gas station located at the southwest corner of East Prospect Road and Lemay Avenue, and plans to expand the footprint of the gas station to properties directly west, including a portion of the Property; and

WHEREAS, Kum & Go has submitted plans to the City for the redevelopment, which include the construction of the right turn lane on East Prospect Road, and an Administrative Hearing Officer conditionally approved the project on December 11, 2022; and

WHEREAS, because of Kum & Go’s redevelopment plans, City staff negotiated directly with Kum & Go for the sale of the Property at fair market value of \$403,000 and did not market the property for sale to the general public; and

WHEREAS, were the City to keep the Property, the City’s current or future uses of the Property would require incurring ongoing maintenance costs and some liability; and

WHEREAS, the City’s current or future identified uses of the Property are outweighed by the benefit to the community from the redevelopment of the gas station property and the construction of the right turn lane; and

WHEREAS, City staff is recommending the Property be sold and the proceeds be placed in the General Fund for use as Council sees fit; and

WHEREAS, the City Manager and Kum & Go executed a purchase and sale agreement on November 3, 2022, which remains contingent upon: (1) approval of the sale by City Council through final adoption of this Ordinance; and (2) approval of the final development plans by city staff; and

WHEREAS, upon closing of the conveyance, the month-to-month lease will be assigned to Kum & Go; and

WHEREAS, Section 23-111(a) of the City Code authorizes the City Council to sell, convey, or otherwise dispose of any interests in real property owned by the City, provided the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City; and

WHEREAS, under Section 23-114 of the City Code, any sale or lease of City property interests must be for an amount equal to or greater than the fair market value of such interests unless the City Council determines that such sale or lease serves a bona fide public purpose based on the five factors listed in Section 23-114; and

WHEREAS, the City Council finds that the sale is in the best interests of the City and its citizens in that it will eliminate the City’s ongoing maintenance responsibilities and liability risk, generate fair market sales proceeds that can be used to advance City Council priorities, and allow the Property to be utilized in its highest and best use as determined by the marketplace.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby finds that the sale of 945 East Prospect Road to Kum & Go, L.C. as provided herein is in the best interests of the City.

Section 3. That the Mayor is hereby authorized to execute a deed and such other documents as are necessary to convey the Property to Kum & Go, L.C. on terms and conditions consistent with this Ordinance, together with such other additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary and appropriate to protect the interests of the City or effectuate the purposes of this Ordinance, including but not limited to any necessary changes to the legal description of the Property, as long as such changes do not materially increase the size of the parcel to be conveyed.

Introduced, considered favorably on first reading, and ordered published this 17th day of January, 2023, and to be presented for final passage on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

February 7, 2023

AGENDA ITEM SUMMARY

City Council



STAFF

Jill Hueser, Chief Judge, Municipal Court
 Blake Visser, Sr. Facilities Project Manager
 Brian Hergott, Operation Services Assistant Director
 Ingrid Decker, Legal

SUBJECT

Second Reading of Ordinance No. 005, 2023, Appropriating Prior Year Reserves and Authorizing Transfers of Appropriations for the 215 North Mason Municipal Court 15-Year Buildout Design and Related Art in Public Places.

EXECUTIVE SUMMARY

The purpose of this item is to receive Council approval for an appropriation for Design of the 215 North Mason Municipal Court 15-year build-out using Capital Expansion Fees. This Ordinance was unanimously adopted on First Reading on January 17, 2023.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

As the Civic Center Masterplan Space Planning for Blocks 32/42 developed, discussions between Operation Services and Municipal Court revealed an overdue need for a Municipal Court expansion from its current location at 215 North Mason Street. The team engaged with Municipal Court and City Attorney's Office prosecution staff and the design firm for the Civic Center Masterplan and commenced space planning specifically for an expansion of Municipal Court. The goal was to identify how much space is needed and which building on the current and future Civic Center would best suit a new or renovated Municipal Court that meets the Court's needs for the next 15+ years and fits within the overall Civic Center Masterplan.

The entire first floor of 215 North Mason Street building was selected as the best location by the team and City Leadership. This would impact Parking Services and Emergency Preparedness and Security Departments that are currently located on the first floor. The team has discussed this and developed options for relocating these Departments.

On December 1, 2022, staff presented the results of the space planning and cost estimating for design and construction of the project to the Council Finance Committee, resulting in support for the design portion of the cost for a 15-Year Municipal Court renovation using Capital Expansion Fees. Upon approval of this appropriation Operation Services would advertise via Request for Proposal (RFP) for a design firm and award. Operation Services and the selected design firm would engage with Cultural Services during design for Arts in Public Places (APP) opportunities. An offer for construction costs would be submitted for the 2025/2026 budget cycle.

CITY FINANCIAL IMPACTS

\$1,507,500 using Capital Expansion Fund Reserves that will be expensed in the Capital Projects Fund (See attachment for budget breakout). The correct amount for Art in Public Places (APP) is \$15,075 which equals 1% of the total budget amount. The amount noted in the attachment has an error in the amount for APP.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

NA

PUBLIC OUTREACH

NA

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 005, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PRIOR YEAR RESERVES AND AUTHORIZING TRANSFERS OF
APPROPRIATIONS FOR THE 215 NORTH MASON MUNICIPAL COURT 15-YEAR
BUILDOUT DESIGN AND RELATED ART IN PUBLIC PLACES

WHEREAS, the Municipal Court moved into its current location on the first floor of the City’s office building at 215 North Mason Street in 2007 when the leased space the Court formerly occupied in the Justice Center at 201 Laporte Avenue was needed for use by the Colorado Judicial Department; and

WHEREAS, since 2007 minimal changes have been made to the Court space to address some safety and security needs, but little has been done to address growth needs while caseloads have continued to grow, the Court has expanded its programming, and the Court and the City Attorney’s Office have hired more staff to handle these caseloads; and

WHEREAS, on November 16, 2021, the City Council adopted Resolution 2021-105, approving the November 10, 2021, Civic Center Master Plan as part of the Downtown Plan and as the capital improvements plan for purposes of Section 7.5-31 of the City Code, regarding use of general government capital expansion fees; and

WHEREAS, on November 16, 2021, the City Council adopted Resolution 2021-105, approving the November 10, 2021, Civic Center Master Plan as part of the Downtown Plan and as the capital improvements plan for purposes of Section 7.5-31 of the City Code, regarding use of general government capital expansion fees; and

WHEREAS, the adopted Civic Center Master Plan calls for Municipal Court and related uses in 215 North Mason, including phased renovation and future expansion; and

WHEREAS, as part of the Stage 1 Space Planning analysis for the Civic Center dated September 12, 2022, the City’s consultant, Clark & Enersen, recommends expanding the Municipal Court’s footprint on the first floor of 215 North Mason Street so that the Court may remain in that building for the next fifteen years; and

WHEREAS, on June 21, 2022, the City Council adopted Ordinance No. 066, 2022, appropriating \$700,000 in funds for improvements to the Court space to address immediate needs while final plans for a full expansion and renovation of the Court space to meet its needs for the next 15 years (the “Project”) are completed; and

WHEREAS, on December 1, 2022, staff presented to the Council Finance Committee the space plan and cost estimates for the Project, and the Committee supported funding the design portion of the Project using Capital Expansion Fees; and

WHEREAS, the amount requested for the design phase of the project is \$1,507,500; and

WHEREAS, this appropriation benefits the public health, safety, and welfare of the residents of Fort Collins and serves the public purpose of providing adequate space and security for City employees and public users of the Municipal Court space; and

WHEREAS, this Project involves construction estimated to cost more than \$250,000 and, as such, City Code Section 23-304 requires one percent of these appropriations to be transferred to the Cultural Services and Facilities Fund for a contribution to the Art in Public Places program (“APP Program”); and

WHEREAS, based on the total Project cost of \$1,507,500, the amount to be contributed to the APP Program through this Ordinance will be \$15,075; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Capital Expansion Fund and will not cause the total amount appropriated in the Capital Expansion Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year; and

WHEREAS, Article V, Section 10 of the City Charter authorizes the City Council, upon recommendation by the City Manager, to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project to another fund or capital project, provided that the purpose for which the transferred funds are to be expended remains unchanged, the purpose for which the funds were initially appropriated no longer exists, or the proposed transfer is from a fund or capital project in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance; and

WHEREAS, the City Manager has recommended the transfer of \$15,075 from the Capital Projects Fund to the Cultural Services & Facilities Fund and determined that the purpose for which the transferred funds are to be expended remains unchanged; and

WHEREAS, Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a capital project, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the completion of the capital project; and

WHEREAS, the City Council wishes to designate the appropriation herein for the 215 North Mason Municipal Court 15-year buildout design as an appropriation that shall not lapse until the completion of the project.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above

Section 2. That there is hereby appropriated from prior year reserves in the Capital Expansion Fund the sum of ONE MILLION FIVE HUNDRED SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$1,507,500) to be expended in the Capital Expansion Fund for transfer to the Capital Projects Fund and appropriated therein for expenditure for the 215 North Mason Municipal Court 15-year buildout design project.

Section 3. That the unexpended and unencumbered appropriated amount of ELEVEN THOUSAND SEVEN HUNDRED FIFTY-NINE DOLLARS (\$11,759) in the Capital Projects Fund is hereby authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein to fund art projects under the APP Program.

Section 4. That the unexpended and unencumbered appropriated amount of THREE THOUSAND FIFTEEN DOLLARS (\$3,015) in the Capital Projects Fund is authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein for the operation costs of the APP Program.

Section 5. That the unexpended and unencumbered appropriated amount of THREE HUNDRED ONE DOLLARS (\$301) in the Capital Project Fund is authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein for the maintenance costs of the APP Program.

Section 6. That the appropriation herein for the 215 North Mason Municipal Court 15-year buildout design project is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the completion of the project.

Introduced, considered favorably on first reading, and ordered published this 17th day of January, 2023, and to be presented for final passage on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk



AGENDA ITEM SUMMARY

City Council

STAFF

Marc Virata, Civil Engineer
Dana Hornkohl, Capital Projects Manager
Clay Frickey, Redevelopment Manager
John Duval, Legal

SUBJECT

Second Reading of Ordinance No. 006, 2023, Appropriating Prior Year Reserves in the Transportation Capital Expansion Fee Fund for Eligible Reimbursement to the Northfield Developer for the Construction of Suniga Road Improvements.

EXECUTIVE SUMMARY

The purpose of this item is to appropriate \$2,081,548 of Transportation Capital Expansion Fee (TCEF) Funds for expenditure from the Transportation Capital Expansion Fee Program Budget to reimburse the Northfield developer for its oversizing construction of Suniga Road. The Northfield developer has constructed Suniga Road as a four-lane arterial to City standards as part of its development requirements. Per Section 24-112 of the City Code, the developer is eligible for reimbursement from Transportation Capital Expansion Fee (TCEF) funds for the oversized, non-local portion of Suniga Road not attributed to the local portion obligation. This Ordinance was unanimously adopted on First Reading on January 17, 2023.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

The TCEF Program (formerly Street Oversizing), instituted by ordinance in 1979, was established to manage the construction of new arterial and collector streets, and is an "Impact Fee" funded program. The TCEF Program determines and collects impact fees from development and redevelopment projects. The collection of these impact fees contributes funding to growth-related City Capital Projects and reimburses development for constructing roadway improvements above the local street access standards. Section 24-112 of the City Code allows for reimbursement to developers for the construction of collector and arterial streets. The Northfield developer has been paying TCEF fees with their building permits.

This reimbursement is for the Northfield developer's construction above the local street access standards of half a mile of Suniga Road between Redwood Street and Lindenmeier Road (former Lemay alignment). Suniga Road was built by the developer as a four-lane arterial street including the completion of construction of the median landscape and irrigation installation for the center median. TCEF funds for this reimbursement previously were appropriated under the 2019-2020 Budget and, when not utilized, were returned into TCEF unappropriated reserves.

Under the 2021 process improvement to have major reimbursements brought to City Council individually, the dollar amount as a major reimbursement classification is being brought for Council's consideration. TCEF funds previously have reimbursed the developer as minor reimbursements for both Suniga right-of-way (\$477,456 in 2020) and a bridge structure in Suniga Road over the Lake Canal (\$361,354 in 2021). This remaining reimbursement request would complete the reimbursement eligibility for Suniga Road to the Northfield developer.

Staff has reviewed the documentation provided by the Northfield developer and agrees that the requested reimbursement meets the requirements under City Code Section 24-112 for appropriation from TCEF funds.

The Northfield developer's request for reimbursement from TCEF funds prompted review of the metro district service plan for Northfield. There are three metro districts serving the Northfield development. Staff's review determined that the developer is eligible to seek reimbursement from the developer's metro districts for the same improvements being requested for reimbursement from TCEF funds (but could not legally be reimbursed from both). City Council may have a preference on whether reimbursement to the developer should occur from TCEF funds or the developer's metro districts; however, with the developer meeting the requirements for reimbursement from TCEF funds under Section 24-112 of the City Code, staff does not have a reason to object to the developer's reimbursement request from TCEF funds.

An affidavit from the manager of Northfield's metro districts has been provided to the City affirming that the metro districts will not reimburse the developer for this same reimbursement request from TCEF funds and are prohibited from reimbursing the developer for any costs which the City would have reimbursed as this would be a violation of the service plan. Additionally, the affidavit asserts that the previous reimbursements for Suniga right-of-way and the bridge structure have not and will not be reimbursed by the metro districts. Resolutions adopted by the three metro districts also have been provided adopting that each district will not reimburse the developer for any costs for which they have been reimbursed from the City.

The City Manager is recommending this supplemental appropriation and has determined it will not cause the total amount appropriated in 2023 in the Transportation Improvement Fund, the fund into which TCEF revenues are deposited and from which these appropriated funds will be expended, to exceed the current estimate of actual and anticipated and all other funds to be received in the Transportation Improvement Fund during the 2023 fiscal year.

In addition, this reimbursement under the TCEF program is subject to the City Council's approval of this Ordinance to appropriate the needed funds, which approval is within the Council's sole discretion.

CITY FINANCIAL IMPACTS

This item appropriates \$2,081,548 of TCEF Funds into the Transportation Capital Expansion Fee Program Budget for reimbursement to the Northfield developer.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Council Finance Committee recommended approval at its December 1, 2022, meeting.

PUBLIC OUTREACH

Public outreach is not required or contemplated in the requirements for reimbursement to developers as described under Municipal Code Sec. 24-112. – Transportation improvements reimbursement program.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 006, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PRIOR YEAR RESERVES IN THE TRANSPORTATION CAPITAL
EXPANSION FEE FUND FOR ELIGIBLE REIMBURSEMENT TO THE NORTHFIELD
DEVELOPER FOR CONSTRUCTION OF SUNIGA ROAD IMPROVEMENTS

WHEREAS, City Code Section 7.5-32 establishes a transportation capital expansion fee (“TCEF”) that is one of the City’s capital expansion fees that are imposed on development at the time of building permit issuance to ensure that new growth and development in the City bears a proportional share of the City’s costs for certain capital improvements, including streets and related transportation improvements; and

WHEREAS, Code Section 7.5-32 also provides that the TCEF revenues are to be deposited into the City’s Transportation Improvement Fund established in City Code Section 8-87 (the “TCEF Fund”); and

WHEREAS, Code Section 8-87 directs that the monies in the TCEF Fund are to be used as provided in Division 2 of Article III of City Code Chapter 24 (“Division 2”)

WHEREAS, Division 2 provides that the revenues in the TCEF Fund are to be used by the City to fund certain transportation improvements, including arterial and collector streets, either directly or as reimbursement to developers of real property who have constructed such improvements; and

WHEREAS, in order for a developer to be eligible for reimbursement of its costs for qualifying transportation improvements it has constructed, Division 2 requires the developer to submit proof of its costs to the City for the City Engineer’s review and approval consistent with the requirements of Division 2; and

WHEREAS, DFC Northfield, LLC, is the developer of the Northfield development (the “Developer”) and as part of that development, has constructed a portion of the City’s Suniga Road as a four-lane arterial street (“Suniga Road Improvements”); and

WHEREAS, the Developer has submitted its request to the City for a reimbursement of \$2,081,548 representing its costs for the oversized portion of the Suniga Road Improvements (the “Reimbursement Request”); and

WHEREAS, the City Engineer has reviewed the Reimbursement Request and determined it meets the requirements of Division 2 and that the Developer is eligible to be reimbursed for the amount requesting in its Reimbursement Request, but Code Section 24-112(c) provides that all reimbursements under Division 2 must first be appropriated from the TCEF Fund by City Council; and

WHEREAS, the monies necessary to satisfy the Reimbursement Request have not been appropriated from the TCEF Fund by Council, so this Ordinance must be adopted by Council before the reimbursement can be made to the Developer; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the TCEF Fund and will not cause the total amount appropriated in the TCEF Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in the Fund during this fiscal year; and

WHEREAS, this appropriation benefits the public health, safety and welfare of the residents of Fort Collins and serves the public purpose of reimbursing the Northfield Developer for the costs it incurred to construct a portion of the City’s Suniga Road to arterial standards, which standards the Developer was not legally required to satisfy considering the impacts of its development.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from prior year reserves in the TCEF Fund the sum of TWO MILLION EIGHTY-ONE THOUSAND FIVE HUNDRED FORTY-EIGHT DOLLARS (\$2,081,548) to be expended in the TCEF Fund to pay such amount to the Developer in reimbursement for constructing the oversized portion of the Suniga Road Improvements.

Introduced, considered favorably on first reading, and ordered published this 17th day of January, 2023, and to be presented for final passage on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk



AGENDA ITEM SUMMARY

City Council

STAFF

Anissa Hollingshead, City Clerk
Carrie Daggett, City Attorney

SUBJECT

Second Reading of Ordinance No. 007, 2023, Repealing Ordinance No. 114, 2022, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt the Land Development Code and Separately Codifying the 1997 Land Use Code as “2022 Transitional Land Use Regulations”.

EXECUTIVE SUMMARY

On January 17, 2023, Council unanimously adopted this Ordinance on First Reading from the options available to it upon the presentation of a petition certified as sufficient for referendum.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

None.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

First Reading attachments not included.

- 1. Ordinance for Consideration

ORDINANCE NO. 007, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REPEALING ORDINANCE NO. 114, 2022, REPEALING AND REENACTING
SECTION 29-1 OF THE CODE OF THE CITY OF FORT COLLINS
TO ADOPT THE LAND DEVELOPMENT CODE AND
SEPARATELY CODIFYING THE 1997 LAND USE CODE
AS “2022 TRANSITIONAL LAND USE REGULATIONS”

WHEREAS, on November 1, 2022, the City Council adopted on second reading Ordinance No. 114, 2022, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt the Land Development Code and Separately Codifying the 1997 Land Use Code as “2022 Transitional Land Use Regulations” (the “Ordinance”); and

WHEREAS, on November 11, 2022, a registered elector commenced referendum proceedings by filing with the City Clerk a notice of protest against the Ordinance; and

WHEREAS, on November 18, 2022, the City Clerk approved the form of the referendum petition relating to the Ordinance (the “Referendum Petition”); and

WHEREAS, on December 19, 2022, the petition representatives filed the Referendum Petition with the City Clerk; and

WHEREAS, on December 30, 2022, the City Clerk issued and provided to the City Council her certification that the Referendum Petition contained the requisite number of signatures (at least 4,228) to require further action by the City Council, and;

WHEREAS, under Article X, Section 2(e) of the City Charter, the presentation to the City Council of a petition certified by the City Clerk as sufficient for referendum automatically suspends the operation of the Ordinance pending repeal by the Council or final determination by the electors; and

WHEREAS, under Article X, Section 2(e) of the City Charter, if the Ordinance is not repealed, the Council must refer the same to a vote of the registered electors at the next regular or special city election, or, in the alternative, call a special election for that purpose; and

WHEREAS, Council has determined that the Ordinance should be repealed.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Ordinance No. 114, 2022, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt the Land Development Code and Separately Codifying the 1997 Land Use Code as “2022 Transitional Land Use Regulations”, is hereby repealed in its entirety.

Introduced, considered favorably on first reading, and ordered published this 17th day of January, 2023, and to be presented for final passage on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 7th day of February 2023.

Mayor

ATTEST:

City Clerk

February 7, 2023

AGENDA ITEM SUMMARY

City Council



STAFF

Will Lindsey, City Planner
 Kai Kleer, City Planner
 Cyril Vidergar, Legal

SUBJECT

Items Related to Code Amendments to Update and Align Wireless Communication Facility Regulations with the Wireless Telecommunications Master Plan

EXECUTIVE SUMMARY

- A. Second Reading of Ordinance No. 011, 2023, Amending the Fort Collins Land Use Code to Update Standards for Wireless Communications Facilities Consistent with the Wireless Telecommunications Master Plan.
- B. Second Reading of Ordinance No. 012, 2023, Amending the Code of the City of Fort Collins to Update Standards for Wireless Communications Facilities in Public Highways Consistent with the Wireless Telecommunications Master Plan.

The purpose of the update to the Wireless Communication section of the Land Use Code and corresponding revisions to the City Code is to ensure City standards and requirements for wireless communication development proposals align with the goals, policies, and implementation strategies of the recently adopted Wireless Telecommunications Master Plan and current state and federal regulatory standards. Doing so will enable the City to fully exercise its regulatory authority during the review and siting of new wireless communication infrastructure throughout the community. The Planning and Zoning Commission has reviewed and recommended approval of the revised City Code and Land Use Code language. These Ordinances were unanimously adopted on First Reading on January 17, 2023.

To avoid confusion with the Codifier in accurately updating the Land Use Code, a new Section 47 has been added to Ordinance No. 011, 2023, to specifically state that the definitions of "Wireless telecommunication equipment", "Wireless telecommunication facility" and "Wireless telecommunication services" are deleted from Section 5.1.2 of the Land Use Code. This is not a substantial change to the Code language Council approved on First Reading.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinances on Second Reading.

BACKGROUND / DISCUSSION

Federal Communication Commission (FCC) rulemaking and Colorado statutory revisions enacted from 2017 through 2018 significantly altered local land use control over wireless communication facility siting and operations. Consistent with those revised standards for local review of land use applications

Involving wireless communication facilities, the City amended Chapter 23 of the City Code to manage permits to locate wireless communication facilities on public highways and City-owned infrastructure in public rights-of-way.

In 2018, the City Council also appropriated \$50,000 as part of the 2019-2020 biennial budget to fund the completion of the City's first Wireless Telecommunications Master Plan (the "Plan"). The City retained Cityscape Consultants, Inc., an independent wireless communication consultant that specifically works with local government on wireless policy, to assist staff with analysis and creation of the Plan. A technical advisory committee, comprised of City staff and community members, also met throughout the process to review planning materials and provide feedback for the Plan's development. The City began the formal Plan development process in Spring 2020 in three phases:

Phase 1 - Research and Assessment of Existing Conditions

The first phase framed Plan priorities and explored key issues, based on previous neighborhood concerns and stakeholder feedback received through several contentious neighborhood meetings. During this phase, City staff researched, cataloged, and assessed all wireless communication facilities by visiting each site.

Phase II - Choices and Strategies

The second planning phase documented existing wireless communication conditions and developed simulated coverage and capacity maps. The resulting analysis identified gaps that are assumed to be filled one day by wireless communication infrastructure. With this information, City staff developed a targeted outreach strategy to engage the public in areas that are expected to see future development. Staff conducted facilitated conversations, surveys, and one-on-one meetings with stakeholders to discuss the trade-offs that may be faced when developing wireless communication sites in areas of the community that may currently lack strong wireless coverage and capacity.

Phase III - Plan Development

During the development phase of the Plan, Cityscape developed content with staff which was then curated through successive reviews by the technical advisory committee, City boards and commissions, community members, and other wireless stakeholders.

The Plan identified several opportunities and challenges the City will face as the community grows, wireless communication technology progresses, and wireless subscribers consume more data. This Plan will serve as the basis for the City to implement targeted Land Use Code amendments that address the design, location, and an updated development process for constructing wireless telecommunication facilities. The vision for the future is based on feedback received from various community members, technical experts, boards, and commissions and summarized in the following vision statements:

- Provide context-sensitive concealment elements that are compatible with surrounding natural and architectural environments.
- Use limited public lands, such as parks, civic buildings, and golf courses to allow greater community control over placement and design, protect the community from visual impacts and improve coverage in hard-to-reach residential areas.
- Promote greater transparency from the wireless industry by requiring applicants to demonstrate radio frequency emission compliance with any new or existing wireless development.
- Maintain cohesive small wireless facility design standards which require undergrounding of equipment to protect the community's visual quality.
- Continually monitor, update, and publish the City's database of existing wireless communication facilities as a tool to promote collocation.

Staff presented on the Plan progression during Planning and Zoning Commission work sessions on March 26, May 14, and June 11, 2021. Additionally, staff presented on the Plan progress and draft strategies to the Golf Board on April 14, 2021, and the Parks and Recreation Board on April 28, 2021, and May 26, 2021, both of which expressed support for the Plan.

At the September 16, 2021, Regular Hearing, the Planning and Zoning Commission unanimously recommended that the Council adopt the Wireless Telecommunications Master Plan. Council then unanimously adopted the Plan as an element of the City Plan on October 19, 2021 (Ordinance No. 130, 2021).

Staff returned to Council at the January 25, 2022, work session to present on the key strategies of the Plan and request feedback on which strategies to prioritize. Councilmembers asked staff at the work session to explore options to revise/refine existing design standards for wireless communication facilities, as that component of City regulations had implications for other policy items, such as the possibility of permitting facilities in residential zone districts or on City-owned properties.

Following the January 2022 work session, staff worked with the City Attorney’s Office and outside legal counsel to review the Land Use Code standards for compliance with FCC regulations, and to explore options to further align the Land Use Code with the policies of the Wireless Telecommunication Master Plan as adopted and prior work session input. Staff returned to Council on August 23, 2022 to seek final feedback on the following policy questions:

- Should wireless communication facilities be permitted on non-residential properties in residential zone districts?
- Should certain City-owned properties be available for the siting of wireless communication facilities?
- Does Council support the use of “context-based “standards to regulate wireless communication facility design?

Council’s feedback at the August 2022 work session indicated support for all three questions with the recognition that the context-based design approach would provide the best approach to cater the design of facilities to proposed project areas. Staff presented these same questions at the Planning and Zoning Commission work session on September 9, 2022. The Commission voiced support for staff’s approach at that work session, and specifically cited the ability to review facilities proposed in residential zone districts as important.

Wireless Code Update

The Wireless Telecommunication Master Plan identified several opportunities and challenges the City will face as the community grows, wireless communication technology progresses, and wireless subscribers consume more data. The Plan serves as the basis for targeted Land Use Code (LUC) amendments that address the design, location, and updated review processes for constructing wireless communication facilities.

The following table identifies the key strategies recommended in the Plan to fulfill the community vision for wireless communication infrastructure, and a summary of the affiliated LUC amendment being proposed to achieve the Plan strategies.

Strategy	Description	LUC Change	LUC Section
Further incentivize roof or wall mounted installations.	Recalibrate or develop process incentives in the Land Use Code when wall or roof mounted equipment is proposed on existing structures.	Review type for collocated/attached wireless communication facilities will be changed to a Basic Development	Article 4 – Districts

Strategy	Description	LUC Change	LUC Section
	Examples may include expedited review times or final approval by the CDNS director without a public hearing.	Review (BDR) in all zone districts except for the Downtown and its sub-districts.	
Review processes for siting wireless proposals in residential zone districts.	Explore process that would allow facilities in residential districts while keeping a stringent set of baseline standards that control the location, design, height, and placement of wireless facilities	Wireless Communication Facilities are a permitted use when located on a non-residential parcel in the UE, LMN, MMN, and HMN zone districts. Facilities are subject to a Type 2 Review by the Planning and Zoning Commission in Residential Zone Districts.	Article 4 - Divisions 4.2 (B)(3), 4.5(B)(3), 4.6(B)(3), 4.7(B)(3) – Permitted Uses subject to Type 2 Review
Develop design standards and expectations for wireless facilities.	Explore the use of a design guidelines document for large wireless facilities, like what currently exists for small cell placement of facilities.	A new standard has been added regarding Compatibility Requirements for facilities. This includes the establishment of an Area of Adjacency around proposed facilities to inform the design of facilities.	Division 3.8.13(D)(18)
Update the City's Land Use Code to comply with Federal and State timing requirements.	Decision timelines and required rules concerning local government's review and decision processes for macro cell and small wireless facilities should be included in the City's Land Use Code.	A section detailing the timelines and shot clocks for wireless proposals will be added to the Code.	Division 3.8.13(G)
Amend zoning standards to match federal definitions.	Rules and application approval timelines would reduce the number of inconsistencies that exist in the current zoning policies and allow for streamlined staff processing.	The terminology and definitions for wireless communications proposals will be updated to reflect FCC terminology.	Division 5.1.2 - Definitions

Additional conforming changes and revisions staff identified include:

- Definitions for wireless communication facilities, collocation, base station, concealment, camouflage, eligible facilities request, substantial change, tower, etc.
- Changing review type for non-collocated facilities from an Administrative (Type 1) Review to a Basic Development Review in the Industrial (I), Employment (E), Service Commercial (CS), and Harmony Corridor (HC) zone districts.
- Change references to “Wireless Telecommunication Facilities” to “Wireless Communications Facilities” throughout the LUC.

- Change references to “Wireless Telecommunication Equipment” to “Wireless Communications Facilities, Collocated” throughout the LUC.
- Details regarding which types of towers, antennas, and facilities are exempt from the standards found in the LUC.
- Requirement that non-collocated wireless communication facilities in residential zone districts must be located on a non-residential parcel.
- Requirement for applicants to provide a Radio Frequency Emissions certification indicating that their facility shall comply with federal standards.
- Standard that explicitly states applicants shall, to the maximum extent feasible, use Concealment Design Techniques, as the term is defined in federal rulemaking.

While staff is not recommending revised consideration of site facility practices on certain City-owned properties as an LUC amendment, staff nevertheless recommends amending those proprietary practices in response to feedback received from Council, the Commission, and the public. Staff recommends keeping those policy practices outside of the LUC to allow for the greatest flexibility in exercising the City’s proprietary interests.

Lastly, staff is proposing a separate but affiliated update to Article VII of Chapter 23 of the City Code related to Small Cell Facilities in the Public Right-of-Way. The primary reason for updating Article VII is to ensure consistency in FCC terminology and definitions across both the City Code and the LUC. The existing separation between regulations in the City Code and in the LUC correlates to the City’s proprietary authority over Small Cell Facilities found in the public right-of-way versus its regulatory authority over wireless communication facilities as a permitted use on private property. While merging both sets of regulations under one code was potentially feasible, staff found that maintaining the existing separation allows for greater convenience in applying the different Code requirements in their respective contexts.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

At the November 17, 2022, regular hearing, the Planning and Zoning Commission unanimously recommended that Council adopt the proposed changes to the Wireless Communications sections of the Land Use Code and corresponding updates to the City Code. Attached is a written recommendation from the Commission to the Council stating their recommendation of approval.

CITY FINANCIAL IMPACTS

Funding has already been allocated for the Code and LUC updates and implementation, along with funding for the development of the Wireless Telecommunications Master Plan, which occurred in 2021. Outside legal counsel assisted with the Code and LUC update work during Q2 and Q3 2022.

- Prior Appropriated Funds - \$50,000
 - Cityscape Consultants, Inc. - \$40,100 (Plan Development)
 - Outside Counsel - \$9,900 (Code Update)

PUBLIC OUTREACH

A significant component of outreach for the Plan and recommended Code and LUC updates was a survey conducted from mid-March to mid-April 2021. The survey gathered interested stakeholder input on their experiences and opinions about the current state of wireless communication connectivity and aesthetics of infrastructure in the City. The City received over 300 responses to the survey, the entirety of which can be reviewed in Appendix B of the Plan. Survey results and commentary from participants

confirmed the gaps in coverage and capacity identified in the Plan consultant's analysis. An abbreviated summary of the survey results is listed below:

- Aesthetics in terms of height, color and appearance are of greatest importance to the community.
- 198 (81.5%) of respondents live and work in Fort Collins year-round.
- 209 (85.3%) respondents indicated the quality of wireless communication service is important to them.
- 238 respondents rely on a mobile device for personal use/entertainment; 177 also rely on it for work and 41 of those polled rely on it for school.
- 105 (42.9%) respondents indicated their network coverage at home is poor; 26 (10.6%) indicated it was excellent.
- 160 (67.8%) respondents indicated they would prefer taller communication facilities with multiple collocation possibilities, as opposed to shorter and potentially more towers and other communication facilities.
- 229 (93.9%) respondents indicated they support locating concealed wireless communication facilities on City-owned property.

The outreach conducted along with the subsequent feedback received from Council and the Commission guided staff's proposed amendments to the Wireless Communication standards in the Code and LUC.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance A for Consideration
2. Ordinance B for Consideration

ORDINANCE NO. 011, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE FORT COLLINS LAND USE CODE TO UPDATE STANDARDS FOR
WIRELESS COMMUNICATIONS FACILITIES CONSISTENT WITH THE WIRELESS
TELECOMMUNICATIONS MASTER PLAN

WHEREAS, the City of Fort Collins, as a home-rule municipality, is authorized by Article XX, Section 6 of the Colorado Constitution, the provisions of state statutes, and its City Charter to develop and implement policies and ordinances regulating the development of land within the City; and

WHEREAS, the City Council is empowered and directed by Article II, Section 5(b) and Section 14, of the City Charter to provide for all essential administrative functions and public services related to street maintenance and provide for all licenses and permits for regulatory purposes; and

WHEREAS, on December 2, 1997, by its adoption of Ordinance No. 190, 1997, the City Council enacted the Fort Collins Land Use Code (the "Land Use Code"), including divisions applicable to wireless telecommunication facilities and equipment; and

WHEREAS, when enacting the Land Use Code, staff and the City Council anticipated that the 1997 Land Use Code would be subject to future amendments for the purpose of clarification and correction of errors, and to ensure the Land Use Code remained a dynamic document capable of responding to issues identified by staff, other land use professionals and citizens of the City; and

WHEREAS, between June 2000 and December 2017, the City Council adopted a series of amendments to the 1997 Land Use Code requirements for wireless telecommunication facilities and equipment, including in Ordinance No. 144, 2017, which conformed the City's review of applications for small cell telecommunications facilities located in public rights-of-way with statutory changes adopted by the Colorado General Assembly under HB17- 1193; and

WHEREAS, in 2017, in response to Federal Communication Commission (FCC) rulemaking and state statutory revisions enacted in 2017 and 2018 affecting local control over wireless communication facilities, the City Council adopted Ordinance No. 143, 2017, adding Chapter 23, Article VII of the City Code to create a permitting process for small cell telecommunication facilities located in public highways; and

WHEREAS, in 2018, the City Council also appropriated \$50,000 in the 2019-2020 budget to fund the completion of a Wireless Telecommunications Master Plan to establish a framework for City wireless communication land use regulations and permitting practices; and

WHEREAS, between 2018 and 2020, additional FCC rulemaking and federal appellate decisions interpreting the federal Telecommunications Act of 1996 and the Middle-Class Tax

Relief and Job Creation Act of 2012, imposed further requirements on local government review of land use applications for wireless communications facilities; and

WHEREAS, in 2020, City Planning staff began a formal process to develop a Wireless Telecommunications Master Plan, including engaging consultants and a technical advisory committee, and conducting a series of neighborhood meetings; and

WHEREAS, on October 19, 2021, the City Council adopted Ordinance No. 130, 2021, approving the Wireless Telecommunications Master Plan (the “Plan”) as an element of the City Plan to guide City land use and public highway access regulations for wireless communication facilities; and

WHEREAS, during a work session held on January 25, 2022, City Council directed staff to develop recommended ways to revise existing wireless communication facility design standards in furtherance of the Plan; and

WHEREAS, thereafter, staff reviewed existing FCC regulations, consulted with industry and community stakeholders, and identified revisions to the City Code and Land Use Code to further align City regulations with Council’s direction; and

WHEREAS, staff identified changes to City wireless communication facility regulations in the Land Use Code which are needed for the purpose of clarification and to ensure the Land Use Code remains a dynamic document capable of responding to issues identified by staff, other land use professionals and citizens of the City; and

WHEREAS, the City Manager and staff recommend to the City Council the following additions and revisions to the Land Use Code applicable to review of development applications for wireless communication facilities; and

WHEREAS, in addition to the Land Use Code amendments proposed herein, Council is concurrently considering City Code amendments regarding the review of small cell wireless communications facilities proposed to be placed in public rights-of-way; and

WHEREAS, based on the foregoing, it is the desire of the City Council to amend the Land Use Code to align wireless communication facility application review with the Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 3.4.2(B)(1)(e) of the Land Use Code is hereby amended to read as follows:

3.4.2 Air Quality

...

(B) Setbacks From Domestic Wastewater Treatment Works to Habitable Structures.

(1) Unless specifically authorized pursuant to the provisions of paragraph (C) below, the minimum horizontal distances set forth in subparagraph (2) of this Subsection shall be maintained between the various kinds of wastewater treatment works listed in said subparagraph and any of the following uses:

...

(e) any accessory/miscellaneous uses except agricultural activities, farm animals, satellite dishes (greater than thirty-nine [39] inches in diameter), and wireless communication facilities.

Section 3. That Section 3.8.13 of the Land Use Code is hereby amended to read as follows:

3.8.13 Wireless Communication

(A) **Applicability and Exemptions.** The provisions of this Section shall apply to any Wireless Communications Facility (WCF) within the City. The requirements set forth in this Section shall not apply to:

(1) Antennas or towers used by FCC-licensed amateur (ham) radio operators.

(2) Television or radio antennas. Those antennas, including over the air reception devices, located on single family dwellings or duplexes, not exceeding one (1) meter in diameter and less than five (5) feet above the highest point of the existing principal structure, or for ground mounted antennas, the requirement that the height be no more than the distance from its base to the property line or the maximum height specified for accessory structures for that zone district, whichever is less. The Director has the authority to approve modifications to the height restriction related to over the air reception device antennas and antenna structures, if in the reasonable discretion of the City, modifications are necessary to comply with federal law.

(3) Government-owned facilities. City-owned communications WCFs located on City-owned property and/or public rights-of-way, and any government-owned WCF installed upon the declaration of a state of emergency by the federal, state or local government, or a written determination of public necessity by the City.

(4) Over the Air Reception Devices (OTARD) antennas and associated masts. The Director may approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the Engineer, modifications are necessary to comply with federal law.

(5) A facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of this Code.

- (B) **Location.** Subject to the requirements of paragraph (3) of this Section, WCFs may be attached to or mounted on any existing building or structure (or substantially similar replacement structure) located in any zone district of the city. With the exception of OTARD, and associated masts, WCFs shall not be permitted to be attached to or mounted on any residential building containing four (4) or fewer dwelling units.
- (C) **Cooperative Collocation.** No WCF or equipment owner or lessee or employee thereof shall act to exclude or attempt to exclude any other wireless communication provider from using the same building, structure or location. WCF or equipment owners or lessees or employees thereof, and applicants for the approval of plans for the installation of such facilities or equipment, shall cooperate in good faith to achieve co-location of WCFs and equipment. Any application for the approval of a plan for the installation of WCFs or equipment shall include documentation of the applicant's good faith efforts toward such cooperation.
- (D) **Standards.**
- (1) **Setbacks.** With respect to a WCF that is a tower or a monopole, the setback of the facility from the property lines shall be one (1) foot for every foot of height. However, to the extent that it can be demonstrated that the structure will collapse rather than topple, this requirement can be waived by the Director. In addition, the setbacks for ground-mounted wireless communication equipment shall be governed by the setback criteria established in this Code.
- Collocated WCFs in the R-U-L zone district shall be setback from the center line I-25 of Carpenter Road a distance of at least one thousand three hundred twenty (1,320) feet (one-quarter (1/4) mile).
- (2) **WCFs.** All WCFs shall be consistent with the architectural style of the surrounding architectural environment (planned or existing) considering exterior materials, roof form, scale, mass, color, texture and character. Such facilities shall also be compatible with the surrounding natural environment considering land forms, topography, and other natural features. If such facility is an accessory use to an existing use, the facility shall be constructed out of materials that are equal to or better than the materials of the principal use.

- (3) *WCFs in Residential Zone Districts.* Non-collocated WCFs permitted in the following zone districts: U-E, R-L, L-M-N, M-M-N, and H-M-N, as specified in Article 4 - Districts must be located on a non-residential parcel and installation must be mitigated by use of concealment design techniques and compatibility standards.
- (4) *Collocated or attached WCFs.* Collocated or attached WCFs shall be of the same color as the building or structure to which or on which such equipment is mounted.

Whenever a wireless telecommunication antenna is attached to a building roof, the height of the antenna shall not be more than fifteen (15) feet over the height of the building. All WCF equipment shall be located as far from the edge of the roof as is feasible. Even if the building is constructed at or above the building height limitations contained in other sections of this Code, the additional fifteen (15) feet is permissible.

Whenever WCFs are mounted to the wall of a building or structure, the equipment shall be mounted in a configuration as flush to the wall as feasible and shall not project above the wall on which it is mounted. Such equipment shall, to the extent feasible, also feature the smallest and most discreet components that the technology will allow so as to have the least possible impact on the architectural character and overall aesthetics of the building or structure.

Roof- and ground-mounted WCFs shall be screened by parapet walls or screen walls in a manner compatible with the building's design, color and material.

- (5) *Landscaping.* WCFs and related transmission equipment may need to be landscaped with landscaping materials that exceed the levels established in Section 3.2.1, due to the unique nature of such facilities. Landscaping may therefore be required to achieve a total screening effect at the base of such facilities or equipment to screen the mechanical characteristics. A heavy emphasis on coniferous plants for year-round screening may be required.

If a WCF and related transmission equipment has frontage on a public street, street trees shall be planted along the roadway in accordance with the policies of the City Forester.

- (6) *Fencing.* Chain link fencing shall be unacceptable to screen facilities. Fencing material shall consist of wood, masonry, stucco or other acceptable materials and be opaque. Fencing shall not exceed six (6) feet in height.
- (7) *Berming.* Berms shall be considered as an acceptable screening device. Berms shall feature slopes that allow mowing, irrigation and maintenance.

- (8) *Irrigation.* Landscaping and berming shall be equipped with automatic irrigation systems meeting the water conservation standards of the City.
- (9) *Color.* All WCFs and related transmission equipment shall be painted to match to the extent feasible the color and texture of the wall, building or surrounding built environment. Muted colors, earth tones and subdued colors shall be used.
- (10) *Lighting.* The light source for security lighting shall comply with the requirements of Subsection 3.2.4. Light fixtures, whether freestanding or tower-mounted, shall not exceed twenty-two (22) feet in height.
- (11) *Interference.* Wireless telecommunication facilities and equipment shall operate in such a manner so as not to cause interference with other electronics such as radios, televisions or computers, and otherwise in compliance with applicable federal standards for avoiding signal interference. An applicant shall provide a written statement (“Signal Interference Letter”) from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential interference problems.
- (12) *Radio frequency standards.* All WCFs shall comply with federal standards for radio frequency emissions. An applicant shall provide a written statement (“Emission Standards Letter”) from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed facilities indicates no potential emissions in excess of federal radio frequency standards.
- (13) *Access Roadways.* Access roads must be capable of supporting all of the emergency response equipment of the Poudre Fire Authority.
- (14) *Foothills and Hogbacks.* Applicants for WCFs and related transmission equipment in or near the foothills bear a special responsibility for mitigating visual disruption. If such a location is selected, the applicant shall provide computerized, three-dimensional, visual simulation of the facility or equipment and other appropriate graphics to demonstrate the visual impact on the view of the city's foothills and hogbacks.
- (15) *Airports and Flight Paths.* WCFs and related transmission equipment shall comply with Federal Aviation Administration (FAA) requirements and obtain the necessary approvals from the FAA.
- (16) *Historic Sites and Structures.* WCFs and related transmission equipment shall not be located on any historic site or structure unless permission is first

obtained from the city's Historic Preservation Commission as required by Chapter 14 of the City Code.

(17) *Concealment Required.* All WCFs shall, to the extent feasible, use concealment design techniques, and when not feasible utilize camouflage design techniques.

(18) *Compatibility Required.*

(a) Purpose. The purpose of this Section is to ensure that proposed WCFs are compatible with the surrounding context by ensuring that:

- 1. New or existing WCFs do not adversely impact the visual character* of the community within the area of adjacency; and
- 2. The design of WCFs are compatible and contextually appropriate with the built or natural environment surrounding a proposed wireless communication site.

(b) To accomplish its purpose, this Section provides the standards for design compatibility of WCFs with the existing context within the delineated area of adjacency surrounding a proposed WCF site.

* For the purposes of this Section, character is defined as special physical characteristics of a structure or area that set it apart from its surroundings and contribute to its individuality. This can include but is not limited to the built environment, landscaping, natural features and open space, and types and styles of building architecture.

(c) WCF Site and Area of Adjacency.

As used in this Section, the *area of adjacency* shall mean an area measured radially from the center point of the WCF. Any element of a lot or parcel of property shall be considered within the area of adjacency if any portion of such lot or parcel is within the boundary. The limits of the boundary shall be based on the following calculation:

The overall height (from grade to highest point of the proposed facility) of the proposed WCF multiplied by five (5).

In the event that the area of adjacency is absent of an established visual character the WCF shall be designed in such a way that most closely relates to the landscape, historic, or future potential use of land.

(d) Design Standards for a Proposed WCF.

Proposed WCFs and equipment shall mimic the height and appearance of structures or natural elements appropriate to the context in a way that protects and enhances the character of the area both on the development site and within the area of adjacency. The Table 1 requirements shall apply to the development of facilities on the development site as follows:

Table 1 – Standards for Compatibility on the Development Site and Within the Area of Adjacency

Purpose	Standards for Compatibility on the Development Site and Within the Area of Adjacency
<i>Height and Mass of WCFs</i>	<p>New or modified WCFs shall use concealment, and when not feasible, camouflage that reflects the character of the area of adjacency. The overall height and mass of a facility or equipment established under these standards are the maximum height that if any greater, would otherwise defeat concealment.</p> <ol style="list-style-type: none"> 1. Height. New or modified WCFs shall not exceed 15 feet or 15%, whichever is less, of the average height of buildings or landscape within the area of adjacency. If a lot containing a residential land use falls within or abuts the area of adjacency, the maximum height of the facility shall not exceed forty-five (45) feet. 2. Massing. All WCFs shall mimic the mass (height and width) in a way that is subordinate to the natural environment or built environment found within the area of adjacency.
<i>Materials for WCFs</i>	<p>Create visual and contextual connection between WCFs colors and materials with those found in the surrounding area.</p> <p>New or modified WCFs shall utilize, to the extent feasible, the following elements found within the area of adjacency to inform their concealment techniques:</p> <ol style="list-style-type: none"> a) Architectural style b) Building materiality c) Color d) Tree species e) Structures that are related to the primary use of the site

<i>Technology for Facilities</i>	<p>To the extent feasible, new WCFs and related transmission equipment shall utilize industry best practices and the latest technology available to achieve concealment and compatibility with the context.</p> <p>Such facilities or shall feature the smallest and most discreet components that the technology will allow so as to have the least possible impact on the character and overall aesthetics of the area of adjacency.</p>
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(E) The regulations contained in this Section shall not apply to the installation, operation, maintenance, or upgrade of a small cell facility by a telecommunications provider principally located within a public highway. The regulation of such activities is addressed in Chapter 23 of the Code of the City of Fort Collins, and design standards for small cell facilities are addressed in the City’s Small Cell Handbook as may be amended from time to time.

(F) Review Procedures and Requirements.

- (1) General. No new WCF shall be constructed and no collocation or modification to any WCF may occur except after a written request from an applicant, reviewed and approved by the City in accordance with this Section. All WCFs shall comply with the zone district use standards and land use application processes identified in Article 4.
- (2) Application Requirements. All applications for WCFs shall include:
 - (a) Application form as provided by the Director.
 - (b) If the applicant is not the owner of the property or structure to which the WCF is to be attached, an executed Letter of Authorization from the landowner.
 - (c) A report, signed and sealed by a professional engineer in the State of Colorado, or a verified statement from a qualified radio frequency engineer, demonstrating or assuring that the site will be in full compliance with federal radio-frequency emissions standards for WCFs.
 - (d) A signal interference certification bearing the seal and signature of a professional engineer in the State of Colorado, representing that all WCFs covered by the application shall be designed, sited and operated in accordance with applicable federal signal interference requirements.

- (e) Submittal fees.
 - (f) Scaled site plan, photo simulation, scaled elevation view and supporting drawings, calculations, showing the location and dimension of all improvements, including information concerning topography, tower and where applicable, structure height, setbacks, drives, parking, street trees, adjacent uses, drainage.
 - (g) Narrative detailing the rationale for the proposed location.
 - (h) Other information reasonably deemed by the Director to be necessary to assess compliance with this Section. Documents requiring signatures and seals by appropriate qualified professionals shall be provided by applicant prior to issuance of a permit under this Section.
- (3) Structural Assessment. Prior to issuance of a WCF permit for any WCF proposing a new pole or attachment to a non-City-owned structure, the applicant shall submit a stamped and signed structural assessment for each new proposed WCF host support structure conducted by a professional engineer, licensed in the State of Colorado.
- (a) When the structural assessment indicates a need for a stronger structure to address issues such as wind load factor, applicant shall provide a replacement structure at applicant's cost satisfactory to the Director in consultation with Fort Collins Utilities, as applicable.
 - (b) All costs for conducting an assessment under this subsection (3) shall be borne by the applicant, and shall be paid by the applicant prior to issuance of a permit under this Section.
- (4) New Structures. All applications for new vertical structures associated with a WCF shall demonstrate that other alternative siting options, including collocations, are not feasible. Notwithstanding anything in this Section to the contrary, all WCFs and associated vertical structures located within the City shall satisfy the location and design criteria set forth in subsections (B)-(D) above.
- (G) Timeframes for Review.
- (1) Application types. All WCFs, other than those specified below in subsection (c) shall be reviewed according to the following timeframes:
 - (a) Review of a completed application to collocate a facility other than a small cell facility on an existing tower or base station: 90 days.

- (b) Review of an application to deploy a WCF other than a small cell facility on a new structure: 150 days.
 - (c) Review of an application for a new tower, base station, or alternative tower structure that does not qualify as a small cell facility: 150 days.
- (2) Tolling the Timeframe for Review. The relevant review timeframe begins to run when the application is filed with the City, and may be tolled only by mutual agreement or where the City determines that an application is incomplete.
- (a) To toll the timeframe for incompleteness, the City shall provide written notice to the applicant within thirty (30) calendar days of receipt of the application, specifically delineating all missing documents or information required in the application;
 - (b) Upon providing the notice of incompleteness to the applicant, the timeframe for review pauses. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the City's notice of incompleteness; and
 - (c) Following a supplemental submission, the City will notify the applicant within ten (10) business days whether the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subparagraphs (a) and (b) of this subsection. In the case of a second or subsequent notice of incompleteness, the City may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- (3) Specific Review Procedures for Eligible Facility Requests.
- (a) EFR standards. The City shall prepare, and from time to time revise and make available, an application form requiring the information necessary for the City to consider whether the project covered by an application would:
 - 1. result in a Substantial Change to the physical dimensions of the site; and
 - 2. violate a generally applicable law, regulation, or other rule reasonably related to public health and safety.

The application shall not require an applicant to demonstrate a need or business case for the proposed modification or collocation.

- (b) Timeframe for EFR review. Subject to the tolling provisions below, an eligible facility request shall be approved within sixty (60) days of the date of the request unless it the City determines that it does not qualify as an eligible facilities request. Upon receipt of an application for an eligible facility request pursuant to this subsection, the City shall review such application to determine whether the application so qualifies.
- (c) Tolling the timeframe for EFR review.
 - 1. The sixty (60) calendar day review period begins to run when the application is filed with the City, and may be tolled only by mutual agreement or where the City determines that an application is incomplete:
 - a. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within thirty (30) calendar days of receipt of the application, specifically delineating all missing documents or information required in the application;
 - b. Upon notice of incompleteness to the applicant, the timeframe for review pauses. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the City's notice of incompleteness; and
 - c. Following a supplemental submission, the City will notify the applicant within ten (10) business days whether the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subparagraphs (A) and (B) of this subsection. In the case of a second or subsequent notice of incompleteness, the City may not specify missing documents or information that were not delineated in the original notice of incompleteness.
 - 2. If the City fails to approve or deny an eligible facility request within the time frame for review (accounting for any tolling), the request shall be deemed granted; provided that this approval shall become effective only upon the City's receipt of written notification from the applicant after the review

period has expired (accounting for any tolling) indicating that the application has been deemed granted.

- (d) Interaction with Telecommunications Act 47 U.S.C. Section 332(c)(7). If the City determines that the applicant's request is not an eligible facilities request as delineated in this subsection, the applicant shall be advised as to the relevant provisions of the City Code that govern the process to consider the request, and whether the Code requires any additional information to be submitted in order for the request to be considered complete. If the applicant subsequently indicates an intent for the proposal to be considered under the relevant section of the City Code and submits all required information, the presumptively reasonable timeframe under Section 332(c)(7), as set forth in applicable federal and state law will begin to run from submittal of the required information under the applicable provision of this Code.

Section 4. That Section 3.9.9 of the Land Use Code is hereby amended to read as follows:

3.9.9 Wireless Telecommunication

- (A) **Location.** Wireless communication facilities shall not be permitted within one thousand four hundred forty-five (1,445) feet of the centerline of I-25.
- (B) **Height.** Wireless communication facilities shall not exceed the maximum height allowed for a structure as specified in the Land Use Standards of the underlying zone district.

Section 5. That Section 4.1(B)(1)(a)6. of the Land Use Code is hereby amended to read as follows:

Division 4.1 – Rural Lands District (R-U-L)

...

- 6. Wireless communication facilities, collocated, unless located within one thousand three hundred twenty (1,320) feet (one-quarter (1/4) mile) of the centerline of either I-25 or Carpenter Road.

Section 6. That Section 4.2(B)(1)(a)6. of the Land Use Code is hereby amended to read as follows:

Division 4.2 – Urban Estate District (U-E)

...

6. Wireless communication facilities, collocated.

Section 7. That Section 4.2(B)(3)(e) of the Land Use Code is hereby amended to read as follows:

Division 4.2 – Urban Estate District (U-E)

...

(e) Accessory/Miscellaneous Uses:

- 1. Accessory buildings containing more than two thousand five hundred (2,500) square feet or floor area.
- 2. Wireless communication facilities.*

* Wireless communication facilities must be located on a non-residential parcel and installation must be mitigated by use of concealment techniques such as steeples, bell towers, grain silos, or similar means of disguising the appearance of the facilities to mitigate its visual impacts.

Section 8. That Section 4.3(B)(1)(a)5. of the Land Use Code is hereby amended to read as follows:

Division 4.3 – Residential Foothills District (R-F)

...

5. Wireless communication facilities, collocated.

Section 9. That Section 4.4(B)(1)(b)5. of the Land Use Code is hereby amended to read as follows:

Division 4.4 – Low Density Residential District (R-L)

...

5. Wireless communication facilities, collocated.

Section 10. That Section 4.4(B)(3)(e)1. of the Land Use Code is hereby amended to read as follows:

Division 4.4 – Low Density Residential District (R-L)

...

- 1. Wireless communication facilities.*

* Wireless communication facilities must be located on a non-residential parcel and installation must be mitigated by use of concealment techniques such as steeples, bell towers, grain silos, or similar means of disguising the appearance of the facilities to mitigate its visual impacts.

Section 11. That Section 4.4(D)(4) of the Land Use Code is hereby deleted in its entirety.

Section 12. That Section 4.5(B)(1)(a)5. of the Land Use Code is hereby amended to read as follows:

Division 4.5 – Low Density Mixed-Use Neighborhood District (L-M-N)

...

- 5. Wireless communication facilities, collocated.

Section 13. That Section 4.5(B)(3) of the Land Use Code is hereby amended by the addition of a new paragraph (f) which reads in its entirety as follows:

Division 4.4 – Low Density Residential District (R-L)

...

- (f) **Accessory/Miscellaneous Uses:**

- 1. Wireless communication facilities.*

* Wireless communication facilities must be located on a non-residential parcel and installation must be mitigated by use of concealment techniques such as steeples, bell towers, grain silos, or similar means of disguising the appearance of the facilities to mitigate its visual impacts.

Section 14. That Section 4.6(B)(1)(a)5. of the Land Use Code is hereby amended to read as follows:

Division 4.6 – Medium Density Mixed-Use Neighborhood District (M-M-N)

...

- 5. Wireless communication facilities, collocated.

Section 15. That Section 4.6(B)(3) of the Land Use Code is hereby amended by the addition of a new paragraph (e) which reads in its entirety as follows:

Division 4.6 – Medium Density Mixed-Use Neighborhood District (M-M-N)

...

(e) **Accessory/Miscellaneous Uses:**

- 1. Wireless communication facilities.*

* Wireless communication facilities must be located on a non-residential parcel and installation must be mitigated by use of concealment techniques such as steeples, bell towers, grain silos, or similar means of disguising the appearance of the facilities to mitigate its visual impacts.

Section 16. That Section 4.7(B)(1)(b)6. of the Land Use Code is hereby amended to read as follows:

Division 4.7 – Neighborhood Conservation, Low Density District (N-C-L)

...

- 6. Wireless communication facilities, collocated.

Section 17. That Section 4.8(B)(1)(d)6. of the Land Use Code is hereby amended to read as follows:

Division 4.8 – Neighborhood Conservation, Medium Density District

...

- 6. Wireless communication facilities, collocated.

Section 18. That Section 4.9(B)(1)(d)6. of the Land Use Code is hereby amended to read as follows:

Division 4.9 – Neighborhood Conservation, Buffer District (N-C-B)

...

- 6. Wireless communication facilities, collocated.

Section 19. That Section 4.10(B)(1)(a)4. of the Land Use Code is hereby amended to read as follows:

Division 4.6 – Medium Density Mixed-Use Neighborhood District (M-M-N)

...

- 4. Wireless communication facilities, collocated.

Section 20. That Section 4.10 (B)(3) of the Land Use Code is hereby amended by the addition of a new paragraph (e) which reads in its entirety as follows:

Division 4.6 – Medium Density Mixed-Use Neighborhood District (M-M-N)

...

(e) Accessory/Miscellaneous Uses:

- 1. Wireless communication facilities.*

* Wireless communication facilities must be located on a non-residential parcel and installation must be mitigated by use of concealment techniques such as steeples, bell towers, grain silos, or similar means of disguising the appearance of the facilities to mitigate its visual impacts.

Section 21. That Section 4.11(B)(1)(b)4. of the Land Use Code is hereby amended to read as follows:

Division 4.11 – Manufactured Housing District (M-H)

...

- 4. Wireless communication facilities, collocated.

Section 22. That Section 4.13(B)(1)(a)5. of the Land Use Code is hereby amended to read as follows:

Division 4.13 – Public Open Lands District (P-O-L)

...

- 5. Wireless communication facilities, collocated.

Section 23. That Section 4.13(B)(2)(c)2. of the Land Use Code is hereby amended to read as follows:

Division 4.13 – Public Open Lands District (P-O-L)

...

- 2. Wireless communication facilities.

Section 24. That Section 4.14(B)(1)(a)5. of the Land Use Code is hereby amended to read as follows:

Division 4.14 – River Conservation District (R-C)

...

- 5. Wireless communication facilities, collocated.

Section 25. That the table contained in Section 4.16(F)(2) of the Land Use Code is hereby amended to read as follows:

Division 4.16 – Downtown District (D)

...

<i>Land Use</i>	<i>Historic Core</i>	<i>Canyon Avenue/Civic/North Mason</i>	<i>Innovation/River</i>	<i>River Corridor</i>	<i>Campus North</i>	<i>Entryway Corridor</i>
...
Wireless communication facilities, collocated	Type 1	Type 1	Type 1	Not Permitted	Type 1	Type 1
Wireless communication facilities	Type 2	Type 2	Type 2	Not Permitted	Type 2	Type 2
...

Section 26. That Section 4.18(B)(1)(a)7. of the Land Use Code is hereby amended to read as follows:

Division 4.18 – Community Commercial District (C-C)

...

7. Wireless communication facilities, collocated.

Section 27. That Section 4.18(B)(2)(e)2. of the Land Use Code is hereby amended to read as follows:

Division 4.18 – Community Commercial District (C-C)

...

2. Wireless communication facilities.

Section 28. That Section 4.19(B)(1)(a)7. of the Land Use Code is hereby amended to read as follows:

Division 4.19 – Community Commercial – North College District (C-C-N)

...

7. Wireless communication facilities, collocated.

Section 29. That Section 4.19(B)(2)(e)2. of the Land Use Code is hereby amended to read as follows:

Division 4.19 – Community Commercial – North College District (C-C-N)

...

2. Wireless communication facilities.

Section 30. That Section 4.20(B)(1)(a)7. of the Land Use Code is hereby amended to read as follows:

Division 4.20 – Community Commercial – Poudre River District (C-C-R)

...

7. Wireless communication facilities, collocated.

Section 31. That Section 4.20(B)(2)(e)1. of the Land Use Code is hereby amended to read as follows:

Division 4.20 – Community Commercial – Poudre River District (C-C-R)

...

- 1. Wireless communication facilities.

Section 32. That Section 4.21 (B)(1)(a)3. of the Land Use Code is hereby amended to read as follows:

Division 4.21 – General Commercial District (C-G)

...

- 3. Wireless communication facilities, collocated.

Section 33. That the table contained in Section 4.21(B)(2) of the Land Use Code is hereby amended to read as follows:

Division 4.21 – General Commercial District (C-G)

...

<i>Land Use</i>	<i>I-25/SH 392 (CAC)</i>	<i>General Commercial District (C-G)</i>
...
E. ACCESSORY – MISC.		
Wireless communication facilities, collocated	BDR	BDR
...

Section 34. That Section 4.22(B)(1)(a) of the Land Use Code is hereby amended to read as follows:

Division 4.22 – Service Commercial District (C-S)

...

...

- 7. Wireless communication facilities, collocated.

- 8. Wireless communication facilities.

Section 35. That Section 4.22(B)(2)(e)2. of the Land Use Code is hereby deleted in its entirety.

Section 36. That Section 4.23(B)(1)(a)7. of the Land Use Code is hereby amended to read as follows:

Division 4.23 – Neighborhood Commercial District (N-C)

...

- 7. Wireless communication facilities, collocated.

Section 37. That Section 4.23(B)(2)(e)2. of the Land Use Code is hereby amended to read as follows:

Division 4.23 – Neighborhood Commercial District (N-C)

...

- 2. Wireless communication facilities.

Section 38. That Section 4.24(B)(1)(a)3. of the Land Use Code is hereby amended to read as follows:

Division 4.24 – Limited Commercial District (C-L)

...

- 3. Wireless communication facilities, collocated.

Section 39. That the table contained in Section 4.24(B)(2) of the Land Use Code is hereby amended to read as follows:

Division 4.24 – Limited Commercial District (C-L)

...

<i>Land Use</i>	<i>Riverside Area</i>	<i>All Other Areas</i>
...
E. ACCESSORY – MISC.		
Wireless communication facilities, collocated	BDR	BDR
Wireless communication facilities	Type 1	Type 1
...

Section 40. That Section 4.26(B)(1)(a) of the Land Use Code is hereby amended to read as follows:

Division 4.26 – Harmony Corridor District (H-C)

...

- 7. Wireless communication facilities, collocated.

8. Wireless communication facilities.

Section 41. That Section 4.26(B)(2)(e)2. of the Land Use Code is hereby deleted in its entirety.

Section 42. That Section 4.27 (B)(1)(a) of the Land Use Code is hereby amended to read as follows:

Division 4.27 – Employment District (E)

...

7. Wireless communication facilities, collocated.

8. Wireless communication facilities.

Section 43. That Section 4.27(B)(2)(e)2. of the Land Use Code is hereby deleted in its entirety.

Section 44. That Section 4.28(B)(1)(a) of the Land Use Code is hereby amended to read as follows:

Division 4.28 – Industrial District (I)

...

7. Wireless communication facilities, collocated.

8. Wireless communication facilities.

Section 45. That Section 4.28(B)(2)(e)3. of the Land Use Code is hereby deleted in its entirety.

Section 46. The Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

5.1.2 - Definitions.

The following words, terms and phrases, when used in this land use code, shall have the meanings ascribed to them in this section:

...

Antenna(s) shall have the meaning set forth in § 29-27-402, Colorado Revised Statutes.

...

Base station shall mean a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network, except that a base station does not include or encompass a tower or any equipment associated with a tower, as defined herein. *Base station* does include:

(1) Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the City under this Article, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration that, at the time the relevant application is filed with the City under this Article, has been reviewed and approved under the applicable state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

Base station does not include any structure that, at the time the relevant application is filed with the City under this Article, does not support or house equipment described in subparagraphs (A) and (B) above.

...

Camouflage design techniques shall mean measures used in the design and siting of wireless communications facilities with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF site utilizes camouflage design techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a flagpole, while still appearing to some extent as a WCF. This definition does not include the use of concealment design elements.

...

Collocation shall mean:

(1) For the purposes of eligible facilities requests, the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

(2) For the purposes of other WCFs subject to presumptively reasonable time frames set by the FCC, accounting for any tolling or extension, within which the City generally must act pursuant to 47 U.S.C. Section 332, i.e. “shot clocks”, attachment of facilities to existing structures, regardless of whether the structure or location has previously been zoned or otherwise approved for wireless facilities.

...

Concealment shall mean utilization of elements of stealth design in a facility so that the facility looks like something other than a wireless tower or base station. Language such as “stealth,” “camouflage,” or similar in any existing permit or other document required by the City Code is included in this definition to the extent such permit or other document reflects an intent at the time of approval to condition the site’s approval on a design that looks like something else. *Concealment* can further include a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree), or is incorporated into (including without limitation, being attached to the exterior of such facility and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not apparent. This definition does not include conditions that merely minimize visual impact but do not incorporate *concealment* design elements so that the facility looks like something other than a wireless tower or base station.

...

Eligible facilities request or *EFR* shall mean any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station involving: (i) collocation of new transmission equipment, (ii) removal of transmission equipment, or (iii) replacement of transmission equipment. A request for modification of an existing tower or base station that does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or does not comply with any relevant federal requirements, is not an eligible facilities request.

Eligible support structure shall mean any tower or base station as defined in this Section, provided it exists at the time the relevant application is filed with the City under this Article.

...

Engineer shall mean the City Engineer, who shall have those duties and powers as set forth in Section 24-39 of the City Code.

...

Equipment Cabinets shall mean a structure used to house equipment used by service providers at a WCF. This definition does not include relatively small electronic components, such as remote radio units, radio transceivers, amplifiers, or other devices

mounted behind antennas, if they are not used as physical containers for smaller, distinct devices.

...

Exists and Existing shall mean a constructed tower or base station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an eligible facilities request is received by the City, provided that a tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

...

FAA shall mean the United States Federal Aviation Administration.

...

FCC shall mean the United States Federal Communications Commission.

...

Major public facilities shall mean structures or facilities, such as electrical generation plants, water treatment plants, wastewater treatment plants, natural gas generation power plants, railroad depots and transportation fleet maintenance facilities, that are generally occupied by persons on a daily basis to conduct operations and that contain or involve traffic-generating activities. *Major public facilities* include outdoor storage but shall not include wireless communication facilities.

...

Minor public facilities shall mean structures or facilities, such as electrical generating and switching stations, substations, underground vaults, poles, conduits, water and sewer lines, pipes, pumping stations, natural gas pressure-reducing stations, repeaters, antennas, transmitters and receivers, valves and stormwater detention ponds, that are not occupied by persons on a daily basis except for periodic inspection and maintenance, are capable of operation without daily oversight by personnel and do not generate daily traffic. Such facilities also include similar structures for fire protection, emergency service, parks and recreation and natural areas. *Minor public facilities* shall not include outdoor storage and wireless communication facilities.

...

Over the air reception device or *OTARD* shall mean:

(1) An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one (1) meter or less in diameter; or

(2) An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is one (1) meter or less in diameter or diagonal measurement; or

(3) An antenna that is designed to receive television broadcast signals.

...

Public highway shall have the meaning set forth in § 38-5.5-102, Colorado Revised Statutes.

...

Public utility shall mean a common carrier supplying electricity, wire telephone service, natural gas, water, wastewater or stormwater service, railroads or similar public services, but shall not include mass transit or railroad depots or terminals or any similar traffic-generating activity, or any person or entity that provides communication services to the public.

...

Rights-of-way shall mean any portion of a public highway dedicated to the City. Rights-of-way shall not include (i) trails and (ii) specific-purpose utility easements, when the specific purpose of the utility easement dedication does not include communication facilities or public access.

...

Screen shall mean an opaque structure, typically located on top of, but integrated with the design of, a building that conceals mechanical, communications or other equipment from view from the surrounding rights-of-ways and properties.

...

Site, for the purposes of Section 3.8.13 only, shall mean that area comprising the base of a City-owned structure on which is mounted wireless communication equipment subject to Article 3 and to other related transmission equipment already deployed on the ground surrounding such vertical structure; regarding private property structures, the site shall include the current boundaries of the leased or owned property and any access or utility easements currently related thereto.

...

Small cell facility or SCF shall mean a WCF where each antenna is located inside an enclosure of no more than three (3) cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet, and primary equipment enclosures are not larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch. All associated equipment, even if located outside the primary equipment enclosure, shall be included within the definition of small cell facility.

...

Substantial change shall mean a modification which, after the modification of an eligible support structure, the structure meets any of the following criteria:

- (1) For towers, it increases the height of the tower by more than ten percent (10%) or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten (10) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna;
- (2) For towers, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;
- (3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, as determined on a case-by-case basis based on the location of the eligible support structure but not to exceed four cabinets per application; or for base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;
- (4) It entails any excavation or deployment outside of the current site, except that, for towers other than towers in the public rights-of-way, it entails any

excavation or deployment of transmission equipment outside of the current site by more than thirty (30) feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site.

(5) For any eligible support structure, it would defeat the concealment elements of the eligible support structure by causing a reasonable person to view the structure’s intended stealth design as no longer effective; or

(6) For any eligible support structure, it does not comply with record evidence of conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs (1)-(4) of this definition.

For purposes of determining whether a substantial change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of approved appurtenances and any modifications that were approved prior to February 22, 2012.

...

Tower shall mean any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including private, broadcast, and public safety services, unlicensed wireless services, fixed wireless services such as microwave backhaul, and the associated site. The term includes radio and television transmission towers, self-supporting lattice towers, guy towers, monopoles, microwave towers, common carrier towers, cellular telephone towers and other similar structures, though not including utility or light poles that are less than thirty-five (35) feet in height.

...

Transmission equipment shall mean equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

...

Wireless communications facility or *WCF* shall mean a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information

services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an antenna or antennas, including without limitation, directional, omni-directional and parabolic antennas, support equipment, small cell facilities, alternative tower structures, and towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or handheld radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this Section.

...

Section 47. That the definitions of “Wireless telecommunication equipment”, “Wireless telecommunication facility”, and “Wireless telecommunication services” contained in Section 5.1.2 of the Land Use Code are hereby deleted.

~~Wireless telecommunication equipment shall mean any equipment used to provide wireless telecommunication service, but which is not affixed to or contained within a wireless telecommunication service facility, but is instead affixed to or mounted on an existing building or structure that is used for some other purpose.~~

~~Wireless telecommunication facility shall mean any freestanding facility, building, pole, tower or structure used to provide only wireless telecommunication services, and which consists of, without limitation, antennae, equipment and storage and other accessory structures used to provide wireless telecommunication services~~

~~Wireless telecommunication services shall mean services providing for the transmission of wireless communications utilizing frequencies authorized by the Federal Communications Commission for paging systems, enhanced specialized wireless telecommunication, personal communication services or cellular telephone.~~

...

Introduced, considered favorably on first reading, and ordered published this 17th day of January, 2023, and to be presented for final passage on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 012, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE CODE OF THE CITY OF FORT COLLINS TO UPDATE STANDARDS
FOR WIRELESS COMMUNICATIONS FACILITIES IN PUBLIC HIGHWAYS
CONSISTENT WITH THE WIRELESS TELECOMMUNICATIONS MASTER PLAN

WHEREAS, the City of Fort Collins, as a home-rule municipality, is authorized by Article XX, Section 6 of the Colorado Constitution, the provisions of state statutes, and its City Charter to develop and implement policies and ordinances regulating the development of land within the City; and

WHEREAS, the City Council is empowered and directed by Article II, Section 5(b) and Section 14, of the City Charter to provide for all essential administrative functions and public services related to street maintenance and provide for all licenses and permits for regulatory purposes; and

WHEREAS, in December 2017, the City Council adopted Ordinance No. 144, 2017, which conformed the City's review of applications for small cell telecommunications facilities located in public rights-of-way with statutory changes adopted by the Colorado General Assembly under HB17-1193; and

WHEREAS, in 2017, in response to Federal Communication Commission (FCC) rulemaking and state statutory revisions affecting local control over wireless communication facilities, the City Council adopted Ordinance No. 143, 2017, adding Chapter 23, Article VII of the City Code to create a permitting process for small cell telecommunication facilities located in public highways; and

WHEREAS, in 2018, the City Council also appropriated \$50,000 in the 2019-2020 budget to fund the completion of a Wireless Telecommunications Master Plan to establish a framework for City wireless communication land use regulations and permitting practices; and

WHEREAS, between 2018 and 2020, federal court decisions interpreting the Telecommunications Act of 1996 and the Middle-Class Tax Relief and Job Creation Act of 2012, imposed further requirements on local government review of land use applications for wireless communications facilities; and

WHEREAS, in 2020, City Planning staff began a formal process to develop a Wireless Telecommunications Master Plan, including engaging consultants and a technical advisory committee, and conducting a series of neighborhood meetings; and

WHEREAS, on October 19, 2021, the City Council adopted Ordinance No. 130, 2021, approving the Wireless Telecommunications Master Plan (the "Plan") as an element of the City Plan to guide City land use and public highway access regulations for wireless communication facilities; and

WHEREAS, on January 25, 2022, City Council directed staff to develop recommended ways to revise existing wireless communication facility design standards to further the Plan; and

WHEREAS, thereafter, staff reviewed existing FCC regulations, consulted with industry and community stakeholders, and identified revisions to the City Code and Fort Collins Land Use Code to further align City regulations with Council’s direction; and

WHEREAS, the City Manager and staff recommend to the City Council additions and revisions to Chapter 23 of the City Code set forth in this Ordinance to align the right-of-way encroachment permit application and review process for locating small cell telecommunication facilities in public rights-of-way with separately proposed changes to the Fort Collins Land Use Code; and

WHEREAS, in conjunction with the City Code amendments proposed herein, Council is concurrently considering Fort Collins Land Use Code amendments regarding the review of wireless communications facilities proposed on private property located outside public rights-of-way; and

WHEREAS, based on the foregoing, it is the desire of the City Council to amend Chapter 23 of the City Code to align wireless communication facility application review and public highway encroachment permitting with the Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Chapter 23, Article VII of the Code of the City of Fort Collins is hereby amended to read as follows:

**ARTICLE VII
COMMUNICATION FACILITY
ENCROACHMENT PERMITS**

Sec. 23-171. - Purpose and intent.

In order to accommodate the communication needs of residents and businesses, while protecting the community's natural beauty, visual quality, and public health, safety and general welfare, the City Council finds these regulations are necessary to:

- (1) Establish a local policy concerning installation of wireless communications facilities (WCFs) in public highways, minimizing the visual impact of such installations on the community, particularly in and near residences;
- (2) Promote competition in the provision of wireless communications services;

- (3) Facilitate the provision of wireless communications services to the residents and businesses of the City;
- (4) Minimize adverse visual effects of WCFs in public highways, through careful design and siting standards, including but not limited to concealment or camouflage design techniques, screening, and undergrounding of associated equipment to the extent feasible;
- (5) Encourage collocation of antennas and maximizing the use of existing structures in public highways to accommodate WCFs, reduce the number of support structures needed to serve the community and minimize impacts in or near residences;
- (6) Encourage deployment of smaller, less intrusive WCFs, including distributed antenna systems (DAS) and small cell networks with components that are a fraction of the size of macro WCFs, and which are installed with little or no impact on utility support structures;
- (7) Ensure vertical structures in or near residential zones are approved with consideration for preserving neighborhood harmony, scenic view sheds and corridors, and the quality of living in residential areas near WCFs;
- (8) Effectively manage WCFs, in public highways and dedicated utility easements of the City;
- (9) Establish clear guidelines and standards and an orderly process for expedited permit application review to facilitate deployment of small cell networks and personal wireless services to the City, its residents, businesses, and community at large;
- (10) Provide regulations which are specifically not intended to, and shall not be interpreted or applied to, (1) prohibit or effectively prohibit the provision of personal wireless services, (2) unreasonably discriminate among functionally equivalent service providers, or (3) regulate wireless transmission equipment on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with the standards established by the Federal Communications Commission; and
- (11) Ensure that all WCFs deployed in public highways in the City comply with federal requirements governing radio frequency emissions.

Sec. 23-172. - Definitions.

The following words, terms, and phrases, when used in this Chapter, shall have the meanings below:

AASHTO shall mean the American Association of State Highway and Transportation Officials.

ANSI/SCTE 77 shall mean the standards for underground enclosures published by the American National Standards Institute and Society of Cable Telecommunications Engineers.

Alternative tower structure shall mean any artificial trees, clock towers, bell steeples, light poles, water towers, farm silos, or similar alternative design mounting structures that (1) meet the size standards for the definition of small cell facility and (2) conceal to the extent feasible the presence of WCFs to make them architecturally compatible with the surrounding area pursuant to this

Article. A stand-alone pole in the public highway that accommodates small cell facilities is considered an alternative tower structure provided it meets the concealment standards of this Chapter and the size standards for a small cell facility. Alternative tower structures are not considered towers, for the purposes of this Article.

Antenna(s) shall have the meaning set forth in § 29-27-402, Colorado Revised Statutes.

Applicant shall mean a natural person or persons, partnership, company, corporation, or other legal entity who files an application for and/or receives a CF permit under this Article.

Base Station shall mean a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network, except that a *base station* does not include or encompass a Tower or any equipment associated with a tower, as defined herein. *Base station* does include:

- (1) Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the City under this Article, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- (2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration that, at the time the relevant application is filed with the City under this Article, has been reviewed and approved under the applicable state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

Base station does not include any structure that, at the time the relevant application is filed with the City under this Article, does not support or house equipment described in sub-paragraphs (1) and (2) above.

Broadband facility shall mean any infrastructure used to deliver broadband service or for the provision of broadband service.

Broadband service shall have the same meaning as set forth in 7 U.S.C. Sec. 950bb (b)(1).

Camouflage design techniques shall mean measures used in the design and siting of wireless communications facilities with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF site utilizes *camouflage design techniques* when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a flagpole, while still appearing to some extent as a WCF. This definition does not include the use of Concealment design elements.

Collocation shall mean:

- ① For the purposes of eligible facilities requests, the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- (2) For the purposes of other WCFs subject to presumptively reasonable time frames set by the FCC, accounting for any tolling or extension, within which the City generally must act pursuant to 47 U.S.C. Section 332, i.e. “shot clocks” attachment of facilities to

existing structures, regardless of whether the structure or location has previously been zoned or otherwise approved for wireless facilities.

Concealment shall mean utilization of elements of stealth design in a facility so that the facility looks like something other than a wireless tower or base station. Language such as “stealth,” “camouflage,” or similar in any existing permit or other document required by the City Code is included in this definition to the extent such permit or other document reflects an intent at the time of approval to condition the site’s approval on a design that looks like something else. *Concealment* can further include a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree), or is incorporated into (including without limitation, being attached to the exterior of such facility and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not apparent. This definition does not include conditions that merely minimize visual impact but do not incorporate *concealment* design elements so that the facility looks like something other than a wireless Tower or Base Station.

Distributed antenna system, or DAS, shall mean a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure.

Eligible facilities request or EFR shall mean any request for modification of an *existing tower or base station* that does not substantially change the physical dimensions of such *tower or base station* involving: (i) collocation of new *transmission equipment*, (ii) removal of *transmission equipment*, or (iii) replacement of *transmission equipment*. A request for modification of an *existing tower or base station* that does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or does not comply with any relevant federal requirements, is not an *eligible facilities request*.

Eligible support structure shall mean any *tower or base station* as defined in this Section, provided it exists at the time the relevant application is filed with the City under this Article.

Engineer shall mean the City Engineer, who shall have those duties and powers as set forth in § 24-39 of this Code.

Equipment cabinets shall mean a structure used to house equipment used by service providers at a wireless communications facility. This definition does not include relatively small electronic components, such as remote radio units, radio transceivers, amplifiers, or other devices mounted behind antennas, if they are not used as physical containers for smaller, distinct devices.

Existing shall mean a constructed *tower or base station* that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an *eligible facilities request*, provided that a *tower* that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

FAA shall mean the United States Federal Aviation Administration.

FCC shall mean the United States Federal Communications Commission.

Master license agreement or *MLA* shall mean a written agreement between the City and an applicant in which is set forth specific negotiated terms and conditions applicable to *applicant's* use of public highways and specific instances of City-owned infrastructure.

Over the air reception device or *OTARD* shall mean:

- (1) An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one (1) meter or less in diameter; or
- (2) An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is one (1) meter or less in diameter or diagonal measurement; or
- (3) An antenna that is designed to receive television broadcast signals.

Public highway shall have the meaning set forth in § 38-5.5-102, Colorado Revised Statutes.

Rights-of-way shall mean any portion of a public highway dedicated to the City. *Rights-of-way* shall not include (i) trails and (ii) specific-purpose utility easements, when the specific purpose of the utility easement dedication does not include communication facilities or public access.

Screen shall mean an opaque structure, typically located on top of, but integrated with the design of, a building that conceals mechanical, communications or other equipment from view from the surrounding rights-of-ways and properties.

Site shall mean that area comprising the base of a City-owned structure on which is mounted wireless communication equipment subject to this Article and to other related transmission equipment already deployed on the ground surrounding such vertical structure; regarding private property structures, the site shall include the current boundaries of the leased or owned property and any access or utility easements currently related thereto.

Small cell facility or *SCF* shall mean a WCF where each antenna is located inside an enclosure of no more than three (3) cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet, and primary equipment enclosures are not larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch. All associated equipment, even if located outside the primary equipment enclosure, shall be included within the definition of *small cell facility*.

Substantial change shall mean a modification which, after the modification of an eligible support structure, the structure meets any of the following criteria:

- (1) For towers, it increases the height of the tower by more than ten percent (10%) or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten (10) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna;

- (2) For towers, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;
- (3) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, as determined on a case-by-case basis based on the location of the eligible support structure but not to exceed four cabinets per application; or for base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;
- (4) It entails any excavation or deployment outside of the current site, except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than thirty (30) feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site;
- (5) For any eligible support structure, it would defeat the concealment elements of the eligible support structure by causing a reasonable person to view the structure's intended stealth design as no longer effective; or
- (6) For any eligible support structure, it does not comply with record evidence of conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in Subsections (1)-(4) of this definition.

For purposes of determining whether a *substantial change* exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of approved appurtenances and any modifications approved on or before February 22, 2012.

Tower shall mean any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including private, broadcast, and public safety services, unlicensed wireless services, fixed wireless services such as microwave backhaul, and the associated site. The term includes radio and television transmission towers, self-supporting lattice towers, guy towers, monopoles, microwave towers, common carrier towers, cellular telephone towers and other similar structures, though not including utility or light poles that are less than thirty-five (35) feet in height. Alternative tower structures in the rights-of-way are not *towers*.

Transmission equipment shall mean equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes

equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Unreasonable interference shall mean any use of a public highway that disrupts or interferes with its use by the City, the public, or other person authorized to use or be present upon the highway, when there exists an alternative that would result in less disruption or interference. *Unreasonable interference* includes any use of a public highway that alters or disrupts vehicular, bicycle, or pedestrian traffic or visibility, any interference with public utilities, and any other activity that presents a hazard to public health, safety, or welfare.

Wireless communications facility or *WCF* shall mean a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A *WCF* does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A *WCF* includes an antenna or antennas, including without limitation, directional, omni-directional and parabolic antennas, support equipment, small cell facilities, alternative tower structures, and towers. It does not include the support structure to which the *WCF* or its components are attached if the use of such structures for *WCFs* is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or handheld radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this Section.

Sec. 23-173. - Applicability.

The provisions of this Article shall apply to any SCF located principally within a public highway in the city and it shall be unlawful for a SCF to be placed in any public highway except in compliance with this Article.

Sec. 23-174. – Location standards.

- (a) *Preferred locations.* To the extent feasible, in all zoning districts, the preference of this Article shall be that SCFs be located on main corridors and arterials, and not on residential streets, unless necessary for network operations.
- (b) *SCF equipment.* To the extent any transmission equipment is approved to be located above ground, it shall be placed as close as feasible to the vertical support structure to reduce the overall visual profile, and shall comply with all design standards set forth in § 23-176.
- (c) *Separation.* No freestanding SCF shall be placed within six hundred (600) feet of another freestanding SCF in a public highway, unless otherwise set forth in a master license agreement. This separation requirement does not apply to attachments made to existing SCFs. The Engineer may modify this requirement if the applicant demonstrates the need for the SCF and cannot otherwise reasonably satisfy this requirement, or as may otherwise be as set forth in a master license agreement.
- (d) *Residential areas.* When placed in a single family residential area, the SCF shall be sited in a manner that evaluates the proximity of the facility to single family residential

structures. When placed near single family residential property, the SCF shall be placed adjacent to the common side yard property line between adjoining residential properties, so the SCF minimized visual impacts equitably among adjacent properties. In the case of a corner lot, the SCF may be placed adjacent to the common side yard property line between adjoining residential properties, or on the corner formed by two intersecting streets. If these requirements are not feasible from a construction, engineering or design perspective, the applicant may submit a written statement to the Engineer requesting the SCF be exempt from these requirements.

- (e) *Above-ground equipment.* Transmission equipment shall be located out of view to the extent feasible. The Engineer may where appropriate and feasible based upon technical, construction and engineering requirements, require a flush-to-grade underground equipment vault.
- (f) *Towers.* No towers shall be permitted in the public highway.

Sec. 23-175. - Operational standards.

- (a) *Federal requirements.* All SCFs shall meet the current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate SCFs. If such standards and regulations are changed, the SCF owners shall bring such facility into compliance with such revised standards and regulations within the time mandated by the controlling federal agency.
- (b) *Radio frequency standards.* All SCFs shall comply with federal standards for radio frequency emissions.
- (c) *Signal interference.* All SCFs shall be designed and sited so as not to cause interference with the normal operation of licensed radio, television, telephone and other communication services on adjacent properties; nor shall any such facilities interfere with any public safety communications.
- (d) *Legal access.* The applicant shall warrant and represent for all SCF permit applications that the applicant has a master license agreement for any public highway affected by the application providing legal access to/from the SCF and the utilities necessary to operate and maintain the facility, and, where applicable, permission to attach the SCF from the owner of the pole.
- (e) *Operation and maintenance.*
 - (1) To ensure structural integrity of SCFs, the SCF owner shall ensure the SCF and all associated support infrastructure is maintained in compliance with local building and safety codes, and applicable state and federal government agency wireless communication facility standards. If upon inspection, the City reasonably concludes a SCF fails to comply with such codes and constitutes a danger to persons or property, upon written notice provided to the SCF owner, the owner shall have thirty (30) days from the date on the notice to bring the SCF into compliance. Upon good cause shown by the SCF owner, the Engineer may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the SCF owner fails to bring the SCF into compliance within said period, the City may remove such facility at the applicant's and/or owner's expense.

- (2) The site and the SCF including all landscaping and related transmission equipment shall be maintained at all times in a neat and clean manner and in accordance with all approved plans.
 - (3) If any FCC, state or other governmental license or approval to provide personal wireless services is revoked as to any SCF permitted or authorized under this Article, the applicant must inform the City of the revocation within thirty (30) days of receiving notice of such revocation.
 - (4) No trees may be removed or pruned in maintaining or operating a SCF, except upon satisfying the necessity standards in § 23-176(c)(5)d. and all requirements in Chapter 27 of this Code.
 - (5) To ensure proper identification of underground elements of SCFs, upon request by the City, the applicant shall provide as-built drawings and a statement of compliance with all permit location conditions for SCFs permitted under this Article. The failure of an applicant to submit completed as-built drawings shall be interpreted as a waiver of all claims for damages or injuries arising from inaccurate locates by the City or third parties as to the location of applicant's underground SCF elements.
 - (6) The SCF will remain free from graffiti and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in all instances upon the earlier of ten (10) calendar days from the date of notification by the City and/or discovery by the applicant or SCF operator.
 - (7) In the event of conflict between the requirements of this subsection (e) and a master license agreement, the master license agreement shall have priority.
- (f) *Abandonment and removal.* If a SCF has not been in use for a period of three (3) months, the applicant shall notify the City of the non-use and indicate whether re-use is expected within the ensuing three (3) months. Any SCF that is not operated for a continuous period of six (6) months shall be considered abandoned without regard to whether the applicant has provided notice, and any SCF permit issued in connection therewith shall be deemed to have expired.
- (1) The City, in its sole discretion, may require an abandoned SCF to be removed. The applicant shall remove the same within thirty (30) days of the date on a written notice from the City. Upon removal, the land shall be restored and re-landscaped, at the applicant's expense, to the level of finish of the adjacent landscaped area.
 - (2) If such SCF is not removed within said period, the City may remove it at the applicant's expense and any approved permits for the SCF shall thereupon expire. Reimbursement for all such removal costs shall be paid by applicant to the City prior to applicant's receipt of any additional permit under this Article.
 - (3) In addition, a SCF shall be removed within one hundred twenty (120) days after notification by the City that the public highway is needed for expansion, construction, or reconstruction, or other use by the City for any city project. Such removal shall be at the sole expense of the applicant and if the applicant fails to remove the SCF within the said one hundred twenty (120) days, or such longer period as may be established in a master license agreement, the City may remove the SCF and charge the costs to the

applicant. Reimbursement for all such removal costs shall be paid by the applicant to the City prior to issuance of any additional permit under this Article.

- (g) *Rules and regulations.* The Engineer may promulgate rules and regulations consistent with the provisions of this Article for the administration of SCF installations and extensions, including minor additions, revisions and corrections thereto as may, in the judgment of the Engineer, be necessary to better conform to good engineering and/or construction standards and practice. The Engineer shall approve only those proposed technical revisions that:
- (1) Are consistent with all existing policies relevant to the revisions,
 - (2) Do not result in any significant additional cost to persons affected by the revision, and
 - (3) Do not materially alter the standard or level of service to be accomplished through the specified infrastructure.

Upon adoption of any technical revisions pursuant to this subsection (g), the Engineer shall provide to the City Clerk documentation of such technical revisions specifying the date upon which they shall become effective, and shall maintain said documentation on file in the permanent records of the City Clerk and shall make the same available for public inspection.

Sec. 23-176. - Design standards.

- (a) *Standards.* The requirements set forth in this Section shall apply to the location and design of all SCFs governed by this Article. To that end and to the extent feasible, SCFs shall be designed and located to minimize their visual impacts, consistent with this Article.
- (b) *Site design flexibility.* To the extent feasible, individual SCFs shall be installed to best conceal, and where not feasible camouflage, the SCF. The Engineer may nevertheless grant a modification of the standards in this Section, provided he or she finds the modification would not be detrimental to the public good, and that:
- (1) The plan in the application as submitted will promote the general purpose of the standard for which the modification is requested equally well or better than would a plan which complies with the standard for which a modification is requested; or
 - (2) The granting of a modification from the strict application of any standard would, without impairing the intent and purpose of this Article, substantially alleviate an existing, defined and described problem of city-wide concern or result in a substantial benefit to the City by reason of the fact that the proposed SCF would substantially address an important community need specifically and expressly defined and described in the City's Comprehensive Plan or an adopted policy, ordinance or resolution of the City Council, and the strict application of such a standard would render the SCF practically infeasible; or
 - (3) By reason of exceptional physical conditions or other extraordinary and exceptional situations, unique to the site, including, but not limited to, physical conditions, including shallowness or topography, or physical conditions which hinder the applicant's ability to overcome existing physical signal obstructions, the strict application of the standard sought to be modified would result in unusual and exceptional practical difficulties, or exceptional or undue hardship upon the applicant,

provided that such difficulties or hardship are not caused by the act or omission of the applicant; or

- (4) The plan in the application as submitted will not diverge from the standards of this Article that are authorized by this Section to be modified except in a nominal, inconsequential way when considered from the perspective of the affected public highway, and will continue to advance the purposes of this Article.

(c) *Conditions.*

- (1) Camouflage/concealment. All SCFs shall to the extent feasible, use concealment design techniques, and where not feasible utilize camouflage design techniques.

- a. *Vault standards.* No vault shall be larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and, if so located, is not included in the calculation of vault volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch. All vaults shall at a minimum meet ANSI/SCTE 77, Tier 15 standards for non-deliberate traffic applications.
- b. *Pole standards.* A small cell facility may be deployed in the public highway using vertical components of a street light pole or similar structure. Such facilities shall be subject to the following:
1. All utility poles approved under this Article to host SCFs shall be electrically and structurally sound, meeting all applicable structural requirements and permanent installation criteria of Chapter 5 of this Code and otherwise satisfy AASHTO and National Electric Code standards adopted under § 5-80 of this Code and applicable to City utility structures installed in public highways.
 2. The pole or structure shall be no more than ten (10) feet higher (as measured from the ground to the top of the pole) than any existing utility or traffic signal within six hundred (600) feet of the pole or structure.
 3. In no case shall any SCF be higher than forty (40) feet, unless the applicable support structure is already existing at a greater height prior to attachment of the SCF.
 4. If the applicant is not the owner of the pole, it shall provide appropriately authorized written permission from the pole owner at the time the application is submitted, pursuant to § 23-175(d).
- c. *Antenna.* Except for a modification to an eligible support structure that qualifies as an EFR, no antenna shall extend more than five (5) feet above the principal host structure, relative to original height of such structure. Nor shall any antenna significantly exceed the diameter of any host structure to which the antenna is attached or exceed a total of eighteen (18) inches in diameter, including housing and shroud elements.
- d. Where the Engineer determines particular sensitivity (e.g., proximity to historic or aesthetically significant structures, views, and/or community features) warrants

special consideration and in areas of high visibility, SCFs shall to the extent feasible be designed to minimize their profile.

- e. All visible SCF components, such as antennas, vaults, and equipment enclosures, shall be constructed of non-reflective materials, be painted to match the surrounding environment, and blend in with adjacent structures and vegetation.
 - f. Any SCF sited on a traffic signal standard shall be designed so the antenna is placed in a manner so the size, appearance, and function of the traffic signal is not altered.
- (2) Hazardous materials. No hazardous materials shall be permitted in association with SCFs, except those necessary for the operations of the SCF and only in accordance with all applicable laws governing such materials.
- (3) Siting.
- a. All elements of SCF permitted under this Article shall be located principally within the boundaries of a public highway.
 - b. The number of poles within the public highway shall be limited to the extent feasible and shall adhere to structural requirements set forth in an MLA.
 - c. Applicants may be required to design and construct SCFs to accommodate equipment for at least two (2) service providers on the same structure, unless the Engineer approves an alternative design, to the extent feasible based upon construction, engineering and design standards. No applicant or SCF operator shall unreasonably exclude a telecommunications competitor from using the same facility or location. Upon request by the Engineer, the applicant shall provide evidence explaining why collocation is not feasible at a particular facility or site. No applicant shall unfairly exclude a competitor from using a site when collocation is feasible based upon applicable construction, engineering, and design standards.
 - d. SCFs shall be sited in a location that does not alter or reduce parking or otherwise inhibit another principal uses of the public highway.
 - e. Without regard to whether any portion of a SCF is approved to be installed above ground, all elements of a SCF shall be grouped as closely as feasible, contained within a total footprint area no greater than thirty-five (35) square feet, and otherwise located in a manner necessary to address public safety and aesthetic concerns in the reasonable discretion of the Engineer.
 - f. A SCF shall not be located or maintained in a manner that causes unreasonable interference with a public highway.
- (4) Lighting. A SCF shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the SCF is mounted on a structure primarily used for lighting purposes. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the extent feasible to minimize glare and light falling onto nearby properties.
- (5) Landscape requirements.

- a. SCFs shall be sited in a manner that does not reduce landscaped areas of the public highway.
 - b. Applicants shall restore all landscaping impacted during SCF installation to City street vegetation standards. Supplemental landscaping will be a condition of approval for any SCF requiring visible ground-mounted equipment not internal to the support structure or in a below-grade vault.
 - c. Existing tree growth and natural landforms on the site shall be preserved and negative impacts to tree canopies and root systems avoided to the extent feasible.
 - d. No tree may be removed in siting a SCF, unless authorized by the City Forester. To obtain authorization the applicant shall show wireless services are not feasible without tree removal; the applicant's plan minimizes the total number of trees to be removed, avoids removal of any tree larger than four (4) inches at four and one-half (4 ½) feet high, and replaces any tree to be removed at a ratio of 2:1; and all new trees meet the replacement size standards in § 3.2.1.(d)(4) of the Land Use Code.
- (6) Noise. Noise generated on the site must not exceed levels permitted in Chapter 20.
- (7) Anticipated redevelopment. If the built environment is anticipated to change significantly during the usable life of a SCF, such as within an urban renewal district, the SCF shall be compatible with the anticipated future-built environment.
- (8) Additional design requirements. Other requirements applicable to SCFs are specified below:
- a. *Non-city utility structure attachments.* If a SCF is installed on a City structure other than utility, light, or traffic infrastructure, the SCF shall be of a neutral, non-reflective color identical to, or closely compatible with, the color of the supporting structure, or use other camouflage/concealment design techniques to make the SCF as visually unobtrusive as possible, e.g., painting antennas and equipment, and meet the following:
 - 1. All pole-mounted components of the SCF shall be located on or within an existing utility pole serving another utility;
 - 2. To the extent feasible, the SCF shall be consistent with the size and shape of pole-mounted equipment installed by other service providers on utility poles near the SCF; and
 - 3. The SCF shall be sized to minimize the negative aesthetic impacts to the public highway, and designed and constructed to resemble structures typically found in the area.
 - b. *Related Transmission Equipment.* Transmission equipment, other than antennae must comply with § 23-174.

Sec. 23-177. - Application, review procedures and requirements for small cell facilities in the public highways.

- (a) *Small cell facilities.* Small cell facilities shall be a permitted use by right in all zoning districts, and permits shall be issued pursuant to this Article.
- (b) *Submittal required.* No new SCF shall be constructed and no collocation or modification to any SCF may occur except after a written request from an applicant, reviewed and approved by the Engineer and issuance of an encroachment permit in accordance with this Article.
- (c) *Consolidated applications and collocation.*
- (1) A single permit may be issued for siting and collocating multiple small cell facilities spaced to provide wireless coverage in a contiguous area, provided all associated equipment is underground, or attached to or inside an existing structure that provides required clearances for the SCFs' operation without the necessity of constructing any apparatus to extend an antenna more than five (5) feet above the existing structure.
 - (2) Additional site-specific reviews are required when the applicant proposes a new vertical support structure or above-ground accessory equipment, pursuant to subsection (d)(2) and (3).
 - (3) If any support structure must be constructed to achieve needed elevation or if an attachment adds more than ten (10) feet or ten percent (10%) to the height of an existing structure, the proposal is subject to additional review, as described in § 23-176(c)(1)b. The height limitation applies to cumulative increases and includes in the measurement any height additions previously approved under this Section.
- (d) *Submittal requirements and review procedures.* SCFs permit applications shall be reviewed pursuant to the following procedures:
- (1) Elements. A complete application for a permit under this Article must include the following:
 - a. Application form, as provided by the Engineer;
 - b. Executed master license agreement;
 - c. A report, signed by a professional engineer in the State of Colorado, or a verified statement from a qualified radio frequency engineer, demonstrating or assuring that the site will be in full compliance with federal radio-frequency emissions standards for wireless facilities;
 - d. Signal interference certification signed under penalty of perjury by a professional engineer in the State of Colorado, representing that all SCFs covered by the application shall be designed, sited and operated in accordance with applicable federal signal interference requirements, and as otherwise described in § 23-175(c);
 - e. Submittal fees;
 - f. Scaled site plan, photo simulation, scaled elevation view and supporting drawings, calculations, showing the location and dimension of all improvements, including information concerning topography, setbacks, drives, parking, street trees, adjacent uses, drainage;

- g. Narrative for each new installation proposed in a residential zone district or within one hundred fifty (150) feet of an existing residential lot; and
 - h. Proof of bonding and insurance satisfying the requirements of § 23-19 for any SCF installation that entails excavation of a public highway; and
 - i. Other information reasonably deemed by the Engineer to be necessary to assess compliance with this Article. Documents requiring signatures and seals by appropriate qualified professionals shall be provided by applicant prior to issuance of a permit under this Article.
- (2) Structural assessment. Prior to issuance of a SCF permit for any SCF proposing a new pole or attachment to a non-city-owned structure, the applicant shall submit a stamped and signed structural assessment for each new proposed SCF host support structure conducted by a professional engineer, licensed in the State of Colorado.
- a. When the structural assessment indicates a need for a stronger structure to address issues such as wind load factor, applicant shall provide a replacement structure at applicant's cost satisfactory to the Engineer in consultation with Fort Collins Utilities, as applicable.
 - b. All costs for conducting an assessment under this subsection (2) shall be borne by the applicant, and shall be paid by the applicant prior to issuance of a permit under this Article.
- (3) New structures. All applications for new vertical structures associated with a SCF in a public highway shall demonstrate that other alternative siting options, including collocations, are not feasible. Notwithstanding anything in this Article to the contrary, all structures located in a public highway shall satisfy the location and design criteria set forth in §§ 23-174 and 23-176.
- (4) Decision. Any decision to approve, approve with conditions, or deny an application for a SCF permit, shall be in writing and supported by substantial evidence in a written record. The Engineer shall cause a copy of the decision to be provided to the applicant. The foregoing shall apply only to applications for SCF permits under this Article and shall not apply to any building, excavation, or any other permit issued pursuant to or required by other Articles of this Code.
- (e) *Submittal requirements and review procedures for eligible facilities requests.*
- (1) Application. The City shall prepare, and from time to time revise and make publicly available, an application form requiring the information necessary for the Engineer to consider whether the project covered by the application would:
- a. Result in a substantial change to the physical dimensions of the site; or
 - b. Violate a generally applicable law, regulations, or other rule codifying objective standards reasonably related to public health and safety.

The application may not require the applicant to demonstrate a need or business case for the proposed modification or collocation.

- (2) Type of review. Upon receipt of an application for an eligible facilities request pursuant to this Section, the Engineer shall review such application to determine whether the application so qualifies.
- (3) Timeframe for review. Subject to the tolling provisions of subsection (4) below, within sixty (60) days of the date on which an applicant submits a complete application under this Section, the Engineer shall act on the application unless they determine the application is not covered by this subsection.
- (4) Tolling of the timeframe for review. The 60-day review period begins to run when the application is filed, and may be tolled only by agreement of the Engineer and applicant, or in cases where the Engineer determines the application is incomplete:
 - a. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application;
 - b. The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the City's notice of incompleteness; and
 - c. Following a supplemental submission, the City will notify the applicant within ten (10) days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subsection (4) a. In the case of a second or subsequent notice of incompleteness, the City may not toll the shot clock by specifying missing information or documents that were not delineated in the original notice of incompleteness.
- (5) Failure to act. In the event the Engineer fails to act on a request seeking approval for an eligible facilities request within the timeframe for review (accounting for any tolling), the request shall be deemed granted. In such event, the grant becomes effective when the applicant notifies the City in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.
- (6) Interaction with Telecommunications Act 47 U.S.C. § 332(c)(7). If the City determines that the applicant's request is not an Eligible Facilities Request delineated in this subsection, the applicant shall be advised as to the relevant provisions of the City Code(s), including land use and/or development codes, that govern the process to consider the request, and whether the Code(s) requires any additional information that may be required to be submitted in order for the request to be considered complete. If the applicant subsequently indicates an intent for the proposal to be considered under the relevant section of the City Code(s) and submits all required information, the presumptively reasonable timeframe under 47 U.S.C. § 332(c)(7), as set forth in applicable federal and state law will begin to run from submittal of the proposal required information under the applicable provision of this Code.
- (f) Review procedures for collocating small cell facilities on an existing tower or base station. Within ten (10) business days of receipt of an application for a small cell facility that does not qualify as an EFR, the City shall provide written comments to the applicant determining completeness of the application and setting forth any modifications required to complete

the application to bring the proposal into full compliance with the requirements of this subsection.

- (1) To toll the timeframe for incompleteness, the City must provide written notice to the applicant within ten (10) business days of receipt of the application, specifically delineating all missing documents or information required in the application.
- (2) The timeframe for review resets to zero (0) when the applicant makes a supplemental written submission in response to the City's notice of incompleteness.
- (3) Following a supplemental submission, the City will notify the applicant within ten (10) business days whether the supplemental submission provided the information identified in the original notice delineating missing information. If the application remains incomplete, the timeframe is tolled pursuant to the procedures identified in subparagraphs (1) and (2) of this paragraph. In the case of a second or subsequent notice of incompleteness, the City may not toll the shot clock by specifying missing information or documents that were not delineated in the original notice of incompleteness.
- (4) Final action on complete applications for small cell facilities in the public highways will be no more than sixty (60) days, provided all standards in this Section are met.

Sec. 23-178. - Standards for approval.

- (a) *Administrative approval.* An applicant for a SCF permit shall be subject to administrative review as set forth in § 23- 177.
- (b) Notwithstanding the approval of an application for collocation or a new non-city-owned structure as described herein, all work performed on SCFs must be completed in accordance with applicable building and safety requirements of the City.

Introduced, considered favorably on first reading, and ordered published this 17th day of January, 2023, and to be presented for final passage on the 2nd day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

AGENDA ITEM SUMMARY

City Council



STAFF

Jim McDonald, Cultural Services Director
Kerri Ishmael, Finance
Ted Hewitt, Legal

SUBJECT

First Reading of Ordinance No. 013, 2023, Appropriating Unanticipated Grant Revenue From the Colorado Community Revitalization Grant Program in the Cultural Services & Facilities Fund for the Renovation of the Carnegie Center for Creativity and Approving the Associated Grant Agreement.

EXECUTIVE SUMMARY

The purpose of this item is to appropriate unanticipated grant revenue in the Cultural Services & Facilities Fund for the renovation of the Carnegie Center for Creativity. This appropriation includes \$2,400,000 of supplemental grant revenues awarded on November 25, 2022, provided by the State of Colorado through the Colorado Creative Industries Office.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The Colorado Community Revitalization Grant Program provides grant funding for capital projects in creative districts, historic districts, main streets or neighborhood commercial centers. The grant supports creative projects that combine creative industry workforce housing, commercial spaces, performance space, community gathering spaces, and retail partnerships for the purpose of economic recovery and diversification by supporting creative sector entrepreneurs, artisans, and community non-profit organizations. This funding initiative was signed into law on June 16, 2021, as Senate Bill 21-252.

This grant supports the renovation of the Carnegie Center for Creativity (CCC). In 2015, the Fort Collins community passed the Community Capital Improvement Program (CCIP) Ballot Measure, and the CCC was scheduled for renovation beginning in 2024. However, renovation work on the building outside of what was planned in the CCIP began in 2021-2022 (Phase One), and to capitalize on that work and minimize future building closure, the City decided to move forward with the CCIP renovation work in 2023 (Phase Two).

CITY FINANCIAL IMPACTS

CCC resources in the Cultural Services & Facilities would increase by \$2,400,000. There are no matching fund requirements.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

- 1. Ordinance for Consideration
- 2. Ordinance Exhibit A

ORDINANCE NO. 013, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING UNANTICIPATED GRANT REVENUE FROM THE COLORADO
COMMUNITY REVITALIZATION GRANT PROGRAM IN THE CULTURAL SERVICES &
FACILITIES FUND FOR THE RENOVATION OF THE CARNEGIE CENTER FOR
CREATIVITY AND APPROVING THE ASSOCIATED GRANT AGREEMENT

WHEREAS, in 2015, the Fort Collins electorate approved the Community Capital Improvement Program Ballot Measure, which helped to support the renovation of the Carnegie Center for Creativity; and

WHEREAS, renovation work on the Carnegie Center for Creativity began in 2021; and

WHEREAS, the Colorado Community Revitalization Grant Program is a State of Colorado grant program that provides funding for capital projects in creative districts, historic districts, main streets or neighborhood commercial centers; and

WHEREAS, the Colorado Community Revitalization Grant Program has awarded the City of Fort Collins \$2,400,000 to support the renovation of the Carnegie Center for Creativity; and

WHEREAS, the City and the State of Colorado, through the Colorado Creative Industries Office and its third-party administrator, Impact Development Fund, have entered into a grant agreement for the award, which is attached hereto as Exhibit “A” and which imposes no matching funds requirement on the City; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of renovating the City’s Carnegie Center for Creativity; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the Cultural Services and Facilities Fund and will not cause the total amount appropriated in the Cultural Services and Facilities Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

WHEREAS, Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a federal, state or private grant, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the earlier of the expiration of the federal, state or private grant or the City’s expenditure of all funds received from such grant; and

WHEREAS, the City Council wishes to designate the appropriation herein from the Colorado Community Revitalization Grant Program as an appropriation that shall not lapse until the earlier of the expiration of the grant or the City’s expenditure of all funds received from such grant.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from new revenue or other funds in the Cultural Services and Facilities Fund the sum of TWO MILLION FOUR HUNDRED THOUSAND DOLLARS (\$2,400,000) to be expended in the Cultural Services and Facilities Fund for the renovation of the Carnegie Center for Creativity.

Section 3. That the appropriation herein from the Colorado Community Revitalization Grant Program is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the earlier of the expiration of the grant or the City’s expenditure of all funds received from such grant.

Section 4. That the City Council has reviewed the Colorado Community Revitalization Grant Program and the attached grant agreement and approves of such funding and the agreement and further authorizes City staff to take appropriate action necessary to be able to expend the grant funds as contemplated by the Grant Program.

Introduced, considered favorably on first reading, and ordered published this 7th day of February, 2023, and to be presented for final passage on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk



Impact Development Fund
 200 E. 7th Street, Suite 412
 Loveland, CO 80537
 Office: 970-494-2021
info@impactdf.org



Colorado Community Revitalization Grant Contract

Grantee Name	City of Fort Collins – Cultural Resources
Grantee Mailing Address	215 N. Mason Fort Collins, CO 80524
Grantee Contact Name	Jim McDonald
Grantee Phone	970-416-2935
Grantee Email	jmcdonald@fcgov.com
Project Name	Carnegie Center for Creativity
Project Location	200 Mathews St, Fort Collins, CO 80524
Grant Amount	\$2,400,000
Repayment Obligations	None
Funding Date	November 25, 2022
Community Revitalization Grant Application #	CCR21-9868602917

Colorado Community Revitalization Grant Terms

IDF has received authority to administration of payments and application review/grant underwriting for Community Revitalization Colorado grant program from the Colorado Office of Economic Development and International Trade through the authority of SB21-252. All provisions of the Colorado Special Provisions (Colorado Fiscal Rule 3-3) stated in “Exhibit A” apply IDF and to this Grant.

To assist IDF in administering the Grant to you, you agree to provide upon request all information reasonably deemed necessary by IDF to successfully complete administration of the Grant to you. You authorize IDF to commence Grant administration efforts immediately and agree to actively assist IDF in administering the Grant to you. IDF reserves the right (in consultation with you) to allocate the commitments offered by Community Revitalization Colorado Grant Program.

You hereby agree that IDF shall have the exclusive right to structure, arrange and administer the Grant to you and that no other Grant administrators will be engaged without IDF’s prior written consent.

You will make yourself available for meetings with IDF, Community Revitalization Colorado Grant Program and/or their affiliates during the Grant administration process. IDF and Community Revitalization Colorado Grant Program shall be expressly permitted to distribute any and all documents and information relating to the transactions contemplated hereby and received from you or any other source to any potential lender, grant administrator, participant, or assignee on a confidential basis.

In addition to the conditions to funding or closing set forth herein, the Grant award is subject to, among other conditions, (a) IDF and Community Revitalization Colorado Grant Program’s satisfactory completion of its final due diligence with respect to your application and Program materials, including the representations made within, (b) the negotiation and execution of any documentation necessary to fulfill this Grant award, (c) there being no material adverse change in your eligibility for the Program (d) there not having occurred a material disruption or material adverse change in the financial, banking or capital markets which, in IDF or Community Revitalization Colorado Grant Program’s reasonable judgment, could reasonably be expected to materially impair administration of the Grant.

In the event of a material disruption or material adverse change in the financial, banking or capital markets that could reasonably be expected to materially impair administration of the Grant, you hereby agree to enter into such modifications to the terms of the Grant award as IDF or Community Revitalization Colorado Grant Program may reasonably request as necessary for administering the Grant and, in the event that administration of the Grant shall prove to be impracticable in IDF or Community Revitalization Colorado Grant Program’s reasonable determination, such modifications to the Grant award as IDF or Community Revitalization Colorado Grant Program may reasonably request as necessary to make administration of the Grant reasonably practicable.

You hereby represent and covenant that (a) all written information (the “Information”) that has been or will be made available to IDF or Community Revitalization Colorado Grant Program by you or any of your representatives (in each case, with respect to Information furnished to IDF or

Community Revitalization Colorado Grant Program prior to the date of commencement of administration of the Grant, as supplemented from time to time prior to such date) is or will be complete and correct in all material respects and does not or will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made and (b) all financial projections (“Projections”) that have been or will be made available to IDF or Community Revitalization Colorado Grant Program by you or any of your representatives have been or will be prepared in good faith based upon assumptions you believe to be reasonable (it being understood that the Projections are subject to significant uncertainties and contingencies, many of which are beyond your control, and that no assurance can be given that such Projections will be realized). You understand that in administering the Grant, IDF or Community Revitalization Colorado Grant Program may use and rely on the Information and Projections without independent verification thereof.

In consideration of the execution and delivery of this Grant Contract by IDF and the Grant awarded hereunder, you hereby agree to indemnify, exonerate and hold IDF and Community Revitalization Colorado Grant Program, and each of its officers, directors, employees, affiliates and agents (each an “Indemnified Party”) free and harmless from and against any and all actions, causes of action, suits, losses, liabilities, damages and expenses, including attorneys’ fees and expenses (including the allocated fees and disbursements of internal legal services) (collectively, the “Indemnified Liabilities”), incurred by the Indemnified Parties or any of them as a result of, or arising out of, or relating to the Grant or other similar transactions financed or proposed to be financed in whole or in part, directly or indirectly, with the proceeds of any of the Grant, or the execution, delivery, performance or enforcement of this Grant Contract, or administering the Grant, by any of the Indemnified Parties, except for any such Indemnified Liabilities arising on account of the applicable Indemnified Party’s gross negligence or willful misconduct as determined by a final, non-appealable judgment by a court of competent jurisdiction. If and to the extent that the foregoing undertaking may be unenforceable for any reason, you hereby agree to make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities which is permissible under applicable law. No Indemnified Party shall be liable for any damages arising from the use by others of any information or other materials obtained in connection with this Grant Contract, the Grant or administering the Grant, nor shall any Indemnified Party have any liability with respect to, and you hereby waive, release and agree not to sue for, any special, indirect or consequential damages relating to this Grant Contract or arising out of its activities in connection herewith or therewith (whether before or after administration of the Grant). Your obligations under this paragraph will survive administration of the Grant to you.

Each party acknowledges that this Grant Contract supersedes any and all discussions and understandings, written or oral, between or among you and IDF or Community Revitalization Colorado Grant Program, and any other person as to the subject matter hereof. This Grant Contract may only be amended, waived, or modified in writing and executed by the parties hereto.

The terms contained in this Grant Contract are confidential and, except for disclosure to professional advisors retained by you or as may be required by law or court order, may not be disclosed in whole or in part to any other person or entity without IDF and Community Revitalization Colorado Grant Program’s prior written consent; provided that any information with respect to the “tax treatment” or “tax structure” (in each case, within the meaning of Treasury Regulation Section 1.6011-4) of the

transactions contemplated herein shall not be confidential and each party hereto may disclose without limitation of any kind any information with respect to the “tax treatment” or “tax structure” (in each case, within the meaning of Treasury Regulation Section 1.6011-4). No disclosure permitted above shall create any third-party beneficiary as to the Grant. This paragraph shall survive any termination of this Grant Contract.

You will provide any and all reporting and metrics as required by the Community Revitalization Colorado Grant Program including but not limited to additional sources of capital for project including public and or private, progress reports on project, number of jobs created by project, number of affordable housing units, efficiency upgrades including renewable or clean energy.

This Grant Contract shall be a contract made and governed by the internal laws of the State of Colorado applicable to contracts made and to be performed entirely within such state, without regard to conflict of laws principles.

Each of the parties hereto hereby waives any right to a trial by jury in any action or proceeding to enforce or defend any rights under this grant Contract and agrees that any such action or proceeding shall be tried before a court and not by a jury.

Any litigation based hereon, or arising out of, under, or in connection with this grant Contract, shall be brought and maintained exclusively in the courts of the State of Colorado or in the United States District Court for the 10th Circuit District of Colorado, provided that nothing in this grant Contract shall be deemed or operate to preclude IDF or Community Revitalization Colorado Grant program from bringing suite or taking other legal action in any other jurisdiction. Each party hereto expressly and irrevocably submits to the jurisdiction of the courts of the State of Colorado and of the United States District Court for the 10th Circuit District Court of Colorado for the purpose of any such litigation as set forth above. Each party hereto expressly and irrevocably waives, to the fullest extent permitted by law, any objection which may be now or hereafter have to the laying of venue of any such litigation brought in such court referred to above and any claim that any such litigation has been brought in an inconvenient forum.

Community Revitalization Colorado Grant Program and Impact Development Fund are pleased to have this opportunity and look forward to working with you!

Sincerely,



Connie Ealey
Director of Programs

Impact Development Fund
P: 970-494-2021 | F: 970-494-2022
Email: connie@impactdf.org

We, the undersigned Grantee, hereby accept all terms of this Grant Contract with the Colorado Community Revitalization Grant Program, including all terms set forth herein.

GRANTEE:

City of Fort Collins – Cultural Resources,
a Colorado body politic

By: Kelly DiMartino
Kelly DiMartino
Title: City Manager

EXHIBIT A**1. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)**

These Special Provisions apply to all agreements except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Agreement shall not be valid until it has been approved by the Colorado State Controller or designee. If this Agreement is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Agreement shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Grantee shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Grantee shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Agreement that requires the State to indemnify or hold Grantee harmless; requires the State to agree to binding arbitration; limits Grantee's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Agreement shall be construed as a waiver of any provision of §24-106-109 C.R.S.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Agreement and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Grantee in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Grantee by deduction from subsequent payments under this Agreement,

deduction from any payment due under any other contracts, grants or agreements between the State and Grantee, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, et seq., C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Grantee certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Grantee shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a Subcontractor that fails to certify to Grantee that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Grantee **(i)** shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment (“Department Program”) to undertake pre-employment screening of job applicants while this Agreement is being performed, **(ii)** shall notify the Subcontractor and the contracting State agency or institution of higher education within three days if Grantee has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Agreement, **(iii)** shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and **(iv)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Grantee participates in the Department program, Grantee shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Grantee fails to comply with any requirement of this provision or §§8-17.5-101, et seq., C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Agreement for breach and, if so terminated, Grantee shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, et seq., C.R.S.

Grantee, if a natural person 18 years of age or older, hereby swears and affirms under penalty of perjury that Grantee **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of §§24-76.5-101, et seq., C.R.S., and **(iii)** has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Agreement.

AGENDA ITEM SUMMARY

City Council



STAFF

Nina Bodenhamer, Director, City Give
Ted Hewitt, Legal

SUBJECT

First Reading of Ordinance No. 014, 2023, Appropriating Philanthropic Revenue Received by City Give for Tree Planting in the Forestry Department.

EXECUTIVE SUMMARY

The purpose of this item is to request appropriation of \$50,000.00 in philanthropic revenue received by City Give for Forestry, Community Services.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The purpose of this item is to appropriate \$50,000 in philanthropic revenue gifted to Forestry by the Dwain Horne Memorial Trust for the designated purpose of tree planting in a commitment to the long-term health and vitality of the Fort Collins urban tree canopy.

The City of Fort Collins Forestry Division maintains over 56,000 trees along streets and in parks, cemeteries, golf courses and other City facilities or property. The City's urban forest is a dynamic ecosystem that helps filter air and water, control storm water, conserve energy, and provide animal habitat and shade. By reducing noise and providing places to recreate, our tree inventory strengthens social cohesion, spurs community revitalization, and adds economic value to our communities.

Per the donor's passion for urban forestry, this generous gift funded the recent planting of 100 trees at Trailhead Park. The gift also designated the following terms for the planting, all of which align with our Forestry's operating standards: native or a known adapted species, locally purchased stock and at least 10-gallon container grown or comparable B&B stock, and robust volunteer engagement.

CITY FINANCIAL IMPACTS

This Ordinance will appropriate \$50,000.00 in philanthropic revenue received by City Give for Forestry to be expended in the General Fund. The funds have been received and accepted per the City Give Administrative and Financial Policy.

The City Manager has also determined that these appropriations are available and previously unappropriated from the General Fund and will not cause the total amount appropriated in General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in these funds during fiscal year 2023.

These donations have been received and accepted per the City Give Administrative and Financial Policy.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

- 1. Ordinance for Consideration

ORDINANCE NO. 014, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PHILANTHROPIC REVENUE RECEIVED BY CITY GIVE
FOR TREE PLANTING IN THE FORESTRY DEPARTMENT

WHEREAS, the Dwain Horne Memorial Trust has generously gifted \$50,000 to the City of Fort Collins for the purpose planting trees on City property within Fort Collins; and

WHEREAS, the gift will fund tree plantings of locally purchased native or adapted trees to help maintain a healthy urban tree canopy; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of improving the urban forest within Fort Collins; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from new philanthropic revenue in the General Fund the sum of FIFTY THOUSAND DOLLARS (\$50,000) to be expended in the General Fund by the Forestry Department for tree planting.

Introduced, considered favorably on first reading, and ordered published this 7th day of February, 2023, and to be presented for final passage on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

February 7, 2023

AGENDA ITEM SUMMARY

City Council



STAFF

Nina Bodenhamer, Director, City Give
Ted Hewitt, Legal

SUBJECT

First Reading of Ordinance No. 015, 2023, Appropriating Philanthropic Revenue By City Give and Conservation Trust Funds for the Construction of the 9/11 Memorial at Spring Park and Related Art in Public Places.

EXECUTIVE SUMMARY

The purpose of this item is to request appropriation of \$480,765.00 for the designated purpose toward the construction of the 9/11 Memorial at Spring Park, 2100 Mathews Steet, Fort Collins, CO.

A partnership between the City of Fort Collins and Poudre Fire Authority, the 9/11 Memorial will be located in midtown Fort Collins, and will honor firefighters, emergency medical technicians, law enforcement officers, and nearly 3,000 others who lost their lives on September 11, 2001.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Adjacent to PFA Station 3, abutting Spring Park, the park will serve as the permanent home to the steel World Trade Center I-Beam, moved to Fort Collins in 2015. A symbol of resilience, this WTC artifact will draw visitors to reflect on the collective loss and incredible acts of bravery of September 11th.

Colorado Task Force 1- Urban Search and Rescue, a federal disaster response team, deployed 64 Coloradoans—including nine firefighters from the Poudre Fire Authority (PFA) —to New York City to assist with urban search and recovery. By telling their story, we acknowledge that the response to tragedy defines a community more than the tragedy itself.

Funding for the memorial is the culmination of generous community donors, Poudre Fire Authority and the City of Fort Collins. This item Appropriates \$180,765.00 representing a range of philanthropic gifts designated for the sole purpose of the 9/11 Memorial at Spring Park from individuals, businesses and local foundations, including \$80,000 awarded from our partner, Poudre Fire Authority.

This item also appropriates \$300,000 in the Conservation Trust Fund received from the Colorado State Lottery in accordance with state statutes to be “expended only for the acquisition, development, and maintenance of new conservation sites or for capital improvements or maintenance for recreational purposes on any public site.” The 9/11 Memorial meets the parameters of a “capital improvement . . . for

recreational purposes on any public site.” Operationally, the City has set a precedent of focusing the Conservation Trust funding source to support trails, however this special circumstance meets the allowable uses of the funding source and would enable the ability to leverage private funds for an important community amenity. After this one-time appropriation, the Conservation Trust reserves will still maintain a reasonable reserve balance without any anticipated impacts to the 2023-2024 workplan for trails.

CITY FINANCIAL IMPACTS

This Ordinance will appropriate \$480,765.00, including \$300,000 in Conservation Trust Funds. Three thousand dollars or 1% of the Conservation Trust Fund’s contribution will be transferred to the Cultural Services and Facilities Fund for Art in Public Places, per the City Code requirement for construction projects costing more than \$250,000. The remaining \$180,765.00 of the appropriation is from philanthropic revenue received by City Give for Park, Planning & Design, which is exempt from 1% applied to Art in Public Places per philanthropic policy guaranteeing 100% of charitable awards are dedicated in entirety to the designated project per donor intent. The philanthropic funds have been received and accepted per the City Give Administrative and Financial Policy.

The City Manager has also determined that these appropriations are available and previously unappropriated from the designated funds and will not cause the total amount appropriated in these funds to exceed the current estimate of actual and anticipated revenues and all other funds to be received in these funds during fiscal year 2023.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Ordinance for Consideration
2. Philanthropic Gifts for the 9/11 Memorial

ORDINANCE NO. XXX, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PHILANTHROPIC REVENUE RECEIVED BY CITY GIVE AND
CONSERVATION TRUST FUNDS FOR THE CONSTRUCTION OF THE 9/11 MEMORIAL
AT SPRING PARK AND RELATED ART IN PUBLIC PLACES

WHEREAS, the City of Fort Collins and Poudre Fire Authority have collaborated to construct a memorial to the events of September 11, 2001, at Spring Creek Park, adjacent to Poudre Fire Authority Station 3 (the “Memorial”); and

WHEREAS, the Memorial will serve as the permanent home for a steel World Trade Center I-beam; and

WHEREAS, the Memorial will honor firefighters, emergency medical technicians, law enforcement officers, and nearly 3,000 others who lost their lives on September 11, 2001; and

WHEREAS, the City has received \$180,765 in donations for the Memorial, including \$80,000 from Poudre Fire Authority; and

WHEREAS, the City possesses Conservation Trust Funds received from the Colorado State Lottery, which per C.R.S. 29-21-101(4) “shall be expended only for the acquisition, development, and maintenance of new conservation sites or for capital improvements or maintenance for recreational purposes on any public site”; and

WHEREAS, under C.R.S. 29-21-101(4), construction of the Memorial is a capital improvement for recreational purposes on a public site; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of facilitating the construction of a public memorial to the tragic events of September 11, 2001; and

WHEREAS, this Project involves construction estimated to cost more than \$250,000 and, as such, City Code Section 23-304 requires one percent of these appropriations to be transferred to the Cultural Services and Facilities Fund for a contribution to the Art in Public Places program (“APP Program”); and

WHEREAS, a portion of the funds appropriated in this Ordinance for the Project are ineligible for use in the APP Program due to restrictions placed on them by philanthropic revenue received by City Give, the source of these funds; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that these appropriations are available and previously unappropriated from the Conservation Trust Fund and will not cause the total amount appropriated Conservation Trust Fund to exceed the current estimate of actual and anticipated revenues to be received in these funds during this fiscal year; and

WHEREAS, Article V, Section 10 of the City Charter authorizes the City Council, upon recommendation by the City Manager, to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project to another fund or capital project, provided that the purpose for which the transferred funds are to be expended remains unchanged, the purpose for which the funds were initially appropriated no longer exists, or the proposed transfer is from a fund or capital project in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance; and

WHEREAS, the City Manager has recommended the transfer of \$3,000 from the Conservation Trust Fund to the Cultural Services & Facilities Fund and determined that the purpose for which the transferred funds are to be expended remains unchanged; and

WHEREAS, Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a donation, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the earlier of the expiration of the donation or the City’s expenditure of all funds received from such grant or donation; and

WHEREAS, the City Council wishes to designate the appropriation herein for the Memorial as an appropriation that shall not lapse until the earlier of the expiration of the or donation or the City’s expenditure of all funds received from such donation.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from philanthropic revenue in the Conservation Trust Fund the sum of ONE HUNDRED EIGHTY THOUSAND SEVEN HUNDRED SIXTY-FIVE DOLLARS (\$180,765) to be expended in the Conservation Trust Fund for the 9/11 Memorial at Spring Park.

Section 3. That there is hereby appropriated from prior year reserves in the Conservation Trust Fund the sum of THREE HUNDRED THOUSAND DOLLARS (\$300,000) to be expended in the Conservation Trust Fund for the 9/11 Memorial at Spring Park.

Section 4. That the unexpended and unencumbered appropriated amount of TWO THOUSAND THREE HUNDRED FORTY DOLLARS (\$2,340) in the Conservation Trust Fund

is hereby authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein to fund art projects under the APP Program.

Section 5. That the unexpended and unencumbered appropriated amount of SIX HUNDRED DOLLARS (\$600) in the Conservation Trust Fund is authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein for the operation costs of the APP Program.

Section 6. That the unexpended and unencumbered appropriated amount of SIXTY (\$60) in the Conservation Trust Fund is authorized for transfer to the Cultural Services and Facilities Fund and appropriated and expended therein for the maintenance costs of the APP Program.

Section 7. That the appropriation herein for the 9/11 Memorial at Spring Park is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the earlier of the expiration of the donation or the City's expenditure of all funds received from such donation.

Introduced, considered favorably on first reading, and ordered published this 7th day of February 2023, and to be presented for final passage on the 21st day of February 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of February 2023.

Mayor

ATTEST:

City Clerk



City Give
215 N Mason Street , 2nd Floor
Fort Collins, CO 80524
970.221.6687
nbodenhamer@fcgov.com
fcgov.com

FEBRUARY 7, 2023

Table with 3 columns: Date, Amount, and Donor Name. Rows include donations from 07/07/2021 to 04/28/2022, such as Anheuser Busch, Windsor Severence Fire, and BNSF Railway Foundation.

Item 12.

04/29/2022	\$ 5,000.00	probsj@gmail.com
05/01/2022	\$ 500.00	Confidential
05/27/2022	\$ 50.00	Rick Bourdon
05/31/2022	\$ 25.00	Rick Bourdon
05/31/2022	\$ 25.00	Connell
05/31/2022	\$ 500.00	Laurel Donahue
05/31/2022	\$ 750.00	Curtis Smith
06/24/2022	\$ 500.00	Anduss
06/30/2022	\$ 500.00	Kirkpatrick
06/30/2022	\$ 300.00	Engine 10, PFA
07/15/2022	\$ 1,500.00	Station 11, PFA
07/29/2022	\$ 100.00	Hampton
07/29/2022	\$ 100.00	Pottle
07/29/2022	\$ 100.00	Christen
07/29/2022	\$ 100.00	Pluta
07/29/2022	\$ 400.00	PFA Administration
07/29/2022	\$ 200.00	Howell
09/01/2022	\$ 25.00	wolfcop14@msn.com
09/01/2022	\$ 300.00	erikalnardi@gmail.com
09/01/2022	\$ 300.00	fdreckman@aol.com
09/01/2022	\$ 25.00	sam@latitudesoftware.com
09/01/2022	\$ 25.00	shpod3@gmail.com
09/01/2022	\$ 25.00	fdreckman@aol.com
09/01/2022	\$ 25.00	jodynsteve@gmail.com
09/01/2022	\$ 25.00	kelcon911@gmail.com
09/01/2022	\$ 25.00	fhill2814@gmail.com
09/30/2022	\$ 300.00	Janet Miller
09/30/2022	\$ 25.00	Rini Kirkpatrick
09/30/2022	\$ 25.00	Rini Kirkpatrick
09/30/2022	\$ 25.00	Rini Kirkpatrick
09/30/2022	\$ 25.00	Rini Kirkpatrick
09/30/2022	\$ 25.00	Rini Kirkpatrick
09/30/2022	\$ 25.00	Rini Kirkpatrick
09/30/2022	\$ 25.00	Rini Kirkpatrick
09/30/2022	\$ 25.00	Rini Kirkpatrick
10/31/2022	\$ 25.00	HAR
12/02/2022	\$ 1,500.00	South Metro Fire Department
12/05/2022	\$ 80,000.00	Poudre Fire Authority (PFA)
12/09/2022	\$ 500.00	Platte Valley Fire
12/09/2022	\$ 5,000.00	RBC/Grey Rock Wealth

Total \$ 180,765.00

AGENDA ITEM SUMMARY

City Council



STAFF

Kelley Vodden, Director of Compensation, Benefits, and Wellness
Teresa Roche, Human Resources Executive
Jenny Lopez Filkins, Legal

SUBJECT

Items Relating to the 2023 City Classified Employee Pay Plan as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.

EXECUTIVE SUMMARY

A. First Reading of Ordinance No. 016, 2023, Adopting the 2023 Amended City Classified Employee Pay Plan to Update Classified Positions as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.

B. First Reading of Ordinance No. 017, 2023, Appropriating Prior Year Reserves in the General Fund for the Cost of Police Services Salary and Benefit Increases as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.

The purpose of this item is to recommend changes to the 2023 City Classified Employee Pay Plan based on an annual market analysis conducted as agreed upon through the 2022-2024 Collective Bargaining Agreement (the "Agreement") with the Northern Colorado Lodge #3 of the Fraternal Order of Police ("FOP"). The Agreement was approved by Council by Resolution on December 7, 2021. The Agreement specifies a salary data collection method and evaluation process that includes market data as of early January. This data has been collected and analyzed, resulting in the revised 2023 City Classified Employee Pay Plan.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinances on First Reading.

BACKGROUND / DISCUSSION

The City utilizes a common compensation methodology to assess jobs, combine them into job functions and establish pay ranges. Pay ranges are categorized and grouped, and become the Classified Employee Pay Plan which sets the minimum, midpoint, and maximum of pay ranges for the levels within each career group and function. While the methodology for assessing jobs and developing pay ranges for jobs within the FOP's bargaining unit is outlined in the agreement, police collective bargaining unit positions are included in the Classified Employee Pay Plan.

Council approved the Agreement by Resolution No. 2021-114 on December 7, 2021. The Agreement specifies a salary data collection method and evaluation process that includes collection of market data as of early January. This analysis includes collecting pay range maximums for law enforcement positions from 12 identified benchmark agencies: Denver, Aurora, Boulder, Larimer County, Greeley, Thornton, Arvada, Lakewood, Longmont, Loveland, Westminster, and Broomfield. It also includes collecting salary data from dispatch centers for dispatch and communications centers.

The analysis resulted in the following recommended 2023 Pay Plan Structure adjustments:

- Police Officer, 6.46%
- Police Corporal, 6.46%
- Police Sergeant, 5.75%
- Police Lieutenant, 5.75%
- Community Service Officer, 6.46%
- Senior Supervisor, CSO, 6.46%
- Emergency Communications Dispatcher, 10.43%
- Senior Supervisor, Emergency Communications, 9.57%
- Senior Manager, Emergency Communications, 6.49%

Actual employee salary increases are determined administratively and implemented using the Council adopted employee pay increase budget and Police Services operational budget.

This appropriation does not cover costs related to City contribution increases to the Post Employment Health Plans for collective bargaining unit members. The contribution increases were included in the Agreement, which was approved by the Council on December 7, 2021. An additional appropriation will come forward to address those costs.

CITY FINANCIAL IMPACTS

The needed funds to cover the increases over budget in salary, overtime, and benefits total approximately \$253,000. These funds will come from General Fund Reserves.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Ordinance A for Consideration
2. Exhibit A to Ordinance A
3. Ordinance B for Consideration

ORDINANCE NO. 016, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ADOPTING THE 2023 AMENDED CLASSIFIED EMPLOYEES PAY PLAN
TO UPDATE CLASSIFIED POSITIONS AS PROVIDED IN THE COLLECTIVE
BARGAINING AGREEMENT WITH THE FRATERNAL ORDER OF POLICE

WHEREAS, Section 2-566 of the City Code requires that the pay plan for all classified employees of the City shall be established by ordinance of the City Council; and

WHEREAS, on December 6, 2022, the City Council adopted Ordinance No. 138, 2022, approving a pay plan for its classified employees for pay to go into effect the first pay period of January 2023 (the “Pay Plan”); and

WHEREAS, on December 7, 2021, the City Council adopted Resolution 2021-114 approving a collective bargaining agreement between the City and the Northern Colorado Lodge #3 of the Fraternal Order of Police (“CBA”); and

WHEREAS, the CBA contains a provision giving the City until January 12, 2023, to collect market data from several identified benchmark agencies for the classified positions in the collective bargaining unit; and

WHEREAS, such market data has been collected and analyzed and the recommended salary ranges for the bargaining unit classified employees are available to amend the Pay Plan; and

WHEREAS, the amendments to the Pay Plan recommended by the City Manager are consistent with City Council objectives and the Council-approved CBA, including the practice of establishing step levels by using pay range maximum salary data for benchmark positions, and matching to the fourth highest salary ranking of the benchmark agencies, or matching the percentage increase given to City employees not in the collective bargaining unit, whichever is higher; and

WHEREAS, the City Council believes that the adoption of the recommended, amended pay plan is in the best interests of the City and further believes that the allocation of individual salaries within the Pay Plan should be related to employee performance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby adopts the 2023 Amended City of Fort Collins Classified Employees Pay Plan (the “Amended Plan”), a copy of which is attached hereto as Exhibit “A” and incorporated herein by this reference.

Section 3. That the effective date of the Amended Plan is retroactive to and shall be effective as of January 9, 2023, the first pay period of 2023.

Section 4. That the City Manager shall fix the compensation levels of all classified employees within the pay levels established in the Amended Plan except as allowed by the terms of the CBA.

Introduced, considered favorably on first reading, and ordered published this 7th day of February, 2023, and to be presented for final passage on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk



EXHIBIT A CITY OF FORT COLLINS 2023 PAY PLAN

<u>JOB TITLE</u>	<u>JOB TYPE</u>	<u>LEVEL</u>	<u>JOB FUNCTION</u>	<u>JOB FAMILY</u>	<u>JOB SUB FAMILY</u>	<u>TABLE</u>
Accountant II	P049	P2	FINANCE & ACCOUNTING	ACCOUNTING	ACCOUNTING	4
Administrator I, Systems	P003	P1	TECHNOLOGY	SYSTEMS	SYSTEMS ADMINISTRATION	3
Analyst I, Apps Software	P005	P1	TECHNOLOGY	APPLICATIONS SOFTWARE	APPLICATIONS SOFTWARE	3
Analyst I, Benefits	P016	P1	HUMAN RESOURCES	BENEFITS	BENEFITS	4
Analyst I, Data	P122	P1	TECHNOLOGY	DATA SCIENCE	DATA ANALYSIS	3
Analyst I, Finance	P020	P1	FINANCE & ACCOUNTING	FINANCIAL PLANNING & ANALYSIS	FINANCIAL PLANNING & ANALYSIS	4
Analyst I, GIS	P002	P1	TECHNOLOGY	GIS	GIS	3
Analyst I, HRIS	P023	P1	HUMAN RESOURCES	HRIS	HRIS	4
Analyst II, Apps Software	P028	P2	TECHNOLOGY	APPLICATIONS SOFTWARE	APPLICATIONS SOFTWARE	3
Analyst II, Apps Software Dev	P123	P2	TECHNOLOGY	APPLICATIONS SOFTWARE	APPS SOFTWARE DEVELOPMENT	3
Analyst II, Benefits	P124	P2	HUMAN RESOURCES	BENEFITS	BENEFITS	4
Analyst II, Budget	P136	P2	FINANCE & ACCOUNTING	BUDGET	BUDGET	4
Analyst II, Bus Intelligence	P133	P2	TECHNOLOGY	DATA SCIENCE	BUSINESS INTELLIGENCE	3
Analyst II, Finance	P050	P2	FINANCE & ACCOUNTING	FINANCIAL PLANNING & ANALYSIS	FINANCIAL PLANNING & ANALYSIS	4
Analyst II, GIS	P031	P2	TECHNOLOGY	GIS	GIS	3
Architect, IT Security	P101	P4	TECHNOLOGY	INFORMATION SECURITY	INFORMATION SECURITY	3
Architect, Landscape	P032	P2	PLANNING	PARK PLANNING	LANDSCAPE	1
Architect, Portfolio Mgmt	P145	P4	TECHNOLOGY	TECHNOLOGY	PORTFOLIO MANAGEMENT	3
Architect, Technology	P109	P4	TECHNOLOGY	DATA SCIENCE	DATA SCIENCE	3
Asst Superintendent, Parks	O019	OT6	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	PARKS	1
Auditor II, Sales Tax	P060	P2	FINANCE & ACCOUNTING	REVENUE	SALES TAX AUDIT & REVENUE	4
Bailiff	A001	A2	LEGAL	JUDICIAL	CUSTOMER SERVICE	4
BUILDING INSPECTOR	OS14	OS5	DEVELOPMENT & COMPLIANCE	BUILDING & DEVELOPMENT REVIEW	BUILDING & DEVELOPMENT REVIEW	1S
Business Support I	A002	A2	ADMINISTRATION	ADMINISTRATION	ADMINISTRATION	4
Business Support II	A008	A3	ADMINISTRATION	ADMINISTRATION	ADMINISTRATION	4
Business Support III	A020	A4	ADMINISTRATION	ADMINISTRATION	ADMINISTRATION	4
Buyer II	P043	P2	FINANCE & ACCOUNTING	PURCHASING	PURCHASING	4
Chemist	P008	P1	SCIENCES & ENGINEERING	SCIENCES	CHEMISTRY	3
Chief Building Official	M042	M2	DEVELOPMENT & COMPLIANCE	BUILDING & DEVELOPMENT REVIEW	BUILDING & DEVELOPMENT REVIEW	1
Chief Deputy City Clerk	P158	P3	ADMINISTRATION	MUNICIPAL ADMINISTRATION	CITY CLERK	4
Chief Information Officer	M092	M4	STRATEGY	TECHNOLOGY	TECHNOLOGY	7
City Clerk	M072	M3	ADMINISTRATION	MUNICIPAL ADMINISTRATION	CITY CLERK	4
City Engineer	M079	M3	SCIENCES & ENGINEERING	ENGINEERING	CIVIL ENGINEERING	3
City Traffic Engineer	M064	M3	SCIENCES & ENGINEERING	ENGINEERING	TRAFFIC ENGINEERING	3



**CITY OF FORT COLLINS
2023 PAY PLAN**

Civil Engineer I	P009	P1	SCIENCES & ENGINEERING	ENGINEERING	CIVIL ENGINEERING	3
Civil Engineer II	P037	P2	SCIENCES & ENGINEERING	ENGINEERING	CIVIL ENGINEERING	3
Civil Engineer III	P078	P3	SCIENCES & ENGINEERING	ENGINEERING	CIVIL ENGINEERING	3
Community Service Officer	O044	OT4	PROTECTIVE SERVICES	COLLECTIVE BARGAINING UNIT	COMMUNITY SERVICES OPERATIONS	5B
Coord, Sales Tax & Audit Rev	A097	A4	FINANCE & ACCOUNTING	REVENUE	SALES TAX AUDIT & REVENUE	4
Coordinator, AR / Billing	A021	A4	FINANCE & ACCOUNTING	ACCOUNTING	ACCOUNTS RECEIVABLE / BILLING	4
Coordinator, Accounts Payable	A015	A4	FINANCE & ACCOUNTING	ACCOUNTING	ACCOUNTS PAYABLE	4
Coordinator, Active Modes	A093	A4	PLANNING	TRANSPORTATION PLANNING	ACTIVE MODES	1
Coordinator, Bldg & Dev Review	A071	A4	DEVELOPMENT & COMPLIANCE	BUILDING & DEVELOPMENT REVIEW	BUILDING & DEVELOPMENT REVIEW	1
Coordinator, Communications	A028	A4	MARKETING & CREATIVE SERVICES	COMMUNICATIONS	COMMUNICATIONS	4
Coordinator, Cultural Services	A031	A4	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Coordinator, Customer Support	A074	A4	CUSTOMER SERVICE	CUSTOMER SERVICE	CUSTOMER SUPPORT	4
Coordinator, Finance	A022	A4	FINANCE & ACCOUNTING	FINANCIAL PLANNING & ANALYSIS	FINANCIAL PLANNING & ANALYSIS	4
Coordinator, HRIS	A017	A4	HUMAN RESOURCES	HRIS	HRIS	4
Coordinator, Outreach	A036	A4	PROTECTIVE SERVICES	INVESTIGATION	OUTREACH	5
Coordinator, Payroll	A018	A4	FINANCE & ACCOUNTING	ACCOUNTING	PAYROLL	4
Coordinator, Public Engagement	A023	A4	CUSTOMER SERVICE	OUTREACH	PUBLIC ENGAGEMENT	4
Coordinator, Talent Acquisitio	A098	A4	HUMAN RESOURCES	TALENT MANAGEMENT	TALENT ACQUISITION	4
Coordinator, Theatre Prod	A096	A4	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Court Security Officer	O036	OT4	PROTECTIVE SERVICES	OPERATIONS	ENFORCEMENT	5
Crew Chief, Electric Dist	S013	S1	OPERATIONS	ELECTRIC UTILITIES	ELECTRIC DIST - HIGH VOLTAGE	2
Crew Chief, Facilities	S006	S1	OPERATIONS	FACILITIES & FLEET	FACILITIES	2
Crew Chief, Forestry	S012	S1	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	FORESTRY	1
Crew Chief, Natural Areas	S059	S1	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	NATURAL AREAS	1
Crew Chief, Parks	S010	S1	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	PARKS	1
Crew Chief, Transportation Ops	S052	S1	OPERATIONS	TRANSPORTATION	TRANSPORTATION OPERATIONS	2
Crew Chief, Water Field Ops	S053	S1	OPERATIONS	WATER UTILITIES	WATER FIELD OPERATIONS	2
Crime Analyst	A062	A5	PROTECTIVE SERVICES	PROCESSING SUPPORT	INFORMATION SERVICES	5
Crime Analyst	A090	A6	PROTECTIVE SERVICES	PROCESSING SUPPORT	INFORMATION SERVICES	5
Criminalist	A069	A6	PROTECTIVE SERVICES	INVESTIGATION	INVESTIGATION	5
Curator	P014	P1	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Deputy City Clerk	A060	A5	ADMINISTRATION	MUNICIPAL ADMINISTRATION	CITY CLERK	4
Deputy Court Administrator	S002	S1	LEGAL	JUDICIAL	ADMINISTRATION	4
Deputy Court Clerk I	A005	A3	LEGAL	JUDICIAL	CUSTOMER SERVICE	4
Deputy Court Clerk II	A013	A4	LEGAL	JUDICIAL	CUSTOMER SERVICE	4
Deputy Director, Broadband	M135	M4	STRATEGY	BROADBAND	BROADBAND	7
Deputy Director, PDT	M094	M4	STRATEGY	PLANNING, DEV & TRANSPORTATION	CITY PLANNING	7



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Deputy Director, PDT	M097	M4	STRATEGY	PLANNING, DEV & TRANSPORTATION	PLANNING, DEV & TRANSPORTATION	7
Deputy Director, Sus Services	M136	M4	STRATEGY	SUSTAINABILITY SERVICES	SUSTAINABILITY SERVICES	7
Deputy Director, Utilities	M096	M4	STRATEGY	UTILITIES	ELECTRIC	7
Deputy Director, Utilities	M095	M4	STRATEGY	UTILITIES	WATER	7
Deputy Director, Utilities	M093	M4	STRATEGY	UTILITIES	ELECTRIC	7
Dir, Economic Sustainability	M081	M3	SUSTAINABILITY	ECONOMIC SUSTAINABILITY	ECONOMIC SUSTAINABILITY	1
Dir, Electric Distribution	M073	M3	OPERATIONS	ELECTRIC UTILITIES	ELECTRIC DIST - HIGH VOLTAGE	2
Dir, Environ Sustainability	M069	M3	SUSTAINABILITY	ENVIRONMENTAL SUSTAINABILITY	ENVIRONMENTAL SUSTAINABILITY	1
Dir, Social Sustainability	M066	M3	SUSTAINABILITY	SOCIAL SUSTAINABILITY	SOCIAL SUSTAINABILITY	1
Dir, Transportation Operations	M074	M3	OPERATIONS	TRANSPORTATION	TRANSPORTATION OPERATIONS	2
Director, Accounting	M082	M3	FINANCE & ACCOUNTING	ACCOUNTING	ACCOUNTING	4
Director, Broadband	M120	M3	OPERATIONS	BROADBAND	BROADBAND	2
Director, Budget	M067	M3	FINANCE & ACCOUNTING	BUDGET	BUDGET	4
Director, Civil Engineering	M086	M3	SCIENCES & ENGINEERING	ENGINEERING	CIVIL ENGINEERING	3
Director, Civil Engineering	M089	M3	SCIENCES & ENGINEERING	ENGINEERING	CIVIL ENGINEERING	3
Director, Communications	M065	M3	MARKETING & CREATIVE SERVICES	COMMUNICATIONS	COMMUNICATIONS	4
Director, Cultural Services	M075	M3	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Director, Elec Engineering	M114	M3	SCIENCES & ENGINEERING	ENGINEERING	ELECTRICAL ENGINEERING	3
Director, FP&A	M078	M3	FINANCE & ACCOUNTING	FINANCIAL PLANNING & ANALYSIS	FINANCIAL PLANNING & ANALYSIS	4
Director, Facilities & Fleet	M083	M3	OPERATIONS	FACILITIES & FLEET	FACILITIES & FLEET	2
Director, Human Resources	M088	M3	HUMAN RESOURCES	TALENT MANAGEMENT	HUMAN RESOURCES	4
Director, Information Services	M040	M3	PROTECTIVE SERVICES	PROCESSING SUPPORT	INFORMATION SERVICES	5
Director, Natural Areas	M127	M3	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	NATURAL AREAS	1
Director, Park Planning	M068	M3	PLANNING	PARK PLANNING	LANDSCAPE	1
Director, Parks	M071	M3	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	PARKS	1
Director, Plant Operations	M084	M3	OPERATIONS	PLANT OPERATIONS	PLANT OPERATIONS	2
Director, Plant Operations	M139	M3	OPERATIONS	PLANT OPERATIONS	PLANT OPERATIONS	2
Director, Purchasing	M077	M3	FINANCE & ACCOUNTING	PURCHASING	PURCHASING	4
Director, Recreation	M070	M3	CULTURE, PARKS & RECREATION	RECREATION	RECREATION	1
Director, Sciences	M085	M3	SCIENCES & ENGINEERING	SCIENCES	SCIENCES	3
Director, Technology	M121	M3	TECHNOLOGY	TECHNOLOGY	TECHNOLOGY	3
Director, Total Compensation	M123	M3	HUMAN RESOURCES	COMPENSATION/BENEFITS/WELLNES	TOTAL COMPENSATION	4
Director, Transit	M076	M3	OPERATIONS	TRANSPORTATION	TRANSIT	2
Director, Water Field Ops	M108	M3	OPERATIONS	WATER UTILITIES	WATER FIELD OPERATIONS	2
Electric Line Worker	OS12	OS4	OPERATIONS	ELECTRIC UTILITIES	ELECTRIC DIST - HIGH VOLTAGE	2S
Electric Meter Systems Tech	OS18	OS4	OPERATIONS	ELECTRIC UTILITIES	ELECTRIC DIST - LOW VOLTAGE	2S
Electric Systems Operator	OS05	OS3	OPERATIONS	ELECTRIC UTILITIES	ELECTRIC DIST - FIELD OPS	2S
Electrical Engineer I	P012	P1	SCIENCES & ENGINEERING	ENGINEERING	ELECTRICAL ENGINEERING	3



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Electrical Engineer II	P143	P2	SCIENCES & ENGINEERING	ENGINEERING	ELECTRICAL ENGINEERING	3
Electrical Engineer II	P039	P2	SCIENCES & ENGINEERING	ENGINEERING	ELECTRICAL ENGINEERING	3
Electrical Engineer III	P077	P3	SCIENCES & ENGINEERING	ENGINEERING	ELECTRICAL ENGINEERING	3
Electrician	O038	OT4	OPERATIONS	FACILITIES & FLEET	ELECTRICIAN	2
Emergency Commun Dispatcher	O043	OT4	PROTECTIVE SERVICES	COLLECTIVE BARGAINING UNIT	COMMUNICATIONS	5A
Emergency Management Officer	M109	M4	STRATEGY	EMERGENCY MANAGEMENT	EMERGENCY MANAGEMENT	7
Engineer I, Fiber	P112	P1	TECHNOLOGY	FIBER	FIBER	3
Engineer I, Network	P004	P1	TECHNOLOGY	NETWORK	NETWORK ENGINEERING	3
Engineer II, Fiber	P138	P2	TECHNOLOGY	FIBER	FIBER	3
Engineer II, Network	P029	P2	TECHNOLOGY	NETWORK	NETWORK ENGINEERING	3
Engineer II, Systems	P030	P2	TECHNOLOGY	SYSTEMS	SYSTEMS ENGINEERING	3
Exec Assistant To The City Mgr	P001	P1	ADMINISTRATION	ADMINISTRATION	ADMINISTRATION	4
Executive Admin Assistant	A043	A5	ADMINISTRATION	ADMINISTRATION	ADMINISTRATION	4
Executive Assist, City Council	P160	P1	FINANCE & ACCOUNTING	ADMINISTRATION	ADMINISTRATION	4
Fleet Maintenance Tech	OS19	OS4	OPERATIONS	FACILITIES & FLEET	FLEET	2S
Inspector, Code Compliance	O023	OT3	DEVELOPMENT & COMPLIANCE	COMPLIANCE	CODE COMPLIANCE	1
Investigative Aide	A061	A5	PROTECTIVE SERVICES	INVESTIGATION	INVESTIGATION	5
Lab Assistant	O001	OT1	SCIENCES & ENGINEERING	SCIENCES	SCIENCES	3
Lead Analyst, Utility Rate	P102	P4	FINANCE & ACCOUNTING	UTILITY	UTILITY RATE ANALYSIS	4
Lead Auditor, Sales Tax	P150	P3	FINANCE & ACCOUNTING	REVENUE	SALES TAX AUDIT & REVENUE	4
LEAD BUILDING INSPECTOR	SS03	SS1	DEVELOPMENT & COMPLIANCE	BUILDING & DEVELOPMENT REVIEW	BUILDING & DEVELOPMENT REVIEW	S1
Lead Coord, Communications	A086	A6	MARKETING & CREATIVE SERVICES	COMMUNICATIONS	COMMUNICATIONS	4
Lead Coord, Utility Rate/Fee	A066	A6	FINANCE & ACCOUNTING	UTILITY	UTILITY RATE / FEE	4
Lead Inspector Code Compliance	O064	OT6	DEVELOPMENT & COMPLIANCE	COMPLIANCE	CODE COMPLIANCE	1
Lead Inspector, Construction	O052	OT6	DEVELOPMENT & COMPLIANCE	COMPLIANCE	CONSTRUCTION INSPECTION	1
Lead Inspector, Zoning	O073	OT6	DEVELOPMENT & COMPLIANCE	COMPLIANCE	ZONING	1
Lead Park Ranger	S011	S1	PROTECTIVE SERVICES	OPERATIONS	RESOURCE MANAGEMENT	5
LEAD PLANT OPERATOR	OS13	OS5	OPERATIONS	PLANT OPERATIONS	PLANT OPERATIONS	2S
Lead Rep, Customer Support	A040	A5	CUSTOMER SERVICE	CUSTOMER SERVICE	CUSTOMER SUPPORT	4
Lead Spc, Cultural Services	P081	P3	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Lead Spc, Econ Sustainability	P159	P3	SUSTAINABILITY	ECONOMIC SUSTAINABILITY	ECONOMIC SUSTAINABILITY	1
Lead Spc, Employee Relations	P099	P3	HUMAN RESOURCES	TALENT MANAGEMENT	EMPLOYEE RELATIONS	4
Lead Spc, Env Sustainability	P092	P3	SUSTAINABILITY	ENVIRONMENTAL SUSTAINABILITY	ENVIRONMENTAL SUSTAINABILITY	1
Lead Spc, Homelessness	P135	P3	SUSTAINABILITY	SOCIAL SUSTAINABILITY	HOMELESSNESS	1
Lead Spc, Process Improvement	P065	P3	ADMINISTRATION	PROJECT MANAGEMENT	PROCESS IMPROVEMENT	4
Lead Spc, Soc Sustainability	P097	P3	SUSTAINABILITY	SOCIAL SUSTAINABILITY	SOCIAL SUSTAINABILITY	1
Lead Spc, Special Events	P084	P3	DEVELOPMENT & COMPLIANCE	NEIGHBORHOOD SERVICES	SPECIAL EVENTS	1
Lead Spec, Emergency Mgmt	P154	P3	ADMINISTRATION	PROJECT MANAGEMENT	EMERGENCY MANAGEMENT	4



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Lead Specialist, Communication	P155	P3	MARKETING & CREATIVE SERVICES	COMMUNICATIONS	COMMUNICATIONS	4
Lead Specialist, Forestry	P085	P3	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	FORESTRY	1
Lead Specialist, Marketing	P047	P3	MARKETING & CREATIVE SERVICES	MARKETING	MARKETING	4
Lead Specialist, Natural Areas	P104	P3	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	NATURAL AREAS	1
Lead Specialist, Occpntl Hlth	P115	P3	HUMAN RESOURCES	SAFETY & RISK MANAGEMENT	OCCUPATIONAL HEALTH	4
Lead Specialist, Parks	P165	P3	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	PARKS	1
Lead Specialist, Public Engage	P141	P3	CUSTOMER SERVICE	OUTREACH	PUBLIC ENGAGEMENT	4
Lead Specialist, Safety	P093	P3	HUMAN RESOURCES	SAFETY & RISK MANAGEMENT	SAFETY	4
Lead Specialist, Sciences	P072	P3	SCIENCES & ENGINEERING	SCIENCES	SCIENCES	3
Lead Specialist, Security	P091	P3	ADMINISTRATION	SAFETY & RISK MANAGEMENT	SECURITY	4
Lead Sr Facilities Project Mgr	M111	M1	ADMINISTRATION	PROJECT MANAGEMENT	FACILITIES PROJECT MANAGEMENT	4
Lead Tech, Graphic Design	A068	A6	MARKETING & CREATIVE SERVICES	MEDIA	GRAPHIC DESIGN	4
Lead Tech, Transportation Ops	O065	OT6	OPERATIONS	TRANSPORTATION	TRANSPORTATION OPERATIONS	2
Lead Technician, Sciences	A065	A6	SCIENCES & ENGINEERING	SCIENCES	SCIENCES	3
Lead Technician, Video Prod	A067	A6	MARKETING & CREATIVE SERVICES	MEDIA	VIDEO PRODUCTION	4
Legal Assistant	A009	A3	LEGAL	LEGAL	LEGAL SUPPORT	4
Line Crew Chief	SS05	SS1	OPERATIONS	ELECTRIC UTILITIES	ELECTRIC DIST - HIGH VOLTAGE	2S
Line Groundworker	OS01	OS1	OPERATIONS	ELECTRIC UTILITIES	ELECTRIC DIST - HIGH VOLTAGE	2S
Locator, Elec Dist - Field Ops	O006	OT3	OPERATIONS	ELECTRIC UTILITIES	ELECTRIC DIST - FIELD OPS	2
Manager, Active Modes	M023	M1	PLANNING	TRANSPORTATION PLANNING	ACTIVE MODES	1
Manager, Administration	M116	M1	ADMINISTRATION	ADMINISTRATION	ADMINISTRATION	4
Manager, Applications Software	M001	M1	TECHNOLOGY	APPLICATIONS SOFTWARE	APPLICATIONS SOFTWARE	3
Manager, Apps Software Dev	M002	M1	TECHNOLOGY	APPLICATIONS SOFTWARE	APPS SOFTWARE DEVELOPMENT	3
Manager, Benefits	M125	M1	HUMAN RESOURCES	BENEFITS	BENEFITS	4
Manager, Bldg & Dev Review	M034	M1	PLANNING	BUILDING & DEVELOPMENT REVIEW	BUILDING & DEVELOPMENT REVIEW	1
Manager, Broadband	M105	M1	OPERATIONS	BROADBAND	BROADBAND OPERATIONS	2
Manager, Broadband Operations	M143	M1	OPERATIONS	BROADBAND	BROADBAND OPERATIONS	2
Manager, Civil Engineering	M008	M1	SCIENCES & ENGINEERING	ENGINEERING	CIVIL ENGINEERING	3
Manager, Communications	M017	M1	CUSTOMER SERVICE	COMMUNICATIONS	COMMUNICATIONS	4
Manager, Compliance	M115	M1	DEVELOPMENT & COMPLIANCE	COMPLIANCE	COMPLIANCE	1
Manager, Construction Inspect	M005	M1	DEVELOPMENT & COMPLIANCE	COMPLIANCE	CONSTRUCTION INSPECTION	1
Manager, Cultural Services	M016	M1	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Manager, Customer Support	M021	M1	CUSTOMER SERVICE	CUSTOMER SERVICE	CUSTOMER SUPPORT	4
Manager, Econ Sustainability	M033	M1	SUSTAINABILITY	ECONOMIC SUSTAINABILITY	ECONOMIC SUSTAINABILITY	1
Manager, Elec Distr Hi Voltage	M103	M1	OPERATIONS	ELECTRIC UTILITIES	ELECTRIC DIST - HIGH VOLTAGE	2
Manager, Env Sustainability	M100	M1	SUSTAINABILITY	ENVIRONMENTAL SUSTAINABILITY	ENVIRONMENTAL SUSTAINABILITY	1
Manager, Environ Planning	M032	M1	PLANNING	ENVIRONMENTAL PLANNING	ENVIRONMENTAL PLANNING	1
Manager, FP&A	M026	M1	FINANCE & ACCOUNTING	FINANCIAL PLANNING & ANALYSIS	FINANCIAL PLANNING & ANALYSIS	4



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Manager, Forestry	M128	M1	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	FORESTRY	1
Manager, GIS	M004	M1	TECHNOLOGY	GIS	GIS	3
Manager, Graphic Design	M020	M1	MARKETING & CREATIVE SERVICES	MEDIA	GRAPHIC DESIGN	4
Manager, HR Operations	M102	M1	HUMAN RESOURCES	ADMINISTRATION	ADMINISTRATION	4
Manager, Historic Preservation	M022	M1	PLANNING	CITY PLANNING	HISTORIC PRESERVATION	1
Manager, Marketing	M018	M1	MARKETING & CREATIVE SERVICES	MARKETING	MARKETING	4
Manager, Payroll	M029	M1	FINANCE & ACCOUNTING	ACCOUNTING	PAYROLL	4
Manager, Plant Operations	M012	M1	OPERATIONS	PLANT OPERATIONS	PLANT OPERATIONS	2
Manager, Project Management	M129	M1	ADMINISTRATION	PROJECT MANAGEMENT	PROJECT MANAGEMENT	4
Manager, Public Engagement	M017	M1	CUSTOMER SERVICE	OUTREACH	PUBLIC ENGAGEMENT	4
Manager, Purchasing	M130	M1	FINANCE & ACCOUNTING	PURCHASING	PURCHASING	4
Manager, Real Estate	M027	M1	OPERATIONS	FACILITIES & FLEET	REAL ESTATE	2
Manager, Recreation	M024	M1	CULTURE, PARKS & RECREATION	RECREATION	RECREATION	1
Manager, Sales	M138	M1	MARKETING & CREATIVE SERVICES	SALES	SALES	4
Manager, Sciences	M019	M1	SCIENCES & ENGINEERING	SCIENCES	SCIENCES	3
Manager, Service Delivery	M131	M1	TECHNOLOGY	CLIENT SERVICES	CLIENT SERVICES	3
Manager, Social Sustainability	M119	M1	SUSTAINABILITY	SOCIAL SUSTAINABILITY	SOCIAL SUSTAINABILITY	1
Manager, Systems Admin	M009	M1	TECHNOLOGY	SYSTEMS	SYSTEMS ADMINISTRATION	3
Manager, Systems Engineering	M003	M1	TECHNOLOGY	SYSTEMS	SYSTEMS ENGINEERING	3
Manager, Talent Acquisition	M015	M1	HUMAN RESOURCES	TALENT MANAGEMENT	TALENT ACQUISITION	4
Manager, Talent Development	M030	M1	HUMAN RESOURCES	ADMINISTRATION	ADMINISTRATION	4
Manager, Technical Proj Mgmt	M106	M1	ADMINISTRATION	PROJECT MANAGEMENT	TECHNICAL PROJECT MANAGEMENT	4
Manager, Traffic Engineering	M007	M1	SCIENCES & ENGINEERING	ENGINEERING	TRAFFIC ENGINEERING	3
Manager, Transportation Ops	M013	M1	OPERATIONS	TRANSPORTATION	TRANSPORTATION OPERATIONS	2
Manager, Transportation Plng	M112	M1	PLANNING	TRANSPORTATION PLANNING	TRANSPORTATION PLANNING	1
Manager, Video Production	M031	M1	MARKETING & CREATIVE SERVICES	MEDIA	VIDEO PRODUCTION	4
Manager, Water Field Ops	M006	M1	OPERATIONS	WATER UTILITIES	WATER FIELD OPERATIONS	2
Manager, Water Util Dev Review	M122	M1	SCIENCES & ENGINEERING	ENGINEERING	DEVELOPMENT REVIEW	3
Manager, Wellness	M014	M1	HUMAN RESOURCES	BENEFITS	WELLNESS	4
Master Electrician	O051	OT6	OPERATIONS	FACILITIES & FLEET	ELECTRICIAN	2
Mechanic	OS07	OS4	OPERATIONS	FACILITIES & FLEET	FLEET	2S
Mechanical Engineer I	P011	P1	SCIENCES & ENGINEERING	ENGINEERING	MECHANICAL ENGINEERING	3
Mechanical Engineer II	P134	P2	SCIENCES & ENGINEERING	ENGINEERING	MECHANICAL ENGINEERING	3
Mechanical Engineer III	P075	P3	SCIENCES & ENGINEERING	ENGINEERING	MECHANICAL ENGINEERING	3
Municipal Court Administrator	S019	S2	LEGAL	JUDICIAL	ADMINISTRATION	4
Natural Areas Trail Ranger	O058	OT4	PROTECTIVE SERVICES	OPERATIONS	RESOURCE MANAGEMENT	5
Officer I, Enforcement	O010	O3	PROTECTIVE SERVICES	OPERATIONS	ENFORCEMENT	5
Officer I, Transportation Ops	O013	OT2	OPERATIONS	TRANSPORTATION	TRANSPORTATION OPERATIONS	2



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Officer II, Enforcement	O026	OT3	PROTECTIVE SERVICES	OPERATIONS	ENFORCEMENT	5
Operator I, Transit	O011	OT2	OPERATIONS	TRANSPORTATION	TRANSIT	2
Operator I, Transportation Ops	O009	OT2	OPERATIONS	TRANSPORTATION	TRANSPORTATION OPERATIONS	2
Operator II, Broadband	O069	OT3	OPERATIONS	BROADBAND	BROADBAND OPERATIONS	2
Operator II, Transit	O021	OT3	OPERATIONS	TRANSPORTATION	TRANSIT	2
Operator II, Transportation Op	O022	OT3	OPERATIONS	TRANSPORTATION	TRANSPORTATION OPERATIONS	2
Paralegal	A064	A6	LEGAL	LEGAL	LEGAL SUPPORT	4
Park Ranger	O037	OT4	PROTECTIVE SERVICES	OPERATIONS	RESOURCE MANAGEMENT	5
Parking Enforcement Officer I	O010	OT2	DEVELOPMENT & COMPLIANCE	COMPLIANCE	PARKING	1
Parking Enforcement Officer II	O066	OT3	DEVELOPMENT & COMPLIANCE	COMPLIANCE	PARKING	1
Partner, Human Resources	P062	P2	HUMAN RESOURCES	TALENT MANAGEMENT	HUMAN RESOURCES	4
Planner, City	P052	P2	PLANNING	CITY PLANNING	CITY PLANNING	1
Planner, Environmental	P048	P2	PLANNING	ENVIRONMENTAL PLANNING	ENVIRONMENTAL PLANNING	1
Planner, Transit	P046	P2	PLANNING	TRANSPORTATION PLANNING	TRANSIT PLANNING	1
Planner, Transportation	P113	P2	PLANNING	TRANSPORTATION PLANNING	TRANSPORTATION PLANNING	1
Plans Examiner	A073	A6	DEVELOPMENT & COMPLIANCE	BUILDING & DEVELOPMENT REVIEW	BUILDING & DEVELOPMENT REVIEW	1
Plant Operator	OS09	OS4	OPERATIONS	PLANT OPERATIONS	PLANT OPERATIONS	2S
Police Assistant Chief	M090	M3	PROTECTIVE SERVICES	POLICE ADMINISTRATION	POLICE ADMINISTRATION	5
Police Corporal	S017	S1	PROTECTIVE SERVICES	COLLECTIVE BARGAINING UNIT	SWORN OPERATIONS	5C
Police Deputy Chief	M098	M4	STRATEGY	PROTECTIVE SERVICES	POLICE ADMINISTRATION	7
Police Lieutenant	M063	M2	PROTECTIVE SERVICES	COLLECTIVE BARGAINING UNIT	SWORN OPERATIONS	5C
Police Officer	O025	OT6	PROTECTIVE SERVICES	COLLECTIVE BARGAINING UNIT	SWORN OPERATIONS	5C
Police Psychologist	P103	P4	PROTECTIVE SERVICES	INVESTIGATION	OUTREACH	5
Police Sergeant	S051	S2	PROTECTIVE SERVICES	COLLECTIVE BARGAINING UNIT	SWORN OPERATIONS	5C
Probation Officer	A087	A5	LEGAL	JUDICIAL	CUSTOMER SERVICE	4
Process Engineer I	P139	P1	SCIENCES & ENGINEERING	ENGINEERING	PROCESS ENGINEERING	3
Project Analyst	P026	P1	ADMINISTRATION	PROJECT MANAGEMENT	PROJECT MANAGEMENT	4
Project Coordinator	A083	A5	ADMINISTRATION	PROJECT MANAGEMENT	PROJECT MANAGEMENT	4
Project Manager	P041	P2	ADMINISTRATION	PROJECT MANAGEMENT	PROJECT MANAGEMENT	4
Reliability Engr II, Utilities	P152	P2	SCIENCES & ENGINEERING	ENGINEERING	RELIABILITY ENGINEERING	3
Reliability Engr III, Utilities	P130	P3	SCIENCES & ENGINEERING	ENGINEERING	RELIABILITY ENGINEERING	3
Rep I, Customer Support	A003	A2	CUSTOMER SERVICE	CUSTOMER SERVICE	CUSTOMER SUPPORT	4
Rep II, Customer Support	A006	A3	CUSTOMER SERVICE	CUSTOMER SERVICE	CUSTOMER SUPPORT	4
Rep II, Police Records	A011	A3	PROTECTIVE SERVICES	PROCESSING SUPPORT	INFORMATION SERVICES	5
Specialist, Active Modes	P013	P1	PLANNING	TRANSPORTATION PLANNING	ACTIVE MODES	1
Specialist, City Planning	P121	P1	PLANNING	CITY PLANNING	CITY PLANNING	1
Specialist, Communications	P021	P1	MARKETING & CREATIVE SERVICES	COMMUNICATIONS	COMMUNICATIONS	4
Specialist, Compliance	P127	P1	DEVELOPMENT & COMPLIANCE	COMPLIANCE	COMPLIANCE	1



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Specialist, Customer Support	P034	P1	CUSTOMER SERVICE	CUSTOMER SERVICE	CUSTOMER SUPPORT	4
Specialist, DOT	P157	P1	HUMAN RESOURCES	SAFETY & RISK MANAGEMENT	SAFETY	4
Specialist, Econ Sustainability	P119	P1	SUSTAINABILITY	ECONOMIC SUSTAINABILITY	ECONOMIC SUSTAINABILITY	1
Specialist, Env Sustainability	P120	P1	SUSTAINABILITY	ENVIRONMENTAL SUSTAINABILITY	ENVIRONMENTAL SUSTAINABILITY	1
Specialist, Facilities	P007	P1	OPERATIONS	FACILITIES & FLEET	FACILITIES	2
Specialist, Natural Areas	P140	P1	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	NATURAL AREAS	1
Specialist, Public Engagement	P015	P1	CUSTOMER SERVICE	OUTREACH	PUBLIC ENGAGEMENT	4
Specialist, Regulatory Svcs	P163	P1	SCIENCES & ENGINEERING	SCIENCES	SCIENCES	3
Specialist, Revenue	P149	P1	FINANCE & ACCOUNTING	REVENUE	SALES TAX AUDIT & REVENUE	4
Specialist, Safety	P111	P1	HUMAN RESOURCES	SAFETY & RISK MANAGEMENT	SAFETY	4
Specialist, Sales	P116	P1	MARKETING & CREATIVE SERVICES	SALES	SALES	4
Specialist, Sciences	P010	P1	SCIENCES & ENGINEERING	SCIENCES	SCIENCES	3
Specialist, Social Sustain	P019	P1	SUSTAINABILITY	SOCIAL SUSTAINABILITY	SOCIAL SUSTAINABILITY	1
Specialist, Talent Acquisition	P117	P1	HUMAN RESOURCES	TALENT MANAGEMENT	TALENT ACQUISITION	4
Specialist, Talent Development	P017	P1	HUMAN RESOURCES	TALENT MANAGEMENT	TALENT DEVELOPMENT	4
Specialist, Wellness	P018	P1	HUMAN RESOURCES	BENEFITS	WELLNESS	4
Sr Accountant	P083	P3	FINANCE & ACCOUNTING	ACCOUNTING	ACCOUNTING	4
Sr Administrator, Database	P069	P3	TECHNOLOGY	DATABASE	DATABASE	3
Sr Administrator, Systems	P067	P3	TECHNOLOGY	SYSTEMS	SYSTEMS ADMINISTRATION	3
Sr Administrtr, SCADA PLC Prgr	P148	P3	TECHNOLOGY	SYSTEMS	SYSTEMS ADMINISTRATION	3
Sr Analyst, Administration	P129	P3	ADMINISTRATION	ADMINISTRATION	ADMINISTRATION	4
Sr Analyst, Apps Software	P066	P3	TECHNOLOGY	APPLICATIONS SOFTWARE	APPLICATIONS SOFTWARE	3
Sr Analyst, Apps Software Dev	P070	P3	TECHNOLOGY	APPLICATIONS SOFTWARE	APPS SOFTWARE DEVELOPMENT	3
Sr Analyst, Budget	P080	P3	FINANCE & ACCOUNTING	BUDGET	BUDGET	4
Sr Analyst, Business	P131	P3	FINANCE & ACCOUNTING	FINANCIAL PLANNING & ANALYSIS	BUSINESS ANALYSIS	4
Sr Analyst, Compensation	P082	P3	HUMAN RESOURCES	COMPENSATION	COMPENSATION	4
Sr Analyst, Data	P164	P3	TECHNOLOGY	DATA SCIENCE	DATA ANALYSIS	3
Sr Analyst, Finance	P094	P3	FINANCE & ACCOUNTING	FINANCIAL PLANNING & ANALYSIS	FINANCIAL PLANNING & ANALYSIS	4
Sr Analyst, GIS	P126	P3	TECHNOLOGY	GIS	GIS	3
Sr Analyst, Grants Admin	P162	P3	FINANCE & ACCOUNTING	FINANCIAL PLANNING & ANALYSIS	FINANCIAL PLANNING & ANALYSIS	4
Sr Analyst, HRIS	P096	P3	HUMAN RESOURCES	HRIS	HRIS	4
Sr Analyst, IT Security	P114	P3	TECHNOLOGY	INFORMATION SECURITY	INFORMATION SECURITY	3
Sr Analyst, Systems	P071	P3	TECHNOLOGY	SYSTEMS	SYSTEMS ADMINISTRATION	3
Sr Analyst, Treasury	P090	P3	FINANCE & ACCOUNTING	TREASURY / INVESTMENT	TREASURY / INVESTMENT	4
Sr Architect, Landscape	P074	P3	PLANNING	PARK PLANNING	LANDSCAPE	1
Sr Buyer	P089	P3	FINANCE & ACCOUNTING	PURCHASING	PURCHASING	4
Sr Coord, Sales Tax Audit Rev	A056	A5	FINANCE & ACCOUNTING	REVENUE	SALES TAX AUDIT & REVENUE	4



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Sr Coordinator, AP	A039	A5	FINANCE & ACCOUNTING	ACCOUNTING	ACCOUNTS PAYABLE	4
Sr Coordinator, Accounting	A088	A5	FINANCE & ACCOUNTING	ACCOUNTING	ACCOUNTING	4
Sr Coordinator, Active Modes	A076	A5	PLANNING	TRANSPORTATION PLANNING	ACTIVE MODES	1
Sr Coordinator, Benefits	A082	A5	HUMAN RESOURCES	BENEFITS	BENEFITS	4
Sr Coordinator, Communications	A037	A5	MARKETING & CREATIVE SERVICES	COMMUNICATIONS	COMMUNICATIONS	4
Sr Coordinator, Creative Svcs	A095	A5	MARKETING & CREATIVE SERVICES	MEDIA	GRAPHIC DESIGN	4
Sr Coordinator, Cultural Svcs	A049	A5	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Sr Coordinator, Forestry	A048	A5	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	FORESTRY	1
Sr Coordinator, HRIS	A044	A5	HUMAN RESOURCES	HRIS	HRIS	4
Sr Coordinator, Marketing	A055	A5	MARKETING & CREATIVE SERVICES	MARKETING	MARKETING	4
Sr Coordinator, Payroll	A042	A5	FINANCE & ACCOUNTING	ACCOUNTING	PAYROLL	4
Sr Coordinator, Public Engage	A041	A5	CUSTOMER SERVICE	OUTREACH	PUBLIC ENGAGEMENT	4
Sr Coordinator, Recreation	A054	A5	CULTURE, PARKS & RECREATION	RECREATION	RECREATION	1
Sr Coordinator, Risk Mgmt	A038	A5	FINANCE & ACCOUNTING	RISK MANAGEMENT	RISK MANAGEMENT	4
Sr Coordinator, Safety	A052	A5	HUMAN RESOURCES	SAFETY & RISK MANAGEMENT	SAFETY	4
Sr Director, Utilities Finance	M141	M4	STRATEGY	UTILITIES	FINANCIAL PLANNING & ANALYSIS	7
Sr Director, Water Operations	M140	M4	STRATEGY	UTILITIES	WATER	7
Sr Engineer, Network	P068	P3	TECHNOLOGY	NETWORK	NETWORK ENGINEERING	3
Sr Engineer, Systems	P064	P3	TECHNOLOGY	SYSTEMS	SYSTEMS ENGINEERING	3
Sr Engineer, Video Prod	P156	P3	MARKETING & CREATIVE SERVICES	SYSTEMS	VIDEO PRODUCTION	3
Sr Facilities Project Manager	P073	P3	ADMINISTRATION	PROJECT MANAGEMENT	FACILITIES PROJECT MANAGEMENT	4
Sr Inspector, Compliance	O056	OT5	DEVELOPMENT & COMPLIANCE	COMPLIANCE	COMPLIANCE	1
Sr Inspector, Construction	O045	OT5	DEVELOPMENT & COMPLIANCE	COMPLIANCE	CONSTRUCTION INSPECTION	1
Sr Inspector, Zoning	O048	OT5	DEVELOPMENT & COMPLIANCE	COMPLIANCE	ZONING	1
Sr Legal Assistant	A026	A4	LEGAL	LEGAL	LEGAL SUPPORT	4
Sr Locator, Elec Dist Field Op	O012	OT4	OPERATIONS	ELECTRIC UTILITIES	ELECTRIC DIST - FIELD OPS	2
Sr Manager, Accounting	M052	M2	FINANCE & ACCOUNTING	ACCOUNTING	ACCOUNTING	4
Sr Manager, Apps Software	M038	M2	TECHNOLOGY	APPLICATIONS SOFTWARE	APPLICATIONS SOFTWARE	3
Sr Manager, City Planning	M126	M2	PLANNING	CITY PLANNING	CITY PLANNING	1
Sr Manager, Civil Engineering	M043	M2	SCIENCES & ENGINEERING	ENGINEERING	CIVIL ENGINEERING	3
Sr Manager, Creative Services	M132	M2	MARKETING & CREATIVE SERVICES	MEDIA	GRAPHIC DESIGN	4
Sr Manager, Cultural Services	M050	M2	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Sr Manager, Cultural Services	M054	M2	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Sr Manager, Customer Support	M051	M2	CUSTOMER SERVICE	CUSTOMER SERVICE	CUSTOMER SUPPORT	4
Sr Manager, Econ Sustainability	M110	M2	SUSTAINABILITY	ECONOMIC SUSTAINABILITY	ECONOMIC SUSTAINABILITY	1
Sr Manager, Elec Engr	M060	M2	SCIENCES & ENGINEERING	ENGINEERING	ELECTRICAL ENGINEERING	3
Sr Manager, Emergency Comms	M061	M2	PROTECTIVE SERVICES	COLLECTIVE BARGAINING UNIT	COMMUNICATIONS	5A
Sr Manager, Env Sustain	M056	M2	SUSTAINABILITY	ENVIRONMENTAL SUSTAINABILITY	ENVIRONMENTAL SUSTAINABILITY	1



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Sr Manager, Facilities & Fleet	M044	M2	OPERATIONS	FACILITIES & FLEET	FACILITIES & FLEET	2
Sr Manager, Forestry	M035	M2	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	FORESTRY	1
Sr Manager, HRIS	M124	M2	HUMAN RESOURCES	HRIS	HRIS	4
Sr Manager, Horticulture	M142	M2	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Sr Manager, Information Svcs	M062	M2	PROTECTIVE SERVICES	PROCESSING SUPPORT	INFORMATION SERVICES	5
Sr Manager, Mechanical Engr	M045	M2	SCIENCES & ENGINEERING	ENGINEERING	MECHANICAL ENGINEERING	3
Sr Manager, Neighborhood Svcs	M058	M2	DEVELOPMENT & COMPLIANCE	NEIGHBORHOOD SERVICES	NEIGHBORHOOD SERVICES	1
Sr Manager, Network Engineering	M104	M2	TECHNOLOGY	NETWORK	NETWORK ENGINEERING	3
Sr Manager, Parks	M057	M2	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	PARKS	1
Sr Manager, Public Engagement	M133	M2	CUSTOMER SERVICE	OUTREACH	PUBLIC ENGAGEMENT	4
Sr Manager, Recreation	M134	M2	CULTURE, PARKS & RECREATION	RECREATION	RECREATION	1
Sr Manager, Sales Tax/Revenue	M036	M2	FINANCE & ACCOUNTING	REVENUE	SALES TAX AUDIT & REVENUE	4
Sr Manager, Sciences	M046	M2	SCIENCES & ENGINEERING	SCIENCES	SCIENCES	3
Sr Manager, Social Sustainblty	M118	M2	SUSTAINABILITY	SOCIAL SUSTAINABILITY	SOCIAL SUSTAINABILITY	1
Sr Manager, Technology	M039	M2	TECHNOLOGY	TECHNOLOGY	TECHNOLOGY	3
Sr Manager, Traffic Engr	M041	M2	SCIENCES & ENGINEERING	ENGINEERING	TRAFFIC ENGINEERING	3
Sr Manager, Transit	M049	M2	OPERATIONS	TRANSPORTATION	TRANSIT	2
Sr Manager, Transportation Ops	M137	M2	OPERATIONS	TRANSPORTATION	TRANSPORTATION OPERATIONS	2
Sr Manager, Transportation Pln	M037	M2	PLANNING	TRANSPORTATION PLANNING	TRANSPORTATION PLANNING	1
Sr Manager, Water Engineering	M047	M2	SCIENCES & ENGINEERING	ENGINEERING	WATER ENGINEERING	3
Sr Mgr, Safety & Risk Mgmt	M117	M2	HUMAN RESOURCES	SAFETY & RISK MANAGEMENT	SAFETY	4
Sr Partner, Human Resources	P142	P3	HUMAN RESOURCES	TALENT MANAGEMENT	HUMAN RESOURCES	4
Sr Planner, City	P098	P3	PLANNING	CITY PLANNING	CITY PLANNING	1
Sr Planner, Environmental	P086	P3	PLANNING	ENVIRONMENTAL PLANNING	ENVIRONMENTAL PLANNING	1
Sr Planner, Trails	P137	P3	PLANNING	PARK PLANNING	LANDSCAPE	1
Sr Planner, Transportation	P087	P3	PLANNING	TRANSPORTATION PLANNING	TRANSPORTATION PLANNING	1
Sr Project Manager	P095	P3	ADMINISTRATION	PROJECT MANAGEMENT	PROJECT MANAGEMENT	4
Sr Project Manager, Talent Mgmt	P166	P3	HUMAN RESOURCES	TALENT MANAGEMENT	HUMAN RESOURCES	4
Sr Rep, Cultural Svcs	A025	A4	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Sr Spc, Neighborhood Svcs	P044	P2	DEVELOPMENT & COMPLIANCE	NEIGHBORHOOD SERVICES	NEIGHBORHOOD SERVICES	1
Sr Spc, Process Improvement	P053	P2	ADMINISTRATION	PROJECT MANAGEMENT	PROCESS IMPROVEMENT	4
Sr Spec, Talent Development	P161	P2	HUMAN RESOURCES	TALENT MANAGEMENT	TALENT DEVELOPMENT	4
Sr Specialist, Communications	P058	P2	MARKETING & CREATIVE SERVICES	COMMUNICATIONS	COMMUNICATIONS	4
Sr Specialist, Compliance	P146	P2	DEVELOPMENT & COMPLIANCE	COMPLIANCE	COMPLIANCE	1
Sr Specialist, Cultural Svcs	P153	P2	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Sr Specialist, Cust Support	P027	P2	CUSTOMER SERVICE	CUSTOMER SERVICE	CUSTOMER SUPPORT	4
Sr Specialist, DAR Program Mgr	P167	P3	PLANNING	TRANSPORTATION PLANNING	TRANSIT PLANNING	1
Sr Specialist, Econ Sustain	P056	P2	SUSTAINABILITY	ECONOMIC SUSTAINABILITY	ECONOMIC SUSTAINABILITY	1



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Sr Specialist, Env Compliance	P125	P2	SUSTAINABILITY	COMPLIANCE	COMPLIANCE	1
Sr Specialist, Enviro Sustain	P061	P2	SUSTAINABILITY	ENVIRONMENTAL SUSTAINABILITY	ENVIRONMENTAL SUSTAINABILITY	1
Sr Specialist, Equity	P144	P2	SUSTAINABILITY	SOCIAL SUSTAINABILITY	EQUITY, DIVERSITY & INCLUSION	1
Sr Specialist, Forestry	P151	P2	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	FORESTRY	1
Sr Specialist, OEM	P128	P2	ADMINISTRATION	PROJECT MANAGEMENT	EMERGENCY MANAGEMENT	4
Sr Specialist, Outreach	P107	P2	PROTECTIVE SERVICES	INVESTIGATION	OUTREACH	5
Sr Specialist, Parks	P033	P2	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	PARKS	1
Sr Specialist, Public Engage	P054	P2	CUSTOMER SERVICE	OUTREACH	PUBLIC ENGAGEMENT	4
Sr Specialist, Real Estate	P055	P2	OPERATIONS	FACILITIES & FLEET	REAL ESTATE	2
Sr Specialist, Recreation	P045	P2	CULTURE, PARKS & RECREATION	RECREATION	RECREATION	1
Sr Specialist, Sciences	P035	P2	SCIENCES & ENGINEERING	SCIENCES	SCIENCES	3
Sr Specialist, Social Sustain	P132	P2	SUSTAINABILITY	SOCIAL SUSTAINABILITY	SOCIAL SUSTAINABILITY	1
Sr Specialist, Workers Comp	P147	P2	ADMINISTRATION	SAFETY & RISK MANAGEMENT	WORKERS COMPENSATION	4
Sr Supervisor, AR / Billing	S045	S2	FINANCE & ACCOUNTING	ACCOUNTING	ACCOUNTS RECEIVABLE / BILLING	4
Sr Supervisor, CSO	S050	S2	PROTECTIVE SERVICES	COLLECTIVE BARGAINING UNIT	COMMUNITY SERVICES OPERATIONS	5B
Sr Supervisor, Cultural Svcs	S037	S2	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Sr Supervisor, Cust Support	S018	S2	CUSTOMER SERVICE	CUSTOMER SERVICE	CUSTOMER SUPPORT	4
Sr Supervisor, Electric Dist	S034	S2	OPERATIONS	ELECTRIC UTILITIES	ELECTRIC DIST - LOW VOLTAGE	2
Sr Supervisor, Emergency Comm	S046	S2	PROTECTIVE SERVICES	COLLECTIVE BARGAINING UNIT	COMMUNICATIONS	5A
Sr Supervisor, Facilities	S026	S2	OPERATIONS	FACILITIES & FLEET	FACILITIES	2
Sr Supervisor, Fleet	S024	S2	OPERATIONS	FACILITIES & FLEET	FLEET	2
Sr Supervisor, Forestry	S025	S2	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	FORESTRY	1
Sr Supervisor, HRIS	S041	S2	HUMAN RESOURCES	HRIS	HRIS	4
Sr Supervisor, Information Svc	S047	S2	PROTECTIVE SERVICES	PROCESSING SUPPORT	INFORMATION SERVICES	5
Sr Supervisor, Land Surveying	S068	S2	SCIENCES & ENGINEERING	ENGINEERING	SURVEYING	3
Sr Supervisor, Maintenance	S032	S2	OPERATIONS	PLANT OPERATIONS	MAINTENANCE	2
Sr Supervisor, Marketing	S038	S2	MARKETING & CREATIVE SERVICES	MARKETING	MARKETING	4
Sr Supervisor, Mechanical Engr	S022	S2	SCIENCES & ENGINEERING	ENGINEERING	MECHANICAL ENGINEERING	3
Sr Supervisor, Natural Areas	S058	S2	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	NATURAL AREAS	1
Sr Supervisor, Neighbrhood Svc	S055	S2	DEVELOPMENT & COMPLIANCE	NEIGHBORHOOD SERVICES	NEIGHBORHOOD SERVICES	1
Sr Supervisor, Netwk Engineer	S065	S2	TECHNOLOGY	NETWORK	NETWORK ENGINEERING	3
Sr Supervisor, Parks	S031	S2	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	PARKS	1
Sr Supervisor, Plant Ops	S023	S2	OPERATIONS	PLANT OPERATIONS	PLANT OPERATIONS	2
Sr Supervisor, Process Support	S048	S2	PROTECTIVE SERVICES	PROCESSING SUPPORT	TECHNICAL	5
Sr Supervisor, Project Mgmt	S043	S2	ADMINISTRATION	PROJECT MANAGEMENT	PROJECT MANAGEMENT	4
Sr Supervisor, Public Engage	S039	S2	CUSTOMER SERVICE	OUTREACH	PUBLIC ENGAGEMENT	4
Sr Supervisor, Recreation	S044	S2	CULTURE, PARKS & RECREATION	RECREATION	RECREATION	1
Sr Supervisor, Sciences	S020	S2	SCIENCES & ENGINEERING	SCIENCES	SCIENCES	3



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Sr Supervisor, Transit	S042	S2	OPERATIONS	TRANSPORTATION	TRANSIT	2
Sr Supervisor, Transportn Ops	S060	S2	OPERATIONS	TRANSPORTATION	TRANSPORTATION OPERATIONS	2
Sr Supervisor, Video Productn	S066	S2	MARKETING & CREATIVE SERVICES	MEDIA	VIDEO PRODUCTION	4
Sr Tech, Police Records	A092	A5	PROTECTIVE SERVICES	PROCESSING SUPPORT	INFORMATION SERVICES	5
Sr Tech, Police Technology	A063	A5	PROTECTIVE SERVICES	PROCESSING SUPPORT	POLICE TECHNOLOGY	5
Sr Tech, Processing Support	A091	A5	PROTECTIVE SERVICES	PROCESSING SUPPORT	TECHNICAL	5
Sr Tech, Transportation Ops	O046	OT5	OPERATIONS	TRANSPORTATION	TRANSPORTATION OPERATIONS	2
Sr Technical Project Manager	P076	P3	ADMINISTRATION	PROJECT MANAGEMENT	TECHNICAL PROJECT MANAGEMENT	4
Sr Technician, Client Services	A047	A5	TECHNOLOGY	CLIENT SERVICES	CLIENT SERVICES	3
Sr Technician, Facilities	O049	OT5	OPERATIONS	FACILITIES & FLEET	FACILITIES	2
Sr Technician, Fiber	O057	OT5	TECHNOLOGY	FIBER	FIBER	3
Sr Technician, Maintenance	O050	OT5	OPERATIONS	PLANT OPERATIONS	MAINTENANCE	2
Sr Technician, Network Engr	A080	A5	TECHNOLOGY	NETWORK	NETWORK ENGINEERING	3
Sr Technician, Police Admin	A081	A5	PROTECTIVE SERVICES	POLICE ADMINISTRATION	POLICE ADMINISTRATION	5
Sr Technician, Traffic Engr	O055	OT5	SCIENCES & ENGINEERING	ENGINEERING	TRAFFIC ENGINEERING	3
Sr Technician, Video Prod	A084	A5	MARKETING & CREATIVE SERVICES	MEDIA	VIDEO PRODUCTION	4
Sr Technician, Water Field Ops	O053	OT5	OPERATIONS	WATER UTILITIES	WATER FIELD OPERATIONS	2
Substation Elec/Comm Spec	OS15	OS5	SCIENCES & ENGINEERING	ENGINEERING	ELECTRICAL ENGINEERING	3S
Substation Specialist	OS11	OS4	SCIENCES & ENGINEERING	ENGINEERING	ELECTRICAL ENGINEERING	3S
Supervisor, Accounts Payable	S067	S1	FINANCE & ACCOUNTING	ACCOUNTING	ACCOUNTS PAYABLE	4
Supervisor, Administration	S003	S1	ADMINISTRATION	ADMINISTRATION	ADMINISTRATION	4
Supervisor, Bldg & Dev Rev	S057	S1	DEVELOPMENT & COMPLIANCE	BUILDING & DEVELOPMENT REVIEW	BUILDING & DEVELOPMENT REVIEW	1
Supervisor, Civil Engineering	S005	S1	SCIENCES & ENGINEERING	ENGINEERING	CIVIL ENGINEERING	3
Supervisor, Client Services	S004	S1	TECHNOLOGY	CLIENT SERVICES	CLIENT SERVICES	3
Supervisor, Cultural Services	S062	S1	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Supervisor, Customer Support	S001	S1	CUSTOMER SERVICE	CUSTOMER SERVICE	CUSTOMER SUPPORT	4
Supervisor, Energy Services	S028	S1	OPERATIONS	FACILITIES & FLEET	ENERGY SERVICES	2
Supervisor, Enforcement	S009	S1	PROTECTIVE SERVICES	OPERATIONS	ENFORCEMENT	5
Supervisor, Facilities	S008	S1	OPERATIONS	FACILITIES & FLEET	FACILITIES	2
Supervisor, Fiber	S063	S1	TECHNOLOGY	FIBER	FIBER	3
Supervisor, Fleet	S021	S1	OPERATIONS	FACILITIES & FLEET	FLEET	2
Supervisor, Network Engr	S061	S1	TECHNOLOGY	NETWORK	NETWORK ENGINEERING	3
Supervisor, Plans Examiner	S064	S1	DEVELOPMENT & COMPLIANCE	BUILDING & DEVELOPMENT REVIEW	BUILDING & DEVELOPMENT REVIEW	1
Supervisor, Plant Operations	S014	S1	OPERATIONS	PLANT OPERATIONS	PLANT OPERATIONS	2
Supervisor, Transit	S007	S1	OPERATIONS	TRANSPORTATION	TRANSIT	2
Tech I, Material Handling	O070	OT3	OPERATIONS	FACILITIES & FLEET	MATERIAL HANDLING	2
Tech II, Investigative Support	A094	A4	PROTECTIVE SERVICES	INVESTIGATION	INVESTIGATION	5
Tech II, Police Technology	A089	A4	PROTECTIVE SERVICES	PROCESSING SUPPORT	POLICE TECHNOLOGY	5



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Tech II, Processing Support	A033	A4	PROTECTIVE SERVICES	PROCESSING SUPPORT	TECHNICAL	5
Tech II, Transportation Ops	O031	OT4	OPERATIONS	TRANSPORTATION	TRANSPORTATION OPERATIONS	2
Technical Project Manager	P036	P2	ADMINISTRATION	PROJECT MANAGEMENT	TECHNICAL PROJECT MANAGEMENT	4
Technician I, Bldg Dev Review	A010	A3	DEVELOPMENT & COMPLIANCE	BUILDING & DEVELOPMENT REVIEW	BUILDING & DEVELOPMENT REVIEW	1
Technician I, CCT Ops	O071	OT3	OPERATIONS	CUSTOMER CONNECTIONS	CUSTOMER CARE & TECH OPS	2
Technician I, Civil Engr	O014	OT3	SCIENCES & ENGINEERING	ENGINEERING	CIVIL ENGINEERING	3
Technician I, Customer Support	O016	OT3	CUSTOMER SERVICE	CUSTOMER SERVICE	CUSTOMER SUPPORT	4
Technician I, Facilities	O020	OT3	OPERATIONS	FACILITIES & FLEET	FACILITIES	2
Technician I, Fiber	O062	OT3	OPERATIONS	FIBER	FIBER	2
Technician I, Fleet	O017	OT3	OPERATIONS	FACILITIES & FLEET	FLEET	2
Technician I, Forestry	O018	OT3	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	FORESTRY	1
Technician I, Horticulture	O075	OT3	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	PARKS	1
Technician I, Natural Areas	O060	OT3	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	NATURAL AREAS	1
Technician I, Parks	O024	OT3	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	PARKS	1
Technician I, Police Admin	A012	A3	PROTECTIVE SERVICES	POLICE ADMINISTRATION	POLICE ADMINISTRATION	5
Technician I, Traffic Control	O068	OT3	OPERATIONS	TRANSPORTATION	TRAFFIC CONTROL	2
Technician I, Water Field Util	O027	OT3	OPERATIONS	WATER UTILITIES	WATER FIELD OPERATIONS	2
Technician II, Civil Engr	O028	OT4	SCIENCES & ENGINEERING	ENGINEERING	CIVIL ENGINEERING	3
Technician II, Client Services	A019	A4	TECHNOLOGY	CLIENT SERVICES	CLIENT SERVICES	3
Technician II, Energy Services	O040	OT4	OPERATIONS	FACILITIES & FLEET	ENERGY SERVICES	2
Technician II, Facilities	O032	OT4	OPERATIONS	FACILITIES & FLEET	FACILITIES	2
Technician II, Fiber	O061	OT4	TECHNOLOGY	FIBER	FIBER	3
Technician II, Fleet	O054	OT4	OPERATIONS	FACILITIES & FLEET	FLEET	2
Technician II, Forestry	O033	OT4	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	FORESTRY	1
Technician II, GIS	A027	A4	TECHNOLOGY	GIS	GIS	3
Technician II, Graphic Design	A085	A4	MARKETING & CREATIVE SERVICES	MEDIA	GRAPHIC DESIGN	4
Technician II, Maintenance	O041	OT4	OPERATIONS	PLANT OPERATIONS	MAINTENANCE	2
Technician II, Natural Areas	O034	OT4	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	NATURAL AREAS	1
Technician II, Network Engr	A079	A4	TECHNOLOGY	NETWORK	NETWORK ENGINEERING	3
Technician II, Police Records	A035	A4	PROTECTIVE SERVICES	PROCESSING SUPPORT	INFORMATION SERVICES	5
Technician II, Sciences	A078	A4	SCIENCES & ENGINEERING	SCIENCES	SCIENCES	3
Technician II, Traffic Control	O074	OT4	OPERATIONS	TRANSPORTATION	TRAFFIC CONTROL	2
Technician II, Traffic Engr	O030	OT4	SCIENCES & ENGINEERING	ENGINEERING	TRAFFIC ENGINEERING	3
Technician II, Video Prod	A029	A4	MARKETING & CREATIVE SERVICES	MEDIA	VIDEO PRODUCTION	4
Technician II, Water Engr	O029	OT4	SCIENCES & ENGINEERING	ENGINEERING	WATER ENGINEERING	3
Technician II, Wtr Field Util	O039	OT4	OPERATIONS	WATER UTILITIES	WATER FIELD OPERATIONS	2
Victim Advocate	A034	A4	PROTECTIVE SERVICES	INVESTIGATION	OUTREACH	5
Water Engineer II	P038	P2	SCIENCES & ENGINEERING	ENGINEERING	WATER ENGINEERING	3



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Water Meter Systems Operator	OS17	OS2	OPERATIONS	WATER UTILITIES	WATER FIELD OPERATIONS	2S
Water Meter Technician	OS02	OS2	OPERATIONS	WATER UTILITIES	WATER FIELD OPERATIONS	2S
Water Utility Maint Operator	OS04	OS2	OPERATIONS	WATER UTILITIES	WATER FIELD OPERATIONS	2S
Worker I, Facilities	O003	OT1	OPERATIONS	FACILITIES & FLEET	FACILITIES	2
Worker I, Fleet	O067	OT1	OPERATIONS	FACILITIES & FLEET	FLEET	2
Worker I, Parks	O004	OT1	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	PARKS	1
Worker I, Parks Shop Attendant	O072	OT1	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	PARKS	1
Worker I, Recreation	O059	OT1	CULTURE, PARKS & RECREATION	OUTDOOR SERVICES	RECREATION	1
Worker I, Transit	O002	OT1	OPERATIONS	TRANSPORTATION	TRANSIT	2
Worker I, Transportation Ops	O005	OT1	OPERATIONS	TRANSPORTATION	TRANSPORTATION OPERATIONS	2
Worker II, Cultural Services	O063	OT2	CULTURE, PARKS & RECREATION	CULTURAL SERVICES	CULTURAL SERVICES	1
Worker II, Facilities	O008	OT2	OPERATIONS	FACILITIES & FLEET	FACILITIES	2
Worker II, Fleet	O007	OT2	OPERATIONS	FACILITIES & FLEET	FLEET	2



**CITY OF FORT COLLINS
2023 PAY PLAN**

TABLE 1: SUSTAINABILITY, PLANNING, CULTURE, PARKS & RECREATION, DEVELOPMENT & COMPLIANCE

MANAGERIAL

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
M3	<u>BIWEEKLY</u>	\$3,606.42	\$4,808.43	\$6,010.44
	<u>MONTHLY</u>	\$7,813.92	\$10,418.27	\$13,022.63
	<u>ANNUAL</u>	\$93,767.00	\$125,019.25	\$156,271.50
M2	<u>BIWEEKLY</u>	\$3,220.08	\$4,293.17	\$5,366.27
	<u>MONTHLY</u>	\$6,976.83	\$9,301.88	\$11,626.92
	<u>ANNUAL</u>	\$83,722.00	\$111,622.50	\$139,523.00
M1	<u>BIWEEKLY</u>	\$2,874.89	\$3,833.18	\$4,791.48
	<u>MONTHLY</u>	\$6,228.93	\$8,305.23	\$10,381.54
	<u>ANNUAL</u>	\$74,747.10	\$99,662.80	\$124,578.50
S2	<u>BIWEEKLY</u>	\$2,450.54	\$3,267.38	\$4,084.23
	<u>MONTHLY</u>	\$5,309.50	\$7,079.33	\$8,849.17
	<u>ANNUAL</u>	\$63,714.00	\$84,952.00	\$106,190.00
S1	<u>BIWEEKLY</u>	\$2,187.98	\$2,917.31	\$3,646.63
	<u>MONTHLY</u>	\$4,740.63	\$6,320.83	\$7,901.04
	<u>ANNUAL</u>	\$56,887.50	\$75,850.00	\$94,812.50

PROFESSIONAL

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
P3	<u>BIWEEKLY</u>	\$2,454.95	\$3,273.30	\$4,091.60
	<u>MONTHLY</u>	\$5,319.07	\$7,092.15	\$8,865.14
	<u>ANNUAL</u>	\$63,828.80	\$85,105.75	\$106,381.68
P2	<u>BIWEEKLY</u>	\$2,160.38	\$2,880.49	\$3,600.63
	<u>MONTHLY</u>	\$4,680.83	\$6,241.05	\$7,801.36
	<u>ANNUAL</u>	\$56,170.00	\$74,892.65	\$93,616.33
P1	<u>BIWEEKLY</u>	\$1,901.14	\$2,534.83	\$3,168.55
	<u>MONTHLY</u>	\$4,119.13	\$5,492.12	\$6,865.19
	<u>ANNUAL</u>	\$49,429.60	\$65,905.45	\$82,382.33



**CITY OF FORT COLLINS
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ADMINISTRATIVE

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
A6	<u>BIWEEKLY</u>	\$2,141.30	\$2,676.63	\$3,212.00
	<u>MONTHLY</u>	\$4,639.49	\$5,799.36	\$6,959.32
	<u>ANNUAL</u>	\$55,673.90	\$69,592.38	\$83,511.88
A5	<u>BIWEEKLY</u>	\$1,946.67	\$2,433.31	\$2,919.99
	<u>MONTHLY</u>	\$4,217.79	\$5,272.17	\$6,326.64
	<u>ANNUAL</u>	\$50,613.48	\$63,266.08	\$75,919.70
A4	<u>BIWEEKLY</u>	\$1,769.70	\$2,212.11	\$2,654.55
	<u>MONTHLY</u>	\$3,834.35	\$4,792.90	\$5,751.53
	<u>ANNUAL</u>	\$46,012.25	\$57,514.80	\$69,018.38
A3	<u>BIWEEKLY</u>	\$1,592.73	\$1,990.90	\$2,389.08
	<u>MONTHLY</u>	\$3,450.92	\$4,313.63	\$5,176.34
	<u>ANNUAL</u>	\$41,411.03	\$51,763.53	\$62,116.03
A2	<u>BIWEEKLY</u>	\$1,433.42	\$1,792.21	\$2,154.16
	<u>MONTHLY</u>	\$3,105.75	\$3,883.13	\$4,667.34
	<u>ANNUAL</u>	\$37,269.00	\$46,597.53	\$56,008.05

OPERATIONS & SKILLED TRADE

O6	<u>BIWEEKLY</u>	\$2,210.85	\$2,763.56	\$3,316.27
	<u>MONTHLY</u>	\$4,790.17	\$5,987.71	\$7,185.25
	<u>ANNUAL</u>	\$57,482.00	\$71,852.50	\$86,223.00
O5	<u>BIWEEKLY</u>	\$1,989.76	\$2,487.20	\$2,984.64
	<u>MONTHLY</u>	\$4,311.15	\$5,388.94	\$6,466.73
	<u>ANNUAL</u>	\$51,733.80	\$64,667.25	\$77,600.70
O4	<u>BIWEEKLY</u>	\$1,790.79	\$2,238.48	\$2,686.17
	<u>MONTHLY</u>	\$3,880.05	\$4,850.04	\$5,820.04
	<u>ANNUAL</u>	\$46,560.63	\$58,200.53	\$69,840.43



**CITY OF FORT COLLINS
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O3	<u>BIWEEKLY</u>	\$1,611.69	\$2,014.64	\$2,413.60
	<u>MONTHLY</u>	\$3,492.00	\$4,365.05	\$5,229.46
	<u>ANNUAL</u>	\$41,904.05	\$52,380.58	\$62,753.58
O2	<u>BIWEEKLY</u>	\$1,450.53	\$1,813.19	\$2,175.80
	<u>MONTHLY</u>	\$3,142.82	\$3,928.57	\$4,714.23
	<u>ANNUAL</u>	\$37,713.85	\$47,142.83	\$56,570.78
O1	<u>BIWEEKLY</u>	\$1,305.50	\$1,631.84	\$1,958.22
	<u>MONTHLY</u>	\$2,828.57	\$3,535.66	\$4,242.81
	<u>ANNUAL</u>	\$33,942.88	\$42,427.83	\$50,913.80

TABLE 2: OPERATIONS

MANAGERIAL

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
M3	<u>BIWEEKLY</u>	\$4,290.81	\$5,720.84	\$7,150.95
	<u>MONTHLY</u>	\$9,296.75	\$12,395.15	\$15,493.73
	<u>ANNUAL</u>	\$111,561.00	\$148,741.85	\$185,924.75
M2	<u>BIWEEKLY</u>	\$3,647.03	\$4,862.72	\$6,078.25
	<u>MONTHLY</u>	\$7,901.90	\$10,535.89	\$13,169.54
	<u>ANNUAL</u>	\$94,822.75	\$126,430.68	\$158,034.50
M1	<u>BIWEEKLY</u>	\$3,099.84	\$4,133.31	\$5,166.79
	<u>MONTHLY</u>	\$6,716.31	\$8,955.51	\$11,194.71
	<u>ANNUAL</u>	\$80,595.75	\$107,466.13	\$134,336.50
S2	<u>BIWEEKLY</u>	\$2,596.40	\$3,461.94	\$4,327.47
	<u>MONTHLY</u>	\$5,625.54	\$7,500.86	\$9,376.19
	<u>ANNUAL</u>	\$67,506.50	\$90,010.38	\$112,514.25
S1	<u>BIWEEKLY</u>	\$2,282.32	\$3,043.11	\$3,803.85
	<u>MONTHLY</u>	\$4,945.03	\$6,593.40	\$8,241.68
	<u>ANNUAL</u>	\$59,340.33	\$79,120.78	\$98,900.20



**CITY OF FORT COLLINS
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PROFESSIONAL

P2		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
		<u>BIWEEKLY</u>	\$2,055.24	\$2,740.30
	<u>MONTHLY</u>	\$4,453.03	\$5,937.31	\$7,421.68
	<u>ANNUAL</u>	\$53,436.33	\$71,247.75	\$89,060.20

P1		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
		<u>BIWEEKLY</u>	\$1,808.61	\$2,411.47
	<u>MONTHLY</u>	\$3,918.66	\$5,224.85	\$6,531.04
	<u>ANNUAL</u>	\$47,023.93	\$62,698.23	\$78,372.53

OPERATIONS & SKILLED TRADE

O6		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
		<u>BIWEEKLY</u>	\$2,346.66	\$2,933.27
	<u>MONTHLY</u>	\$5,084.43	\$6,355.43	\$7,626.60
	<u>ANNUAL</u>	\$61,013.13	\$76,265.13	\$91,519.18

O5		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
		<u>BIWEEKLY</u>	\$2,133.30	\$2,666.62
	<u>MONTHLY</u>	\$4,622.15	\$5,777.67	\$6,933.19
	<u>ANNUAL</u>	\$55,465.83	\$69,332.03	\$83,198.23

O4		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
		<u>BIWEEKLY</u>	\$1,939.38	\$2,424.20
	<u>MONTHLY</u>	\$4,201.99	\$5,252.44	\$6,302.98
	<u>ANNUAL</u>	\$50,423.85	\$63,029.30	\$75,635.78

O3		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
		<u>BIWEEKLY</u>	\$1,763.08	\$2,203.83
	<u>MONTHLY</u>	\$3,820.00	\$4,774.96	\$5,729.92
	<u>ANNUAL</u>	\$45,840.05	\$57,299.55	\$68,759.05

O2		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
		<u>BIWEEKLY</u>	\$1,602.78	\$2,003.48
	<u>MONTHLY</u>	\$3,472.70	\$4,340.88	\$5,209.05
	<u>ANNUAL</u>	\$41,672.40	\$52,090.50	\$62,508.60

O1		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
		<u>BIWEEKLY</u>	\$1,457.08	\$1,821.35
	<u>MONTHLY</u>	\$3,157.00	\$3,946.25	\$4,735.50
	<u>ANNUAL</u>	\$37,884.00	\$47,355.00	\$56,826.00

**CITY OF FORT COLLINS
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TABLE 3: SCIENCES & ENGINEERING, TECHNOLOGY

MANAGERIAL

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
M3	<u>BIWEEKLY</u>	\$4,377.38	\$5,836.51	\$7,295.63
	<u>MONTHLY</u>	\$9,484.33	\$12,645.77	\$15,807.21
	<u>ANNUAL</u>	\$113,811.90	\$151,749.20	\$189,686.50
M2	<u>BIWEEKLY</u>	\$3,806.46	\$5,075.21	\$6,344.04
	<u>MONTHLY</u>	\$8,247.32	\$10,996.29	\$13,745.42
	<u>ANNUAL</u>	\$98,967.85	\$131,955.43	\$164,945.05
M1	<u>BIWEEKLY</u>	\$3,309.92	\$4,413.26	\$5,516.55
	<u>MONTHLY</u>	\$7,171.50	\$9,562.05	\$11,952.53
	<u>ANNUAL</u>	\$86,057.98	\$114,744.65	\$143,430.30
S2	<u>BIWEEKLY</u>	\$2,878.20	\$3,837.60	\$4,797.00
	<u>MONTHLY</u>	\$6,236.10	\$8,314.80	\$10,393.50
	<u>ANNUAL</u>	\$74,833.20	\$99,777.60	\$124,722.00
S1	<u>BIWEEKLY</u>	\$2,532.81	\$3,377.10	\$4,221.34
	<u>MONTHLY</u>	\$5,487.76	\$7,317.05	\$9,146.25
	<u>ANNUAL</u>	\$65,853.18	\$87,804.58	\$109,754.95

PROFESSIONAL

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
P4	<u>BIWEEKLY</u>	\$3,556.83	\$4,742.44	\$5,928.01
	<u>MONTHLY</u>	\$7,706.46	\$10,275.28	\$12,844.02
	<u>ANNUAL</u>	\$92,477.55	\$123,303.40	\$154,128.23
P3	<u>BIWEEKLY</u>	\$3,130.03	\$4,173.37	\$5,216.66
	<u>MONTHLY</u>	\$6,781.74	\$9,042.29	\$11,302.76
	<u>ANNUAL</u>	\$81,380.90	\$108,507.53	\$135,633.13
P2	<u>BIWEEKLY</u>	\$2,754.41	\$3,672.54	\$4,590.66
	<u>MONTHLY</u>	\$5,967.89	\$7,957.16	\$9,946.43
	<u>ANNUAL</u>	\$71,614.70	\$95,485.93	\$119,357.15
P1	<u>BIWEEKLY</u>	\$2,423.89	\$3,231.83	\$4,039.80
	<u>MONTHLY</u>	\$5,251.76	\$7,002.29	\$8,752.90
	<u>ANNUAL</u>	\$63,021.10	\$84,027.45	\$105,034.83



**CITY OF FORT COLLINS
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ADMINISTRATIVE				
		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
A6	<u>BIWEEKLY</u>	\$2,193.26	\$2,741.64	\$3,289.97
	<u>MONTHLY</u>	\$4,752.07	\$5,940.22	\$7,128.28
	<u>ANNUAL</u>	\$57,024.85	\$71,282.60	\$85,539.33
A5	<u>BIWEEKLY</u>	\$1,993.90	\$2,492.37	\$2,990.87
	<u>MONTHLY</u>	\$4,320.12	\$5,400.13	\$6,480.22
	<u>ANNUAL</u>	\$51,841.43	\$64,801.53	\$77,762.65
A4	<u>BIWEEKLY</u>	\$1,812.63	\$2,265.80	\$2,718.97
	<u>MONTHLY</u>	\$3,927.37	\$4,909.24	\$5,891.10
	<u>ANNUAL</u>	\$47,128.48	\$58,910.85	\$70,693.23
OPERATIONS & SKILLED TRADE				
		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
O5	<u>BIWEEKLY</u>	\$2,269.59	\$2,836.49	\$3,404.18
	<u>MONTHLY</u>	\$4,917.44	\$6,145.73	\$7,375.73
	<u>ANNUAL</u>	\$59,009.25	\$73,748.75	\$88,508.75
O4	<u>BIWEEKLY</u>	\$2,042.12	\$2,553.16	\$3,063.57
	<u>MONTHLY</u>	\$4,424.58	\$5,531.84	\$6,637.73
	<u>ANNUAL</u>	\$53,095.00	\$66,382.08	\$79,652.75
O3	<u>BIWEEKLY</u>	\$1,838.30	\$2,297.89	\$2,757.64
	<u>MONTHLY</u>	\$3,982.98	\$4,978.77	\$5,974.90
	<u>ANNUAL</u>	\$47,795.75	\$59,745.20	\$71,698.75
O2	<u>BIWEEKLY</u>	\$1,621.87	\$2,027.53	\$2,433.19
	<u>MONTHLY</u>	\$3,514.04	\$4,392.98	\$5,271.92
	<u>ANNUAL</u>	\$42,168.50	\$52,715.75	\$63,263.00
O1	<u>BIWEEKLY</u>	\$1,459.84	\$1,824.78	\$2,189.56
	<u>MONTHLY</u>	\$3,162.98	\$3,953.68	\$4,744.04
	<u>ANNUAL</u>	\$37,955.75	\$47,444.18	\$56,928.50

**CITY OF FORT COLLINS
2023 PAY PLAN**

TABLE 4: HUMAN RESOURCES, FINANCE & ACCTG, CUSTOMER SERVICE, ADMINISTRATION, MARKETING, LEGAL SUPPORT

MANAGERIAL

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
M3	<u>BIWEEKLY</u>	\$3,938.96	\$5,251.98	\$6,564.97
	<u>MONTHLY</u>	\$8,534.41	\$11,379.29	\$14,224.10
	<u>ANNUAL</u>	\$102,412.88	\$136,551.53	\$170,689.15
M2	<u>BIWEEKLY</u>	\$3,425.23	\$4,566.93	\$5,708.70
	<u>MONTHLY</u>	\$7,421.34	\$9,895.01	\$12,368.85
	<u>ANNUAL</u>	\$89,056.10	\$118,740.10	\$148,426.15
M1	<u>BIWEEKLY</u>	\$2,978.45	\$3,971.24	\$4,964.08
	<u>MONTHLY</u>	\$6,453.31	\$8,604.36	\$10,755.50
	<u>ANNUAL</u>	\$77,439.78	\$103,252.35	\$129,065.95
S2	<u>BIWEEKLY</u>	\$2,339.76	\$3,166.86	\$3,911.56
	<u>MONTHLY</u>	\$5,069.48	\$6,861.52	\$8,475.04
	<u>ANNUAL</u>	\$60,833.75	\$82,338.25	\$101,700.50
S1	<u>BIWEEKLY</u>	\$2,065.38	\$2,753.70	\$3,442.03
	<u>MONTHLY</u>	\$4,474.98	\$5,966.35	\$7,457.73
	<u>ANNUAL</u>	\$53,699.75	\$71,596.25	\$89,492.75

PROFESSIONAL

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
P4	<u>BIWEEKLY</u>	\$2,936.63	\$3,915.89	\$4,894.77
	<u>MONTHLY</u>	\$6,362.69	\$8,484.44	\$10,605.33
	<u>ANNUAL</u>	\$76,352.25	\$101,813.25	\$127,264.00
P3	<u>BIWEEKLY</u>	\$2,584.58	\$3,445.97	\$4,307.37
	<u>MONTHLY</u>	\$5,599.92	\$7,466.27	\$9,332.63
	<u>ANNUAL</u>	\$67,199.00	\$89,595.25	\$111,991.50
P2	<u>BIWEEKLY</u>	\$2,274.36	\$3,032.42	\$3,790.57
	<u>MONTHLY</u>	\$4,927.77	\$6,570.25	\$8,212.90
	<u>ANNUAL</u>	\$59,133.28	\$78,843.00	\$98,554.78



**CITY OF FORT COLLINS
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Item 13.

P1	<u>BIWEEKLY</u>	\$2,001.43	\$2,668.55	\$3,335.70
	<u>MONTHLY</u>	\$4,336.43	\$5,781.85	\$7,227.36
	<u>ANNUAL</u>	\$52,037.20	\$69,382.25	\$86,728.33

ADMINISTRATIVE

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
A6	<u>BIWEEKLY</u>	\$2,012.67	\$2,515.78	\$3,018.98
	<u>MONTHLY</u>	\$4,360.78	\$5,450.86	\$6,541.12
	<u>ANNUAL</u>	\$52,329.33	\$65,410.38	\$78,493.48

A5	<u>BIWEEKLY</u>	\$1,829.66	\$2,287.13	\$2,744.52
	<u>MONTHLY</u>	\$3,964.27	\$4,955.45	\$5,946.45
	<u>ANNUAL</u>	\$47,571.28	\$59,465.38	\$71,357.43

A4	<u>BIWEEKLY</u>	\$1,663.34	\$2,079.17	\$2,495.01
	<u>MONTHLY</u>	\$3,603.90	\$4,504.88	\$5,405.85
	<u>ANNUAL</u>	\$43,246.80	\$54,058.50	\$64,870.20

A3	<u>BIWEEKLY</u>	\$1,497.01	\$1,871.26	\$2,245.50
	<u>MONTHLY</u>	\$3,243.53	\$4,054.39	\$4,865.25
	<u>ANNUAL</u>	\$38,922.33	\$48,652.65	\$58,382.98

A2	<u>BIWEEKLY</u>	\$1,347.32	\$1,684.15	\$2,020.95
	<u>MONTHLY</u>	\$2,919.20	\$3,649.00	\$4,378.71
	<u>ANNUAL</u>	\$35,030.40	\$43,788.00	\$52,544.58

OPERATIONS & SKILLED TRADE

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
O4	<u>BIWEEKLY</u>	\$1,649.46	\$2,061.83	\$2,474.19
	<u>MONTHLY</u>	\$3,573.83	\$4,467.29	\$5,360.75
	<u>ANNUAL</u>	\$42,886.00	\$53,607.50	\$64,329.00

O3	<u>BIWEEKLY</u>	\$1,484.52	\$1,855.64	\$2,226.77
	<u>MONTHLY</u>	\$3,216.45	\$4,020.56	\$4,824.68
	<u>ANNUAL</u>	\$38,597.40	\$48,246.75	\$57,896.10



**CITY OF FORT COLLINS
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TABLE 5: PROTECTIVE SERVICES (non-CBU)

MANAGERIAL

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
M3	<u>BIWEEKLY</u>	\$3,857.15	\$5,142.74	\$6,428.33
	<u>MONTHLY</u>	\$8,357.17	\$11,142.60	\$13,928.04
	<u>ANNUAL</u>	\$100,286.00	\$133,711.25	\$167,136.50
M2	<u>BIWEEKLY</u>	\$3,214.24	\$4,285.64	\$5,357.04
	<u>MONTHLY</u>	\$6,964.19	\$9,285.56	\$11,606.93
	<u>ANNUAL</u>	\$83,570.30	\$111,426.73	\$139,283.15
M1	<u>BIWEEKLY</u>	\$2,732.10	\$3,642.81	\$4,553.48
	<u>MONTHLY</u>	\$5,919.55	\$7,892.76	\$9,865.88
	<u>ANNUAL</u>	\$71,034.55	\$94,713.08	\$118,390.58
S2	<u>BIWEEKLY</u>	\$2,202.02	\$2,935.99	\$3,670.05
	<u>MONTHLY</u>	\$4,771.03	\$6,361.32	\$7,951.78
	<u>ANNUAL</u>	\$57,252.40	\$76,335.85	\$95,421.35
S1	<u>BIWEEKLY</u>	\$1,937.80	\$2,583.71	\$3,229.62
	<u>MONTHLY</u>	\$4,198.57	\$5,598.04	\$6,997.50
	<u>ANNUAL</u>	\$50,382.85	\$67,176.45	\$83,970.05

PROFESSIONAL

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
P4	<u>BIWEEKLY</u>	\$3,761.24	\$5,014.30	\$6,268.39
	<u>MONTHLY</u>	\$8,149.35	\$10,864.32	\$13,581.51
	<u>ANNUAL</u>	\$97,792.18	\$130,371.80	\$162,978.08
P3	<u>BIWEEKLY</u>	\$2,491.54	\$3,322.22	\$4,152.83
	<u>MONTHLY</u>	\$5,398.33	\$7,198.15	\$8,997.79
	<u>ANNUAL</u>	\$64,780.00	\$86,377.78	\$107,973.50



**CITY OF FORT COLLINS
2023 PAY PLAN**

P2	<u>BIWEEKLY</u>	\$2,224.64	\$2,966.27	\$3,707.74
	<u>MONTHLY</u>	\$4,820.06	\$6,426.92	\$8,033.44
	<u>ANNUAL</u>	\$57,840.75	\$77,123.05	\$96,401.25

P1	<u>BIWEEKLY</u>	\$1,986.53	\$2,648.44	\$3,310.75
	<u>MONTHLY</u>	\$4,304.15	\$5,738.29	\$7,173.29
	<u>ANNUAL</u>	\$51,649.75	\$68,859.50	\$86,079.50

ADMINISTRATIVE

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
A6	<u>BIWEEKLY</u>	\$2,482.08	\$3,102.20	\$3,722.72
	<u>MONTHLY</u>	\$5,377.83	\$6,721.44	\$8,065.90
	<u>ANNUAL</u>	\$64,534.00	\$80,657.25	\$96,790.75

A5	<u>BIWEEKLY</u>	\$2,256.18	\$2,820.17	\$3,384.08
	<u>MONTHLY</u>	\$4,888.40	\$6,110.37	\$7,332.17
	<u>ANNUAL</u>	\$58,660.75	\$73,324.40	\$87,986.00

A4	<u>BIWEEKLY</u>	\$1,974.30	\$2,467.92	\$2,961.46
	<u>MONTHLY</u>	\$4,277.66	\$5,347.17	\$6,416.50
	<u>ANNUAL</u>	\$51,332.00	\$64,166.03	\$76,998.00

A3	<u>BIWEEKLY</u>	\$1,794.93	\$2,243.61	\$2,692.20
	<u>MONTHLY</u>	\$3,889.02	\$4,861.15	\$5,833.10
	<u>ANNUAL</u>	\$46,668.25	\$58,333.78	\$69,997.25

A2	<u>BIWEEKLY</u>	\$1,615.56	\$2,019.21	\$2,423.34
	<u>MONTHLY</u>	\$3,500.38	\$4,374.96	\$5,250.56
	<u>ANNUAL</u>	\$42,004.50	\$52,499.48	\$63,006.75

OPERATIONS & SKILLED TRADE

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
O4	<u>BIWEEKLY</u>	\$1,794.22	\$2,239.59	\$2,691.33
	<u>MONTHLY</u>	\$3,887.48	\$4,852.44	\$5,831.23
	<u>ANNUAL</u>	\$46,649.80	\$58,229.23	\$69,974.70



**CITY OF FORT COLLINS
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O3	<u>BIWEEKLY</u>	\$1,614.77	\$2,018.50	\$2,422.19
	<u>MONTHLY</u>	\$3,498.66	\$4,373.42	\$5,248.08
	<u>ANNUAL</u>	\$41,984.00	\$52,481.03	\$62,977.03
<hr/>				
O2	<u>BIWEEKLY</u>	\$1,453.29	\$1,816.65	\$2,180.02
	<u>MONTHLY</u>	\$3,148.80	\$3,936.09	\$4,723.37
	<u>ANNUAL</u>	\$37,785.60	\$47,233.03	\$56,680.45

CITY OF FORT COLLINS
2023 PAY PLAN

TABLE 5A: Collective Bargaining Unit (CBU) - Communications

MANAGERIAL

	<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>	
M2				
	<u>BIWEEKLY</u>	\$5,041.46	\$5,396.27	\$5,751.08
	<u>MONTHLY</u>	\$10,923.17	\$11,691.92	\$12,460.67
	<u>ANNUAL</u>	\$131,078.00	\$140,303.00	\$149,528.00
S2				
	<u>BIWEEKLY</u>	\$3,548.77	\$3,862.88	\$4,176.96
	<u>MONTHLY</u>	\$7,689.00	\$8,369.58	\$9,050.08
	<u>ANNUAL</u>	\$92,268.00	\$100,435.00	\$108,601.00

OPERATIONS & SKILLED TRADE

	<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>	
OT4				
	<u>BIWEEKLY</u>	\$2,373.50	\$2,802.15	\$3,230.77
	<u>MONTHLY</u>	\$5,142.58	\$6,071.33	\$7,000.00
	<u>ANNUAL</u>	\$61,711.00	\$72,856.00	\$84,000.00

CITY OF FORT COLLINS
2023 PAY PLAN

TABLE 5B: Collective Bargaining Unit (CBU) – Community Services Operations

MANAGERIAL

	<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>	
S2				
	<u>BIWEEKLY</u>	\$3,806.31	\$3,889.00	\$3,971.65
	<u>MONTHLY</u>	\$8,247.00	\$8,426.17	\$8,605.25
	<u>ANNUAL</u>	\$98,964.00	\$101,114.00	\$103,263.00

OPERATIONS & SKILLED TRADE

	<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>	
OT4				
	<u>BIWEEKLY</u>	\$2,431.85	\$2,870.85	\$3,309.81
	<u>MONTHLY</u>	\$5,269.00	\$6,220.17	\$7,171.25
	<u>ANNUAL</u>	\$63,228.00	\$74,642.00	\$86,055.00

CITY OF FORT COLLINS
2023 PAY PLAN

TABLE 5C: Collective Bargaining Unit (CBU) – Sworn Operations

MANAGERIAL

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
M2	<u>BIWEEKLY</u>	\$5,469.04	\$5,702.62	\$5,936.19
	<u>MONTHLY</u>	\$11,849.58	\$12,355.67	\$12,861.75
	<u>ANNUAL</u>	\$142,195.00	\$148,268.00	\$154,341.00
S2	<u>BIWEEKLY</u>	\$5,041.46	\$5,396.27	\$5,751.08
	<u>MONTHLY</u>	\$10,923.17	\$11,691.92	\$12,460.67
	<u>ANNUAL</u>	\$131,078.00	\$140,303.00	\$149,528.00
S1	<u>BIWEEKLY</u>	\$4,329.54	\$4,390.23	\$4,450.88
	<u>MONTHLY</u>	\$9,380.67	\$9,512.17	\$9,643.58
	<u>ANNUAL</u>	\$112,568.00	\$114,146.00	\$115,723.00

OPERATIONS & SKILLED TRADE

		<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
OT6	<u>BIWEEKLY</u>	\$2,973.04	\$3,509.69	\$4,046.35
	<u>MONTHLY</u>	\$6,441.58	\$7,604.33	\$8,767.08
	<u>ANNUAL</u>	\$77,299.00	\$91,252.00	\$105,205.00



CITY OF FORT COLLINS

2023 PAY PLAN

Step Ladders

Job Title	Step									
	1	2	3	4	5	6	7	8	9	10
LINE GROUNDWORKER	\$56,686	\$59,406	\$62,258	\$65,246	\$68,379	\$71,662	\$75,172	\$78,921		
ELECTRIC LINEWORKER	\$79,029	\$83,493	\$85,979	\$88,546	\$91,233	\$93,959	\$96,768	\$100,256	\$103,964	\$110,263
LINE CREW CHIEF	\$115,225	\$120,255								
ELECTRIC METER SYSTEM TECH	\$61,642	\$67,799	\$72,406	\$76,978	\$81,514	\$86,004	\$89,657	\$93,335	\$97,000	\$100,665
SUBSTATION SPECIALIST	\$79,091	\$88,416	\$95,760	\$103,024	\$110,349					
SUBSTATION ELEC/COMM SPEC	\$89,955	\$99,180	\$108,011	\$116,469	\$125,505					
ELECTRIC SYSTEMS OPERATOR	\$76,480	\$81,518	\$86,555	\$91,593	\$96,631	\$101,668	\$106,706			
PLANT OPERATOR	\$58,655	\$63,781	\$67,594	\$71,659	\$75,975	\$81,836				
LEAD PLANT OPERATOR	\$58,655	\$63,781	\$67,594	\$71,659	\$75,975	\$81,836	\$85,927	\$90,019		
WATER UTILITY MAINT OPERATOR	\$49,354	\$53,657	\$56,880	\$60,287	\$63,913	\$68,858				
WATER METER SYSTEMS OPERATOR	\$49,354	\$53,657	\$56,880	\$60,287	\$63,913	\$68,858				
WATER METER TECHNICIAN	\$49,354	\$53,657	\$56,880	\$60,287	\$63,913	\$68,858				
FLEET MAINTENANCE TECHNICIAN	\$54,874	\$60,825	\$63,231	\$65,785	\$68,414	\$71,154	\$74,003	\$76,562		
BUILDING INSPECTOR	\$64,123	\$70,394	\$73,226	\$76,490	\$79,479	\$82,663	\$85,966	\$89,463		
LEAD BUILDING INSPECTOR	\$70,534	\$77,451	\$80,551	\$84,154	\$87,486	\$90,973	\$94,577	\$98,410		

ORDINANCE NO. 017, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PRIOR YEAR RESERVES IN THE GENERAL FUND FOR THE COST
OF POLICE SERVICES SALARY AND BENEFIT INCREASES AS PROVIDED IN THE
COLLECTIVE BARGAINING AGREEMENT WITH THE FRATERNAL ORDER OF
POLICE

WHEREAS, on December 7, 2021, the City Council adopted Resolution 2021-114 approving a collective agreement between the City and the Northern Colorado Lodge #3 of the Fraternal Order of Police (“CBA”); and

WHEREAS, the CBA contains a provision giving the City until January 12, 2023 to collect salary market data from several different identified benchmark agencies for the classified positions in the collective bargaining unit; and

WHEREAS, the Fort Collins Police Services (“FCPS”) operational budget includes employee salary expenses; and

WHEREAS, the terms of the CBA call for salary increases equal to or greater than 4% for members of the collective bargaining unit; and

WHEREAS, the budget shortfall is \$253,000; and

WHEREAS, this appropriation benefits the public health, safety and welfare of the residents of Fort Collins and serves the public purpose to include enforcement of the provisions of the City Code and state law and such other functions and duties necessary to preserve the public peace, prevent crime, apprehend criminals and protect rights of persons and property through enforcement of penal laws of the City and the state; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from prior year reserves in the General Fund the sum of TWO HUNDRED FIFTY-THREE THOUSAND DOLLARS (\$253,000) to be expended in the General Fund for the cost of Police Services salary and benefit increases as provided in the Collective Bargaining Agreement with the Fraternal Order of Police.

Introduced, considered favorably on first reading, and ordered published this 7th day of February, 2023, and to be presented for final passage on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 21st day of February, 2023.

Mayor

ATTEST:

City Clerk



AGENDA ITEM SUMMARY

City Council

STAFF

Ryan Mounce, City Planner
Brad Yatabe, Legal

SUBJECT

Items Relating to The Landing at Lemay Plan Amendment to the City Structure Plan Map and Rezoning.

EXECUTIVE SUMMARY

- A. First Reading of Ordinance No. 018, 2023 Amending the City’s Structure Plan Map.
- B. Public Hearing and First Reading of Ordinance No. 019, 2023 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification of that Certain Property Known as The Landing at Lemay Rezoning.

The purpose of this item is to amend the City’s Structure Plan Map, which is part of City Plan, to change the place type land use designation of approximately 17 acres of land east of the Lemay Avenue and Duff Drive intersection from the Industrial Place Type to the Mixed Neighborhood Place Type and to rezone the property from the Industrial (I) District to the Medium Density Mixed Use Neighborhood (MMN) District.

In order to approve a Structure Plan Map change, Council must determine that the Structure Plan Map is in need of the proposed amendment, and that the proposed amendment will promote the public welfare and will be consistent with the vision, goals, principles, and policies of City Plan and its elements.

The rezoning request is subject to criteria in Section 2.9.4 of the Land Use Code. The rezoning may be approved, approved with conditions, or denied by Council after receiving a recommendation from the Planning and Zoning Commission, which voted 5-1 at their December 2022 hearing to recommend approval of the request with two conditions as recommended in the staff report and with agreement from the petitioner.

The rezoning is a quasi-judicial matter and if it is considered on the discussion agenda, it will be considered in accordance with Section 2(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2022-068. The Structure Plan Map amendment is a legislative matter.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinances on First Reading.

PETITIONER'S REZONING REQUEST

The petitioner's request a rezoning of approximately 17 acres of land from the Industrial (I) zone district to the Medium Density Mixed-Use Neighborhood (MMN) zone district. Associated with the rezoning is a request to amend the Structure Plan Map from the Industrial Place Type to the Mixed Neighborhood Place Type to align with the proposed zoning. The petitioners have discussed bringing forward a future multifamily development proposal if the rezoning request is approved by Council.

SITE CONTEXT & HISTORY

The site is located on a portion of four parcels east of the intersection of Lemay Avenue and Duff Drive, adjacent to the newly realigned Lemay Avenue and overpass over Vine Drive. The immediate vicinity features a mix of residential and industrial/employment zoning, including the Low Density Residential and Low Density Mixed-Use Neighborhood Zone Districts to the northwest, the Medium Density Mixed Use Neighborhood Zone District to the southwest, and the Employment, Industrial, and Light Industrial (Larimer County Zoning) Districts to the northeast and southeast. Nearby development includes the residential Andersonville/Via Lopez and Capstone Cottages neighborhoods as well as the industrial Airpark in unincorporated Larimer County.

The site was annexed in 1986 as part of the Fort Collins Business Center Annexation and this portion of the annexation was initially zoned Light Industrial, conditioned upon it being developed as part of a larger planned unit industrial development. The planned development did not advance, and other portions of the annexation area were eventually developed as other land-uses or remain undeveloped.

A prominent characteristic of the site and an important factor in staff's evaluation are several hard edges and barriers abutting the site that limit its accessibility and visibility from several directions:

- (North) Burlington Northern Santa Fe railroad yard which prevents access to Vine Drive and provides a visual separation to areas north of Vine Drive.
- (West/Northwest) The realigned Lemay Avenue increases in height as it transitions to the overpass over Vine Drive, preventing direct access from Lemay Avenue and a creating a visual buffer along the northwest portions of the site.
- (East) Upon future development, the eastern edge of the site will be required to extend Cordova Road, a collector street intended to travel the perimeter of the Airpark and eventually connect with International Boulevard to the east near Timberline Road.

REZONING CRITERIA & STAFF EVALUATION

Rezoning are governed by five criteria in Land Use Code Subsections 2.9.4(H)(2) and 2.9.4(H)(3). A rezoning must demonstrate compliance with either criteria one or two, while the three remaining criteria are additional considerations for the Planning and Zoning Commission and City Council. These five criteria can be paraphrased as:

1. Consistent with the Comprehensive Plan;
2. Warranted by Changed Conditions;
3. Compatible with Surrounding Uses;
4. Impacts to the Natural Environment; and
5. Logical and Orderly Development Pattern

The attached Planning and Zoning Commission staff report evaluates each of these criteria in detail while this AIS focuses primarily on the first two criteria which were the primary areas of consideration for staff's evaluation.

Staff finds the rezoning request complies with criteria two through five while criteria one is neutral given competing policy guidance in City Plan and the 2002 East Mulberry Corridor Plan. Related to criteria one, staff recommends two conditions of approval designed to broaden the policy support for the rezoning and achieve greater alignment with City Plan goals. These conditions were also recommended by the Planning and Zoning Commission and have been agreed to by the petitioners.

Criteria One: Consistent with the Comprehensive Plan

In evaluating consistency with City Plan, staff analyzed both the policy guidance and future land-use direction found in City Plan and the 2002 East Mulberry Corridor Plan, which is an adopted element of City Plan.

Both City Plan (Structure Plan Map) and the East Mulberry Corridor Plan (Land Use Framework Map) include land-use guidance for the site indicating an industrial designation given its current zoning. Accordingly, the petitioners have submitted a request for a Structure Plan Map amendment that would change the designation for the site on the Structure Plan Map from the Industrial Place Type to the Mixed-Neighborhood Place Type, which is consistent with the proposed MMN zoning. Updates to the East Mulberry Corridor Plan are currently in-process and anticipated to be shared with Council later this year for adoption consideration. If the rezoning is approved by Council, staff intends to reflect that change in forthcoming updates to the East Mulberry Corridor Plan Land Use Framework Map.

On a policy basis, there is competing guidance in both City Plan and the East Mulberry Corridor Plan that speaks both towards ensuring an adequate and competitive supply of employment and industrial land in the community and identifying opportunities and locations for additional housing capacity, especially those areas in close proximity to transit, employment centers, and shopping, which can all be found near this site.

Given the tension between this policy guidance and an opportunity cost of helping achieve one policy goal while not directly advancing the other, on the whole, staff finds this criterion is neutral towards the rezoning request. In an effort to broaden City Plan policy support for the rezoning, staff is recommending two conditions of approval related to enhancing energy/water conservation and neighborhood livability for a future residential development at this location.

Staff suggests using relevant portions of the 2021 Residential Metro District Points Evaluation System as an organizing element for the two conditions. The points evaluation system was adopted in 2021 to align with City Plan and Our Climate Future goals by requiring performance above Land Use Code, Building Code, and Energy Code standards. Note that the petitioners are not requesting a residential metro district, rather the metro district evaluation system is only being mimicked as a policy alignment and implementation strategy for the proposed rezoning.

The two conditions are:

- Residential development within the boundaries of The Landing at Lemay Rezoning shall achieve 15 combined points from the Energy, Renewables, and Water Sub-Categories of the 2021 Residential Metro District Points System.
- Residential development within the boundaries of The Landing at Lemay Rezoning shall achieve 5 combined points from the Neighborhood Livability Category of the 2021 Residential Metro District Points System.

A copy of the 2021 Residential Metro Districts Points Evaluation Table is attached. The evaluation system provides a menu of options detailing how developments can demonstrate energy and water conservation, neighborhood livability features, or electric/multimodal transportation enhancements. Staff is not recommending the full Residential Metro District Evaluation System be used as many categories were tailored specifically for single-family homes which will not be applicable to a future MMN-style development if this rezoning request is approved by Council.

Warranted by Changed Conditions

The primary factor in staff's rezoning evaluation are the multiple physical and land-use changes which have occurred surrounding the site that have created a much different site context since the property was annexed and zoned over 35 years ago. Alongside changing trends in industrial development and demand, the site's suitability for industrial development has diminished.

The most prominent physical and land-use changes affecting the site include:

- Construction of the new Lemay Avenue overpass over Vine Drive. This has resulted in reduced visibility of the site and eliminated the possibility of direct arterial street access.
- Introduction of a new collector street on the Master Street Plan (Cordova Road) along the site's eastern perimeter that can serve as a logical breakpoint between existing industrial development to the east.
- The rezoning of the abutting property to the southwest (Capstone Cottages) in 2015 from Industrial (I) to Medium Density Mixed-Use Neighborhood (MMN) zoning.
- The Lincoln Avenue frontage has been improved to create a more direct multimodal connection to Downtown with enhanced transit features and bike lanes as part of the Lincoln Corridor Plan.
- Land-uses have shifted along Lincoln Avenue, with rezonings along both Lincoln Avenue frontages as a result of the new Woodward Headquarters and the shift in previously traditional industrial land-uses towards retail, services, and tourism with the growth of nearby breweries. The City recently rezoned properties along the northern Lincoln Avenue frontage from the Industrial zone district to the Downtown district during the last update to the Downtown Plan.

The collective result of these changes is that the site's context within the middle of what was once planned as a much broader industrial district has shifted and the site now sits within a mixed land-use context with residential zoning along two sides of the property. The construction of the new Lemay Avenue overpass has also diminished the competitiveness of the site for certain industrial users such as warehousing and logistics which value characteristics such as arterial/highway access and visibility.

In consultation with Economic Health, staff also analyzed potential impacts to the community's industrial land supply and the importance of this site for new industrial development. Given a surplus of vacant industrial land in the Growth Management Area, ongoing industrial development trends, and marginal site attributes, Planning and Economic Health staff feel the site is not crucial to the overall industrial land supply for the City.

Pages 32-33 of the attached City Plan Employment Land Development Analysis estimate a large excess of vacant industrial land in the Growth Management Area in relation to future demand. Staff also requested historical industrial demand study from the petitioners, which indicates industrial development over the past several decades in Fort Collins has been level or slightly decreasing, even as the community has grown. If these trends persist, Fort Collins' available industrial land supply is anticipated to be greater than future demand.

While the sites reduced visibility and lack of highway access may reduce competitiveness for warehousing/logistics users, narrative from Economic Planning Systems in the City Plan Employment Land Development Analysis, page 22, also discusses industrial development trends for Small Urban Manufacturers, such as those found to the east of the site in the Airpark. National trends for these businesses indicate a direction towards smaller footprints and number of employees. Further, these types of businesses generally seek out existing or older spaces due to their lower costs rather than new construction. Where new construction or expansion may be desirable, there remain several vacant parcels and room of intensification within the Airpark itself.

Compatible with Surrounding Uses

Given the immediate area's mixed zoning, the proposed MMN zone district does not appreciably alter the land use character of the area. Either maintaining the current Industrial zone district or rezoning to the Medium Density Mixed-Use Neighborhood district creates abutting residential/industrial borders that will need to be closely evaluated and mitigated during any future development proposal to minimize potential nuisances.

In terms of potential future development impacts, the Industrial and Medium Density Mixed-Use Neighborhood zone districts feature the potential for similar levels of development intensity, although individual impacts are much more variable in the Industrial district given the large number of land uses that are permitted. An Industrial-style development is more likely to create impacts related to noise, odor, truck-traffic, and aesthetic impacts from outdoor storage. An MMN-style development is more likely to create impacts related to building height and overall traffic generation.

Impacts to the Natural Environment

The impact to the natural environment is likely to be similar between I and MMN zoning at this location. Assuming typical development patterns for both zone districts, the level of human activity, traffic generation, noise/light impacts, and building floor area ratios can be expected to be of a similar magnitude. Traditionally, industrial development has been more likely to contain perimeter fencing and may use the full amount of property for impervious or compacted surfaces for parking and storage yards. Multifamily residential development may contain more requirements for formalized landscaping and open space/amenity areas that may be used on occasion by urban-adapted wildlife during low activity periods.

The City's Natural Habitats and Features Inventory Map does not contain any identifiable features on the site and the closest identified features are non-native grasslands several hundred feet to the northwest. Aerial imagery indicates the potential presence or past presence of prairie dogs. Under an I or MMN zoning designation, future development of the site will be required to identify ecological resources and subsequent mitigation efforts in compliance with Land Use Code requirements at the time of development – a change in zoning designation does not impact these standards and requirements.

Logical and Orderly Development Pattern

As described above, given the vicinity's existing mix of residential and industrial zoning, the proposed change in zoning designation does not appreciably impact the development pattern of the surrounding area. The proposed rezoning could be viewed as logical from a City Plan policy perspective in that it encourages housing opportunities near employment, transit, and shopping, all of which can all be found within a short distance.

The proposed rezoning would also extend an existing condition of the Capstone Cottages MMN rezoning to the southwest of the site. Cordova Road, a newer collector street, is used as a division and separator between residential and industrial land uses on either side of this new collector street.

Finally, the proposed rezoning to MMN also matches the purpose and intent of the MMN zone district as described in the Land Use Code as a district, “...*intended to function together with surrounding low density neighborhoods (typically the L-M-N zone district) and a central commercial core (typically an N-C or C-C zone district)*. In this circumstance, the site would function as a separator or buffer between the more intensive non-residential areas of the Airpark and the lower density residential zone districts found further north and west and continues an area of MMN zoning extending northward from the commercially zoned property to the south comprising the Mulberry & Lemay Crossing Shopping Center.

CITY FINANCIAL IMPACTS

There are no direct financial impacts associated with the proposed rezoning.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Planning and Zoning Commission voted 5-1 at their December 15, 2022, hearing to recommend approval of the rezoning and Structure Plan Map amendment to City Council. Excerpted, draft minutes of the Commissions’ discussion is attached.

There were two primary topics discussed by the Commission. The first was related a third staff recommended condition of approval requiring a 30-ft setback/buffer from the future Cordova Road right-of-way along the eastern edge of the site. This condition would have fulfilled the required setback distance normally required by the Industrial zone district (LUC 4.28(E)(3)(a)(3)) when abutting residential zoning or development. Staff recommended this condition since the existing industrial zoning in Larimer County to the east (Airpark) was already developed and thus the burden should fall to the site of the rezoning to fulfill the requirement.

During deliberation, the Commission discussed adjusting this condition to focus on the requirements of Land Use Code Standard 3.8.26 which seeks to minimize potential nuisances between residential and industrial development through buffering and has additional focus on landscaping and screening provisions. A majority of the Commission felt since these standards would already be required during a future Project Development Plan review, it did not need to be attached to the rezoning request. Based on the Planning and Zoning Commission discussion, staff is no longer recommending this condition of approval.

A second discussion topic relates to the land further north of the proposed rezoning site, which is also currently designated as Industrial. It faces many of the same conditions and characteristics used as justification for this proposed rezoning and would leave a small, incongruous area of industrial zoning in the vicinity. The Commission questioned whether the rezoning should have been expanded to include this additional property as well.

Since the Planning and Zoning Commission meeting, the applicants have discussed submitting an additional rezoning application for remaining industrial land north of the site. The new rezoning application is proposed to be submitted the first week of February. If this additional rezoning application is submitted and a rezoning is approved by Council, it would address many of the concerns raised by the Commission. Staff will also be closely examining this area for updates to land-use guidance with the forthcoming East Mulberry Corridor Plan updates.

PUBLIC OUTREACH

A neighborhood meeting for the rezoning proposal and early discussion of a potential multifamily development occurred October 4, 2021. A neighborhood meeting summary is attached.

Key discussion topics from the meeting included concerns and potential impacts from the multifamily development proposal, including building heights, traffic generation, the use of the vacant land by wildlife, and impacts on water resources. Related to the rezoning were discussion about a desire to see more diversity of land-uses and housing types in the area, including more retail or restaurants within walking distance.

At the Planning and Zoning Commission hearing one public comment was made for this item regarding concerns about height and traffic for a future multifamily development proposal.

ATTACHMENTS

1. Ordinance A for Consideration (Structure Plan Map Amendment)
2. Exhibit A to Ordinance A
3. Ordinance B for Consideration (Rezoning)
4. Landing at Lemay Rezoning Notice
5. Aerial and Zoning Vicinity Maps
6. Applicant Rezoning Petition and Project Narrative
7. Applicant Rezoning and Structure Plan Maps
8. Applicant Industrial Land Use, Forecasts, and Demand Study
9. Planning and Zoning Commission Staff Report
10. City Plan Employment Land Demand Analysis
11. 2021 Residential Metro District Evaluation System
12. Neighborhood Meeting Summary
13. Draft December 2022 Planning and Zoning Commission Minutes, excerpt
14. Staff Presentation

ORDINANCE NO. 018, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE CITY'S STRUCTURE PLAN MAP

WHEREAS, the Structure Plan Map is part of City Plan, the City's comprehensive plan, and the Structure Plan Map serves as a blueprint for the desired future development pattern of the community and provides guidance through its place type land use designations to decision makers when reviewing rezoning requests; and

WHEREAS, the City has received an application to rezone certain property that is approximately seventeen acres in size and is located east of the intersection of Lemay Avenue and Duff Drive; and

WHEREAS, under the rezoning application, known as "The Landing at Lemay Rezoning," such property would be rezoned from the Industrial ("I") zone district to the Medium Density Mixed-Use Neighborhood ("M-M-N") zone district; and

WHEREAS, the proposed The Landing at Lemay Rezoning does not comply with the current Structure Plan Map Industrial place type land use designation and, in order for the rezoning to comply with the Structure Plan Map, the applicant for The Landing at Lemay Rezoning is requesting that the Structure Plan Map be amended to the Mixed Neighborhood place type; and

WHEREAS, the Planning and Zoning Commission at its December 15, 2022, regular meeting recommended that Council approve the requested amendment of the Structure Plan Map and The Landing at Lemay Rezoning on a 5-1 vote; and

WHEREAS, the City Council finds that, while the proposed The Landing at Lemay Rezoning does not comply with the present place type land use designation shown on the Structure Plan Map for that location, it complies with the City Plan principles and policies as well as the principles of the Structure Plan Map; and

WHEREAS, accordingly, the City Council has determined that the proposed The Landing at Lemay Rezoning is in the best interests of the City and, therefore, that the Structure Plan Map should be amended so that The Landing at Lemay Rezoning is in compliance with the Structure Plan Map; and

WHEREAS, the City Council has further determined that the Structure Plan Map should be amended as shown on Exhibit "A" attached hereto, so that the proposed rezoning will comply with City Plan, including the Structure Plan Map.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS, as follows:

Section 1. That the City Council finds that the existing Structure Plan Map is in need of the amendment requested by the applicant for The Landing at Lemay Rezoning.

Section 2. That the City Council finds that the proposed amendment promotes the public welfare and is consistent with the vision, goals, principles and policies of City Plan and the elements thereof.

Section 3. That the City Plan Structure Plan Map is hereby amended so as to appear as shown on Exhibit "A" attached hereto and incorporated herein by this reference, with the condition that the amendment shall only occur upon City Council approving The Landing at Lemay Rezoning on second reading. If The Landing at Lemay Rezoning is not approved on second reading, this Ordinance shall automatically become null and void.

Introduced, considered favorably on first reading and ordered published this 7th day of February, 2023, and to be presented for final passage on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 21st day of February, 2023.

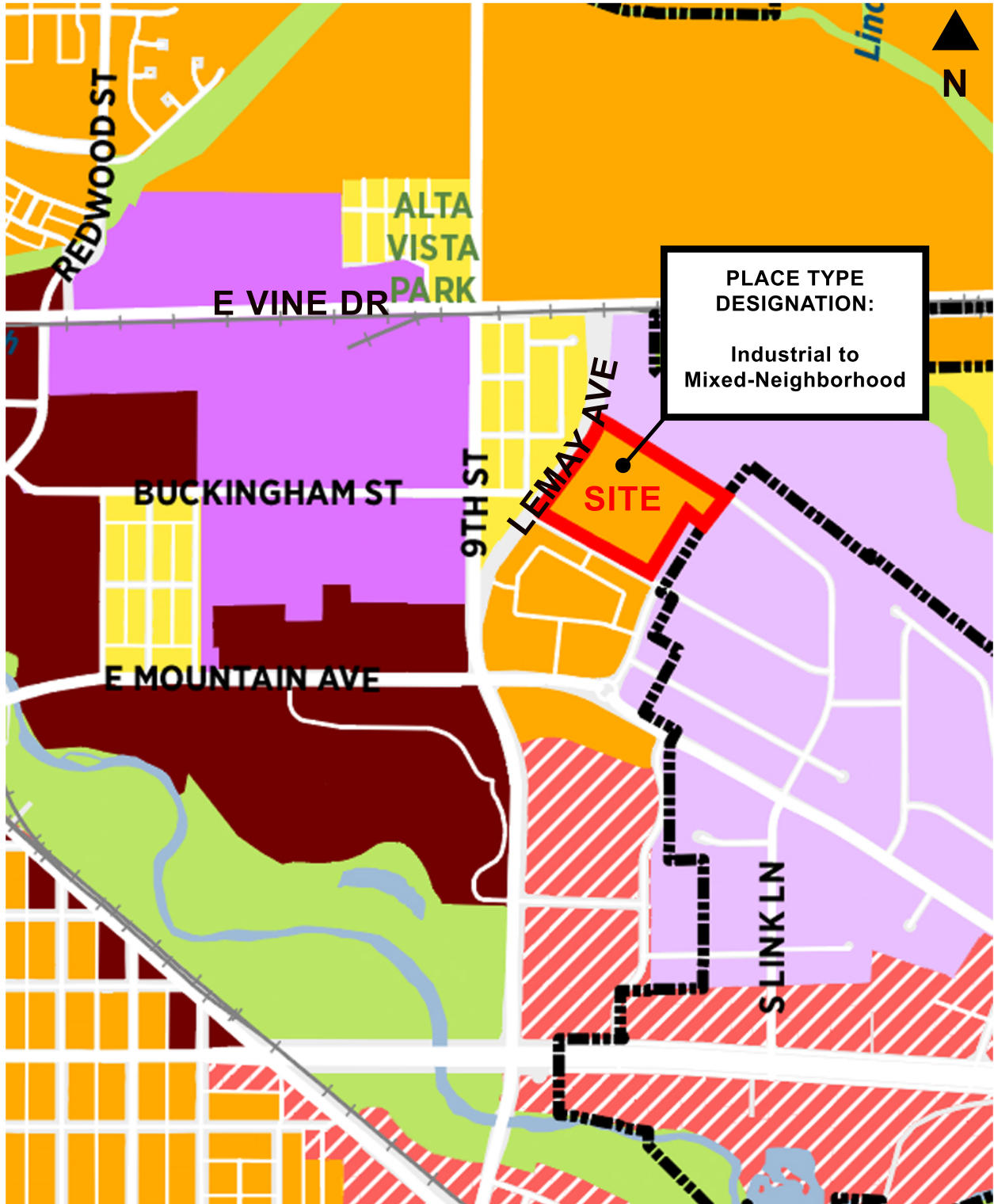
Mayor

ATTEST:

City Clerk

Exhibit A: City Plan Structure Plan Map Amendment

Item 14.



PLACE TYPES

Districts

- Downtown District
- Urban Mixed-Use District
- Suburban Mixed-Use District
- Neighborhood Mixed-Use District
- Mixed Employment District
- Research & Development/Flex District
- Industrial District
- Campus District

Other

- Parks and Natural/Protected Lands
- Community Separator

Neighborhoods

- Rural Neighborhood
- Suburban Neighborhood
- Mixed Neighborhood

BOUNDARIES

- City Limits
- Growth Management Area (GMA)
- Adjacent Planning Areas

ORDINANCE NO. 019, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE ZONING MAP OF THE
CITY OF FORT COLLINS BY CHANGING THE ZONING
CLASSIFICATION FOR THAT CERTAIN PROPERTY KNOWN
AS THE LANDING AT LEMAY REZONING

WHEREAS, Division 1.3 of the Fort Collins Land Use Code (the “Land Use Code”) establishes the Zoning Map and Zone Districts of the City; and

WHEREAS, the City has received a request to rezone an approximately seventeen-acre property located within the City east of the intersection Lemay Avenue and Duff Drive (hereinafter, “The Landing at Lemay Rezoning”) from the Industrial (I) zone district to the Medium Density Mixed-Use Neighborhood (M-M-N) zone district; and

WHEREAS, Division 2.9 of the Land Use Code establishes procedures and criteria for reviewing the rezoning of land; and

WHEREAS, in accordance with the foregoing, the City Council has considered The Landing at Lemay Rezoning and has determined that said property should be rezoned as hereinafter provided; and

WHEREAS, the City Council has further determined that The Landing at Lemay Rezoning, in consideration of the conditions of approval set forth in this Ordinance and a related Structure Plan Map amendment request, is consistent with the City's Comprehensive Plan and is warranted by changed conditions within the neighborhood surrounding and including The Landing at Lemay Rezoning; and

WHEREAS, to the extent applicable, the City Council has also analyzed the proposed rezoning against the considerations as established in Section 2.9.4(H)(3) of the Land Use Code; and

WHEREAS, the Planning and Zoning Commission at its December 15, 2022, regular meeting recommended that Council approve The Landing at Lemay Rezoning and the requested amendment of the Structure Plan Map on a 5-1 vote; and

WHEREAS, the City Council finds that The Landing at Lemay Rezoning is in the best interest of the City.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the approval of The Landing at Lemay Rezoning is conditional upon City Council approving the requested amendment to the Structure Plan Map related to The Landing at Lemay Rezoning on second reading. The Structure Plan Amendment is necessary for The Landing at Lemay Rezone to comply with the Comprehensive Plan. If such Structure Plan Map amendment is not approved on second reading, this Ordinance shall be null and void.

Section 3. That The Landing at Lemay Rezoning is conditional upon the following:

- (A) Residential development within the boundaries of The Landing at Lemay Rezoning shall achieve 15 combined points from the Energy, Renewables, and Water Sub-Categories of the 2021 Residential Metro District Points System.
- (B) Residential development within the boundaries of The Landing at Lemay Rezoning shall achieve 5 combined points from the Neighborhood Livability Category of the 2021 Residential Metro District Points System.

No final plan for residential development within the boundaries of The Landing at Lemay Rezoning shall be approved unless the above two conditions have been satisfied.

Section 4. That the Zoning Map adopted by Division 1.3 of the Land Use Code is hereby amended by changing the zoning classification from Industrial (“I”) Zone District to Medium Density Mixed-Use Neighborhood (“M-M-N”) Zone District, for the following described property in the City known as The Landing at Lemay Rezoning:

PARCEL 1:

A TRACT OF LAND SITUATE IN THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, LARIMER COUNTY, COLORADO WHICH CONSIDERING THE WEST LINE OF THE SAID NORTHWEST 1/4 AS BEARING SOUTH 02° 04' 03" WEST AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO IS CONTAINED WITHIN THE BOUNDARY LINES WHICH BEGIN AT A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN RAILROAD WHICH BEARS SOUTH 02° 04' 03" WEST 80.00 FEET, AND AGAIN SOUTH 89° 36' 37" EAST 977.15 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 7 AND RUN THENCE SOUTH 89° 36' 37" EAST 265.85 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE:

- THENCE SOUTH 02° 04' 03" WEST 420.81 FEET;
- THENCE SOUTH 89° 36' 58" EAST 58.51 FEET;
- THENCE SOUTH 50° 01' 54" EAST 914.21 FEET TO THE MOST NORTHERLY CORNER OF FORT COLLINS CENTER - SECOND FILING;
- THENCE ALONG THE BOUNDARY LINE OF SAID SECOND FILING, SOUTH 39° 58' 06" WEST 658.00 FEET TO THE NORTHWEST CORNER OF FORT COLLINS BUSINESS CENTER - THIRD FILING;
- THENCE NORTH 50° 01' 54" WEST 150.00 FEET;
- THENCE SOUTH 33° 06' 53" WEST 350.16 FEET;
- THENCE NORTH 87° 55' 57" WEST 294.16 FEET;
- THENCE NORTH 02° 04' 03" EAST 38.81 FEET;
- THENCE NORTH 87° 55' 57" WEST 204.00 FEET;
- THENCE NORTH 02° 04' 03" EAST 62.53 FEET;
- THENCE NORTH 87° 55' 57" WEST 503.00 FEET;

THENCE NORTH 02° 04' 03" EAST 24.72 FEET TO A POINT ON THE PROPOSED EASTERLY LINE OF LEMAY AVENUE;

THENCE ALONG SAID EASTERLY LINE, NORTH 38° 58' 00" EAST 680.12 FEET;

AND AGAIN ALONG THE ARC OF A 1125.00 FOOT RADIUS CURVE TO THE LEFT A DISTANCE OF 652.52 FEET, THE LONG CHORD OF WHICH BEARS NORTH 22° 21' 01" EAST 643.41 FEET. AND AGAIN NORTH 05° 44' 03" EAST 427.39 FEET TO THE POINT OF BEGINNING,

EXCEPTING THEREFROM, THE PARCELS CONVEYED IN INSTRUMENTS RECORDED OCTOBER 17, 1986 UNDER RECEPTION NO. 86060308, NOVEMBER 13, 1986 UNDER RECEPTION NO. 86066341, MARCH 6, 1988 UNDER RECEPTION NO. 88025752 AND MARCH 28, 2016 UNDER RECEPTION NO. 20160018392, COUNTY OF LARIMER, STATE OF COLORADO.

PARCEL 2:

A TRACT OF LAND BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF LARIMER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 7 AS BEARING NORTH 00° 33' 51" EAST AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 7; THENCE ALONG SAID WEST LINE, NORTH 00° 33' 51" EAST, 993.59 FEET; THENCE, SOUTH 89° 26' 09" EAST, 794.24 FEET, SAID POINT ALSO BEING ON THE NORTH LINE OF THAT TRACT OF LAND DESCRIBED AT RECEPTION NO. 20070066749;

THENCE ALONG THE NORTH AND WEST LINES OF SAID TRACT THE FOLLOWING 2 COURSES AND DISTANCES: SOUTH 89° 26' 09" EAST, 26.74 FEET; THENCE, SOUTH 00° 33' 51" WEST, 14.55 FEET TO A POINT ON THE WEST LINE OF SAID TRACT; THENCE SOUTH 60° 52' 44" EAST, 100.36 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE NORTHERLY LINE OF THAT TRACT OF LAND DESCRIBED AT RECEPTION NO. 86066341;

THENCE ALONG THE NORTHERLY AND EASTERLY LINES OF SAID TRACT THE FOLLOWING 4 COURSES AND DISTANCES:

SOUTH 89° 26' 09" EAST, 115.85 FEET; THENCE, SOUTH 00° 33' 51" WEST, 38.31 FEET; THENCE SOUTH 89° 26' 09" EAST, 294.18 FEET; THENCE, SOUTH 31° 36' 41" WEST, 162.07 FEET; THENCE DEPARTING SAID EASTERLY LINE, NORTH 60° 52' 44" WEST, 371.65 FEET TO THE POINT OF BEGINNING,

EXCEPTING THEREFROM, THE PARCELS CONVEYED IN INSTRUMENT RECORDED MARCH 28, 2016 UNDER RECEPTION NO. 20160018392, COUNTY OF LARIMER, STATE OF COLORADO.

PARCEL 3:

A TRACT OF LAND BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF LARIMER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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CONVEYED IN INSTRUMENT RECORDED MARCH 28, 2016 UNDER RECEPTION NO. 20160018392, COUNTY OF LARIMER, STATE OF COLORADO.

Section 3. That the Residential Neighborhood Sign District Map adopted pursuant to Section 3.8.7.1(M) of the Land Use Code be, and the same hereby is, changed and amended by showing that the above-described property is included in the Residential Neighborhood Sign District.

Section 4. That the Lighting Context Area Map adopted pursuant to Section 3.2.4(H) of the Land Use Code of the City of Fort Collins is hereby changed and amended by showing that the property subject to The Landing at Lemay Rezoning is included in the LC1 Lighting Context Area.

Section 5. The City Manager is hereby authorized and directed to amend said Zoning Map in accordance with this Ordinance.

Introduced, considered favorably on first reading and ordered published this 7th day of February, 2023, and to be presented for final passage on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that, on February 7, 2023, at 6:00 p.m., or as soon thereafter as the matter may come on for hearing in the Council Chambers in the City Hall, 300 LaPorte Avenue, Fort Collins, Colorado, the Fort Collins City Council will hold a public hearing on the rezoning of land comprising the Landings at Lemay Rezoning.

The Rezoning is described as follows:

PARCEL 1:

A TRACT OF LAND SITUATE IN THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, LARIMER COUNTY, COLORADO WHICH CONSIDERING THE WEST LINE OF THE SAID NORTHWEST 1/4 AS BEARING SOUTH 02° 04' 03" WEST AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO IS CONTAINED WITHIN THE BOUNDARY LINES WHICH BEGIN AT A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN RAILROAD WHICH BEARS SOUTH 02° 04' 03" WEST 80.00 FEET, AND AGAIN SOUTH 89° 36' 37" EAST 977.15 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 7 AND RUN THENCE SOUTH 89° 36' 37" EAST 265.85 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE:

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THENCE ALONG THE BOUNDARY LINE OF SAID SECOND FILING, SOUTH 39° 58' 06" WEST 658.00 FEET TO THE NORTHWEST CORNER OF FORT COLLINS BUSINESS CENTER - THIRD FILING;

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PARCEL 2:

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Said property is now in the Industrial ("I") Zone District. The Petitioner's request is to rezone the property to the Medium Density Mixed-Use Neighborhood ("M-M-N"), Zone District.

The City of Fort Collins will make reasonable accommodations for access to City services, programs and activities and will make special communication arrangements for persons with disabilities. Please call 221-6515 (TDD 224-6001) for assistance.

Dated this 22nd day of January, 2023.

Anissa Hollingshead
City Clerk

Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 970.221.6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide 48 hours advance notice when possible.

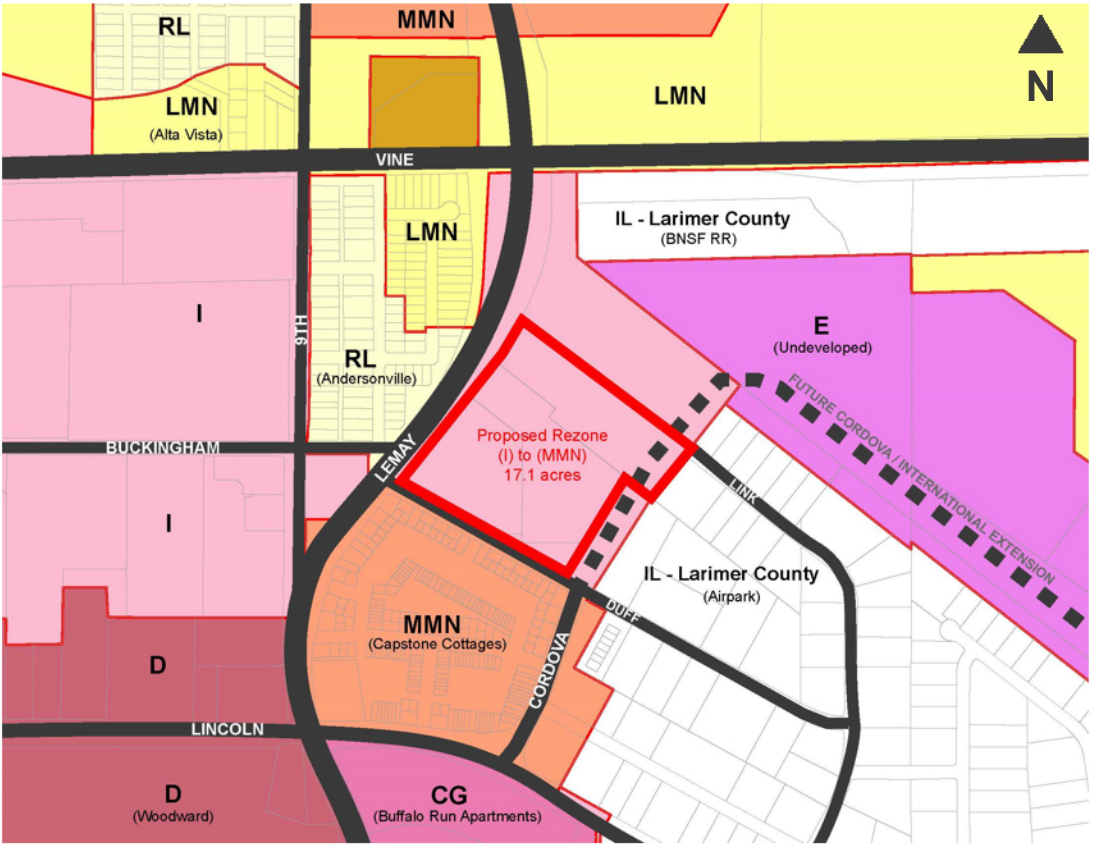
Item 14.

A petición, la Ciudad de Fort Collins proporcionará servicios de acceso a idiomas para personas que no dominan el idioma inglés, o ayudas y servicios auxiliares para personas con discapacidad, para que puedan acceder a los servicios, programas y actividades de la Ciudad. Para asistencia, llame al 970.221.6515 (V/TDD: Marque 711 para Relay Colorado). Por favor proporcione 48 horas de aviso previo cuando sea posible.

Aerial Vicinity Map



Zoning Vicinity Map



SUBMITTAL REQUIREMENTS:
REZONING PETITION

Petitioner:

Thompson Thrift Residential
Name

111 Monument Circle, Suite 1500
Address
Indianapolis, IN 46204
City, State, Zip

Name

Address

City, State, Zip

Owner:

Name
JOHN JAMES NIFOROS II AND MARLENA
NIFOROS AS CO-PERSONAL
REPRESENTATIVES OF THE ESTATE OF
TONIA L. NIFOROS, DECEASED

705 14th Street SE 303
Address
Loveland, Colorado 80537
City, State, Zip

Name

Address

City, State, Zip

To the City Council of the City of Fort Collins, Colorado.

I (We), the undersigned, do hereby respectfully petition and request that the City Council amend the zoning ordinance of the City of Fort Collins by changing the zoning of the hereinafter described parcel, containing 17.2 acres, more or less, from Industrial zoning district to M-M-N zoning district:

Legal Description: See legal description (Exhibit A) attached.
Reason for Request: See rezone justification narrative (Exhibit B) attached.

Please attach listing of names and addresses of all persons owning land (as per Larimer County Assessor's office on date of request) within 800 feet of any portion of the area under petition for rezoning.

Respectfully submitted,

[Signature] BCOL #3885050.

Province of British Columbia
State of Colorado)
Nanaimo) ss.
County of Larimer)

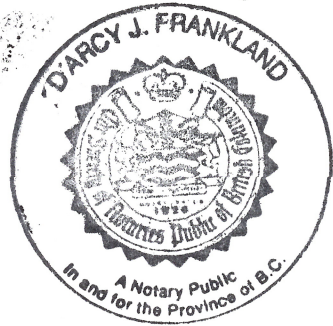
The forgoing instrument was acknowledge before me this 12th day of April, 2022,
BY Martina Niforos for the purpose therein set forth.

My commission expires n/a - don-expiring.

[Signature]
Notary Public

D'Arcy J. Frankland
Notary Public
440 - 10th Avenue
Campbell River, B.C.
V9W 4E3

Please return to the City of Fort Collins Community Development and Neighborhood Services Department.



WITNESSED AS TO SIGNATURE ONLY.
NO ADVICE SOUGHT OR GIVEN

D'Arcy J. Frankland
Notary Public



The Landing at Lemay Rezone

Exhibit B - Request for Zoning Map and Structure Plan Amendment
April 20, 2022

Project Team

Developer/Applicant

Monica Unger
Thompson Thrift Residential
111 Monument Circle, Ste 1500
Indianapolis, IN 46204

Planner/Landscape Architect

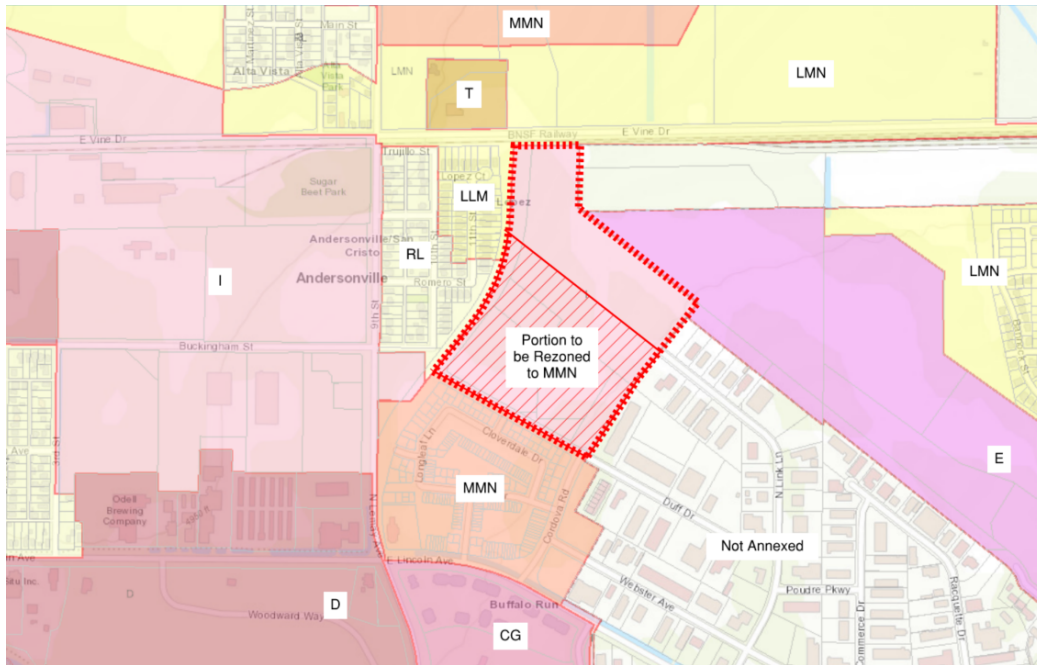
Russell Lee
Ripley Design, Inc.
419 Canyon Ave, Suite 200
Fort Collins, CO 80521

Civil Engineer

Danny Weber
Northern Engineering
301 N Howes St #100
Fort Collins, CO 80521

Introduction

The applicant, Thompson Thrift Residential, requests an amendment to the City Structure Plan and an amendment to the Zoning Map to rezone a portion of the 26.5-acre property located at the southeast corner of Vine Drive and Lemay Avenue. The southern 17.1-acres are proposed to be rezoned to the Medium Density Mixed-Use Neighborhood District (M-M-N), and the remaining portion of the property will maintain the Industrial District (I) zoning.



This property currently lies vacant and underutilized. The purpose of the rezone is to develop a multi-family project that embodies the highest and best use for the subject property that will more closely

Figure 1 - Zoning Map

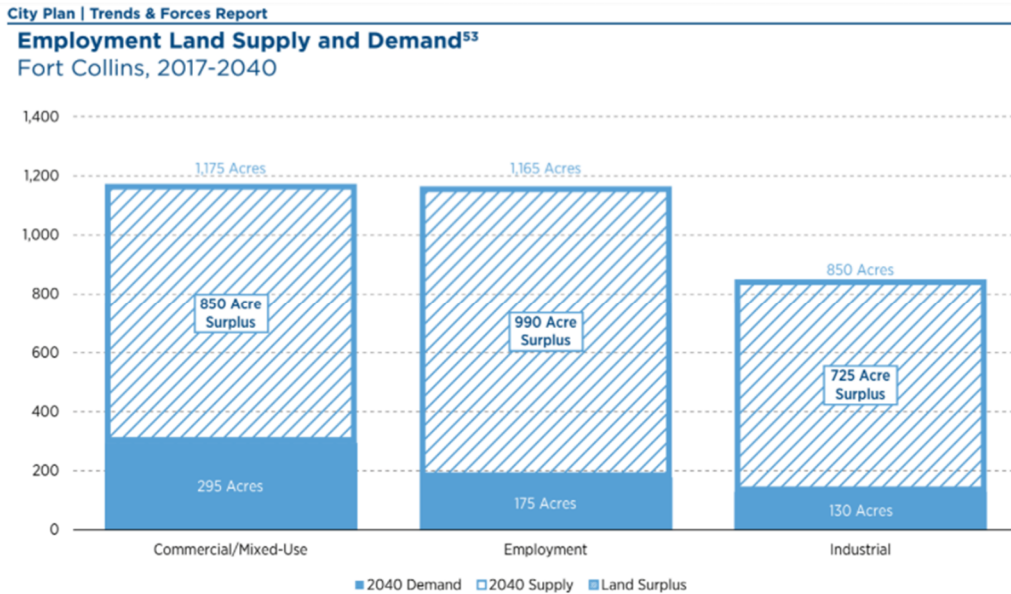




align with adjacent development patterns and goals identified by the City. The City Plan anticipates that Fort Collins is likely to add 70,000 new residents by 2040, and studies completed by the City have shown that the demand for housing will exceed the City’s capacity by around 2,000 units by 2040.

This applicant team is also sensitive to the value associated with industrial land within the City, and has conducted a third-party market study to analyze the stock of industrial lands in northeast Fort Collins. Based on the study completed in 2021, “within Fort Collins and a mile from the site there are approximately 50 acres of vacant industrial properties, plus an approximate 135 acres Employment Zone on the abandoned airport runway. In total this equates to 185 acres available for industrial/light industrial within the city, near the proposed development site”. The study concluded that within the immediate area, as well as in the City as a whole, there is ample availability for future industrial development.

The graphic below, taken from the City Plan, shows the total vacant land by use-type available today (on top of the box), the amount of land projected to be developed by 2040 (in the blue at the bottom), and the amount of land that is projected to still be vacant (i.e. “surplus”) by 2040 (amount in the center). (Confirming source.)



As can be seen, despite projecting that the land currently set aside for residential development will be exhausted by 2040, there is projected to be a “surplus” of vacant land set aside for these other three categories, which includes industrial. Any additional residential development will need to come from one of the other areas.



This letter has been provided to illustrate the rezone’s compliance with the City of Fort Collins Land Use Code standards, City Plan Policies, and overall compatibility with the surrounding land uses and infrastructure.

Request for Zoning Map Amendment

This request for a Zoning Map Amendment is justified in accordance with the following section of the City of Fort Collins Land Use Code.

Fort Collins LUC Section 2,9.4(H)

(2) Mandatory Requirements for Quasi-judicial Zonings or Rezoning. Any amendment to the Zoning Map involving the zoning or rezoning of six hundred forty (640) acres of land or less (a quasi-judicial rezoning) shall be recommended for approval by the Planning and Zoning Board or approved by the City Council only if the proposed amendment is:

- (a) consistent with the City's Comprehensive Plan; and/or*
- (b) warranted by changed conditions within the neighborhood surrounding and including the subject property.*

(3) Additional Considerations for Quasi-Judicial Zonings or Rezoning. In determining whether to recommend approval of any such proposed amendment, the Planning and Zoning Board and City Council may consider the following additional factors:

- (a) whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zone district for the land;*
- (b) whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment;*
- (c) whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.*

1. The Zoning Map amendment is consistent with the City’s Comprehensive Plan (*City Plan adopted in 2019*)

Strategy LIV-1d. Update the East Mulberry Corridor Plan to reflect land use and policy directions established as part of City Plan. Include a full assessment of annexation impacts as part of the plan update, or as a stand-alone effort, to help inform the annexation process and long-term service provision.

Analysis:

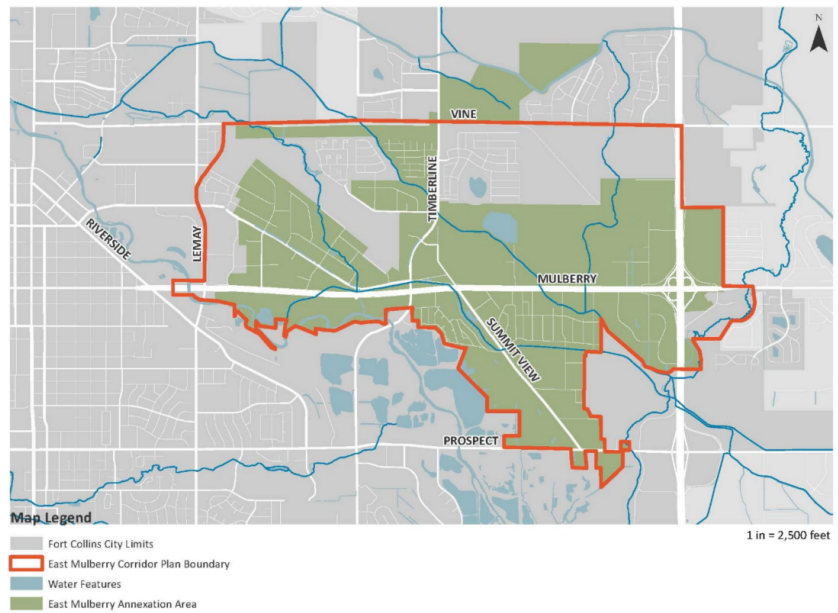
The Landing at Lemay property lies within the East Mulberry Corridor Area. The previous Corridor Plan was adopted in 2002, and City staff is currently in process of updating the plan to better reflect the evolving needs of northeast Fort Collins. The City held meetings





in 2020 and 2021 with City Council members as well as local businesses and residents to gain input on the revisions that will be made to the Plan. Feedback received was that there is a community interest in preserving Industrial properties which were most accessible from I-25 and East Mulberry.

The subject property lies about 1 mile north of East Mulberry Street and would require traffic to pass by several existing residential developments, placing a lower value on preserving this property for industrial uses given its distance from Mulberry. The green areas shown on the map below depict areas proposed to be annexed into the City as part of the East Mulberry Plan project. This illustrates the considerable potential for future industrial properties which will better align with the community interest.



Policy LIV 1.6 - Adequate Public Facilities Utilize the provision of public facilities and services to direct development to desired location, in accordance with the following criteria:

- *Direct development to locations where it can be adequately served by critical public facilities and services such as water, sewer, police, transportation, schools, fire, stormwater management and parks, in accordance with adopted levels of service for public facilities and services.*

Analysis:

The subject property is bordered by developed properties to the south and west, providing an existing network of public utilities in the immediate vicinity. The proposed M-M-N zoning for this property will allow for a logical extension of the existing street and utility framework established by the multi-family development to the south, and the newly constructed Lemay Ave to the west will provide adequate vehicular and pedestrian circulation to surrounding areas. Transfort also has an existing bus stop approximately 1/2 mile south of the property which offers stops each hour. Additionally, the applicant has



agreed to take over the maintenance of the landscape within their adjacent Lemay Avenue overpass right of way to the back of walk to support this public facility.

Policy LIV 4.2 - Compatibility of Adjacent Development *Ensure that development that occurs in adjacent districts complements and enhances the positive qualities of existing neighborhoods. Developments that share a property line and/or street frontage with an existing neighborhood should promote compatibility by:*

- *Incorporating context-sensitive buildings and site features (e.g., similar size, scale and materials); a*
- *Locating parking and service areas where impacts on existing neighborhoods—such as noise and traffic—will be minimized.*

Analysis

The adjacent zoning districts include M-M-N zoning to the south and Low-Density Mixed-Use Neighborhood District (L-M-N) and Low Density Residential (R-L) zoning to the west. To the north and east are properties zoned Employment (E) and Industrial (I). Rezoning the subject parcel to M-M-N will provide a more appropriate transition between the lower density residential properties to the south/west and the higher intensity industrial and employments areas to the north/east. The architectural character associated with the future multi-family development on this site will be more sensitive to the context of these adjacent residential uses than what would likely be developed on an industrial-zone property.

The Lemay overpass flattens out at the southern half of the site. The subject property is visible from Andersonville at this point. A multi-family development provides a more logical transition to the industrial to the east rather than having industrial uses 100'-200' from residential houses.

A neighborhood meeting was held with the residents from the Andersonville neighborhood. At that meeting the applicant asked if the neighbors preferred multifamily versus industrial and residents in attendance expressed a preference for multifamily.

Policy Liv 5.3 – Land for Residential Development

Use density requirements to maximize the use of land for residential development to positively influence housing supply and expand housing choice.

Analysis:

City Plan has identified the need for increased housing supply and emphasizes a broader mix of housing types and densities to support the changing population and housing market (page 29). This need for housing stock is a result of an increase of jobs in Fort Collins and a housing market that has not been able to keep up with the rising demand. City Plan identifies the greatest need for housing supply to be for higher density products such as multifamily and attached units. Rezoning to M-M-N will allow for the subject property to directly contribute to these City goals.

Policy SC 4.2 - Design for Active Living *Promote neighborhood and community design that encourages physical activity by establishing easy and equitable access to parks and trails, providing interesting routes that feature art and other visually interesting elements, and*





locating neighborhoods close to activity centers and services so that active modes of transportation are a desirable and convenient choice.

Analysis:

According to City Plan, a key characteristic of the Mixed Neighborhood Place Type (which aligns with M-M-N zoning) are properties which are located within walking or biking distance of services and amenities. The subject property is located within ½ mile walk or biking distance of several breweries, restaurants, and grocery stores, and is approximately 1 mile from Old Town Fort Collins which will encourage active living.

2. The Zoning Map amendment is warranted by changed conditions within the neighborhood surrounding and including the subject property.

In addition to being consistent with with the City's Comprehensive Plan, the proposed rezone is warranted by the following changed conditions within the surrounding neighborhood.

- The Capstone property which lies directly south of the subject property received approval to rezone from I to M-M-N in 2015 and has since been developed as a multi-family project, setting the precedent for compatible multi-family projects in the area.
- The airport is no longer in operation. Concerns raised by City staff in the 2003 consideration of a rezoning to M-M-N for the Capstone property included concerns about locating residential areas too close to the airport. With the closure of the airport, this concern is no longer an issue.
- Woodward recently constructed a new campus on the 100+ acre property at the southwest corner of the Lincoln and Lemay intersection, located less than ½ mile from the subject property. This property was rezoned to be within the Innovation Subdistrict, which is part of the Downtown District. The Innovation Subdistrict was created to promote development that supports employment and industrial uses, which enabled Woodward to accommodate their new office/manufacturing campus that is anticipated to retain and/or create between 1,400 and 1,700 primary jobs. The loss of 17.2 acres of I-zoned property is more than offset by the increase in industrial use and jobs realized by the Woodward project. The Woodward development would also benefit from adjacent housing and continue to promote City Plan Policy SC4.2 by placing market rate housing within ½ mile of this major employer. This would encourage pedestrian and bike transportation to work, reducing carbon emissions and promoting the City's climate action goals.

3. The Zoning Map amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zone district for the land.

The rezone will be compatible with existing land uses for the following reasons:

- The properties to the west are zoned R-L and L-M-N which have a lower intensity than the properties to the east which are unincorporated, but are developed as industrial. Rezoning the subject property to M-M-N will provide a more natural transition between land uses.





- The northern 9.3-acres of the subject property will remain as industrial-zoned land and will maintain future employment opportunities within the City of Fort Collins. The industrial-zone district also accommodates uses such as convenience shopping, child care centers and housing which will support the multi-family use proposed for the subject property. This remaining industrial-zoned area will still have adequate circulation, with direct access to Vine Drive to the north, a 2-lane collector street at this location which transitions to a 2-lane arterial street as it approaches I-25 to the east.
4. The Zoning Map amendment would not result in significantly adverse impacts on the natural environment, including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment;

No significant adverse impacts are anticipated on the natural environment for the following reasons:

- There are no significant natural features identified on the subject property or adjacent properties. Additionally, a multi-family development within the M-M-N zone district would typically be a lower intensity use than a development within an industrial-zoned property would, therefore reducing any potential environment impact for the surrounding areas.
 - The proposed rezone will provide housing opportunities in a location which will have access to a multitude of employment and service areas within a 2-mile radius. Providing housing in areas that are within close proximity to jobs, healthcare, recreation, retail, and restaurants significantly cuts down the amount of time residence must spend in their cars, thus reducing their environmental impact.
5. The Zoning Map amendment will result in a logical and orderly development pattern.

The rezone will result in a logical and orderly development pattern for the following reasons:

- The property directly to the south was rezoned as M-M-N in 2015, so the proposed zoning will provide a logical extension of that zone district to the north.
- The transition between the proposed M-M-N zone and the existing industrial zone is defined by extending the centerline of Link Lane across the subject property to create a clearly defined boundary.
- The proposed rezone would place a medium-density use along the newly-constructed Lemay Avenue, a 4-lane collector street. This complies with the City Plan which promotes placement of townhome or multifamily developments along arterial streets where transit and other services and amenities are available (page 98).

Request for Structure Plan Amendment





This request for a Structure Plan Amendment is justified in accordance with the following section of the City Plan.

City Plan (page 221) states: *a plan amendment will be approved if the City Council makes specific findings that:*

- *The existing City Plan and/or any related element thereof is in need of the proposed amendment; and*
- *The proposed amendment will promote the public welfare and will be consistent with the vision, goals, principles and policies of City Plan and the elements thereof.*

1. *The existing City Plan and/or any related element thereof is in need of the proposed amendment;*

The Structure Plan Map needs to be amended in order to rezone approximately 17.2-acres of land. The resulting M-M-N zone will be able to accommodate a multi-family housing project and create an appropriate land use transition between industrial development and single-family neighborhoods.

Since the current Structure Plan was adopted in 2018, additional conversations have occurred regarding the best suited locations for industrial properties, and City Staff has identified the areas closest to East Mulberry Street and I-25 as the lands which would be most appropriate. This parcel is outside those parameters.

Additionally, the need for more housing has increased considerably in the last 2 years. Based on the monthly report issued by the Fort Collins Board of Realtors, the median home price in Fort Collins increased by over 14.5% for townhomes/condos in the last year alone. Meanwhile, the number of days on the market decreased by 31.5% from 89 to just 61.

The Fort Collins Housing Strategic Plan was since released in 2021, reinforcing the urgency for increased housing supply. The tables from page 27 of the Strategic Plan illustrate that there is a shortage of affordable housing for both the rental and ownership markets. For the rental market, housing shortages are reported for residents with up to 80% AMI (Area Median Income) and up to 150% AMI for the ownership market. The evolving needs in the City are a clear indication that there is a need for action.

2. *The proposed amendment will promote the public welfare and will be consistent with the vision, goals, principles and policies of City Plan and the elements thereof.*

The proposed Structure Plan Map amendment is part and parcel with the rezoning request. See arguments above to show how the amendment is supported by City Plan Principles and Policies.





Statement of Public Benefit

Thompson Thrift is committed to providing a high caliber community to the City of Fort Collins. In addition to meeting the requirements of the land use and building code, the future development will commit to providing the following benefits to the community which go above and beyond the typical requirements.

Energy Efficiency

- **Energy Efficient Thermostats.** Install smart thermostats in all apartments for energy savings
- **Water Efficient Fixtures.** Thompson Thrift will provide efficient water fixtures that surpass code standards and are WaterSense Certified including 1.5 GPM showerheads and a 1.28 GPF toilet that is WaterSense certified.
- **Submetering of Units.** Thompson Thrift will commit to submetering indoor water on individual units within the community to help with water management and leak detection.
- **Efficient Hot Water Systems.** Thompson Thrift is willing to provide an on-demand hot water unit in-lieu of a water tank, provided it is a natural gas system. This system will limit wasted energy.
- **Water Efficient Irrigation.** Thompson Thrift is willing to install efficient irrigation systems for all residential sprinkler systems, WaterSense Certified (WS) pressure reducing heads, weather-based irrigation controller, flow sensors, and master valves.
- **Water Efficient Landscaping.** Thompson Thrift is willing to install water efficient landscaping for residential front yards to help with water usage. We are willing to commit to a water budget of 10 gallon or less per square foot basis within residential front yards. We will work with our design team and landscape architect to consider plant and tree selection.

Neighborhood Livability

- **Incorporation of Commercial Use.** Thompson Thrift will provide a food truck plaza with designated parking areas for trucks and outdoor seating for the public.
- **Acquisition and Extension of Cordova Road.** With the future development of the subject property, an additional parcel will be acquired by Thompson Thrift in order to construct the extension of Cordova Lane. While not required by the Land Use Code or necessary for the development of a future multifamily project in this location, the acquisition and construction of Cordova Road will allow for enhanced connectivity through the area and to future developments to the north.





- **Landscape Maintenance within the Lemay Avenue Right-of-Way.** The new Lemay overpass aligns with the western property boundary of the subject property and includes a widened right-of-way to accommodate the grading of the overpass. The future development of the subject property intends to provide maintenance of the landscape area within the Lemay right-of-way adjacent to the development. This will significantly reduce the City's maintenance burden and provide a visually appealing transportation corridor along Lemay.
- **Connection to Future Trail Systems.** A new public trail is proposed in the 2013 Paved Recreational Trail Master Plan to extend along International Boulevard to the east. The Master Streets Plan indicates that Industrial Boulevard is planned to extend to Cordova Road in the future which would provide the right-of-way needed to connect our property to the future proposed trail.

Thompson Thrift will work with City staff during the PDP process to provide a trail connection within their property that would allow for the future connection of this proposed trail into the subject property.

- **Increased Buffering on the East Side of the Property.** With the rezone of the subject property from Industrial to MMN, the existing properties located to the east would be subject to a 30' landscape buffer (Division 4.28(E)(3)(a)3.) if they were to redevelop in the future after being annexed into the City. Thompson Thrift will provide a minimum setback of 30' along the Cordova Road ROW in order to alleviate the need for the property owners east of Cordova to be required to install the increased landscape buffer.

Highest and Best Use

- With the current zoning, the envisioned use for this parcel would be light industrial similar to the uses located within the industrial area to the east. This site has unique conditions that add significant costs. Those conditions are related to utilities, roadway improvements and floodplain.

The applicant has analyzed 8 recently sold or under contract light industrial parcels within Fort Collins and Loveland. The average acreage price of those parcels is \$234,000. With an estimated two million dollars in site, utility and road work required to bring this parcel to developable pad sites, on top of the price of the raw land, the acreage price would be \$370,528. That acreage costs does not make the parcel economically viable for a light industrial use. However, that land cost would be viable for a multi-family project which the applicant believes is the highest and best use for the property. (Sales data provided on the next page)



Item 14.

Property Address	Property City	Property Type	Land Area AC	Land Area SF	Sale Price	Sale Date	Sale Status	Price Per AC Land	Price Per SF Land	Property Name	Secondary Type	
450 W 66th St	Loveland	Land	6.20	270,072	\$1,625,000	8/23/2022	Sold	\$262,097	\$6.02	Longview Business Park	Industrial	
6205 Draft Horse Dr	Loveland	Land	12.88	561,053	\$3,081,000	4/1/2022	Sold	\$239,208	\$5.49	Crossroads Business Park	Industrial	
Airpark North	Loveland	Land	13.31	579,784	\$2,841,672	3/28/2022	Sold	\$213,499	\$4.90	South of E CR 30 & West of I-25	Industrial	
Us-287	Loveland	Land	5.02	218,671	\$1,095,000	6/29/2021	Sold	\$218,128	\$5.01	Big Horn RV Storage Development Site	Industrial	
Airpark North	Loveland	Land	29.87	1,301,137	\$4,975,000	3/1/2021	Sold	\$166,555	\$3.82	South of E CR 30 & West of I-25	Industrial	
975 Madison Ave	Loveland	Land	10.10	439,752	\$1,425,000	12/30/2020	Sold	\$141,155	\$3.24	Great Western Sugar Factory Site	Industrial	
Lemay & Buckingham Land	Fort Collins	Land	26.94	1,173,506	\$7,040,826		Under Contract	\$261,352	\$6.00	Lemay and Buckingham Development Opportunity	Industrial	
Lemay & Buckingham Land	Fort Collins	Land	18.50	805860	\$6,854,760		Under Contract	\$370,528	\$8.51			
Average Land Price								\$234,065.10	\$5.37			

THE LANDING AT LEMAY REZONE MAP

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH P.M., CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO

PROPERTY DESCRIPTION:

PARCEL 1:
 A TRACT OF LAND SITUATE IN THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, LARIMER COUNTY, COLORADO WHICH CONSIDERING THE WEST LINE OF THE SAID NORTHWEST 1/4 AS BEARING SOUTH 02° 04' 03" WEST AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO IS CONTAINED WITHIN THE BOUNDARY LINES WHICH BEGIN AT A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN RAILROAD WHICH BEARS SOUTH 02° 04' 03" WEST 80.00 FEET, AND AGAIN SOUTH 89° 36' 37" EAST 977.15 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 7 AND RUN THENCE SOUTH 89° 36' 37" EAST 265.85 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE;
 THENCE SOUTH 02° 04' 03" WEST 420.81 FEET;
 THENCE SOUTH 89° 36' 58" EAST 58.51 FEET;
 THENCE SOUTH 50° 01' 54" EAST 914.21 FEET TO THE MOST NORTHERLY CORNER OF FORT COLLINS CENTER - SECOND FILING;
 THENCE ALONG THE BOUNDARY LINE OF SAID SECOND FILING, SOUTH 39° 58' 06" WEST 658.00 FEET TO THE NORTHWEST CORNER OF FORT COLLINS BUSINESS CENTER - THIRD FILING;
 THENCE NORTH 50° 01' 54" WEST 150.00 FEET;
 THENCE SOUTH 33° 06' 53" WEST 350.16 FEET;
 THENCE NORTH 87° 55' 57" WEST 294.16 FEET;
 THENCE NORTH 02° 04' 03" EAST 38.81 FEET;
 THENCE NORTH 87° 55' 57" WEST 204.00 FEET;
 THENCE NORTH 02° 04' 03" EAST 62.53 FEET;
 THENCE NORTH 87° 55' 57" WEST 503.00 FEET;
 THENCE NORTH 02° 04' 03" EAST 24.72 FEET TO A POINT ON THE PROPOSED EASTERLY LINE OF LEMAY AVENUE;
 THENCE ALONG SAID EASTERLY LINE, NORTH 38° 58' 00" EAST 680.12 FEET;
 AND AGAIN ALONG THE ARC OF A 1125.00 FOOT RADIUS CURVE TO THE LEFT A DISTANCE OF 652.52 FEET, THE LONG CHORD OF WHICH BEARS NORTH 22° 21' 01" EAST 643.41 FEET.
 AND AGAIN NORTH 05° 44' 03" EAST 427.39 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THE PARCELS CONVEYED IN INSTRUMENTS RECORDED OCTOBER 17, 1986 UNDER RECEPTION NO. 86060308, NOVEMBER 13, 1986 UNDER RECEPTION NO. 86066341, MARCH 6, 1988 UNDER RECEPTION NO. 88025752 AND MARCH 28, 2016 UNDER RECEPTION NO. 20160018392.

COUNTY OF LARIMER, STATE OF COLORADO.

PARCEL 2:

A TRACT OF LAND BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF LARIMER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 7 AS BEARING NORTH 00° 33' 51" EAST AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;
 COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 7; THENCE ALONG SAID WEST LINE, NORTH 00° 33' 51" EAST, 993.59 FEET; THENCE, SOUTH 89° 26' 09" EAST, 794.24 FEET, SAID POINT ALSO BEING ON THE NORTH LINE OF THAT TRACT OF LAND DESCRIBED AT RECEPTION NO. 20070066749; THENCE ALONG THE NORTH AND WEST LINES OF SAID TRACT THE FOLLOWING 2 COURSES AND DISTANCES: SOUTH 89° 26' 09" EAST, 26.74 FEET; THENCE, SOUTH 00° 33' 51" WEST, 14.55 FEET TO A POINT ON THE WEST LINE OF SAID TRACT; THENCE SOUTH 60° 52' 44" EAST, 100.36 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE NORTHERLY LINE OF THAT TRACT OF LAND DESCRIBED AT RECEPTION NO. 86066341;
 THENCE ALONG THE NORTHERLY AND EASTERLY LINES OF SAID TRACT THE FOLLOWING 4 COURSES AND DISTANCES:
 SOUTH 89° 26' 09" EAST, 115.85 FEET; THENCE, SOUTH 00° 33' 51" WEST, 38.31 FEET; THENCE SOUTH 89° 26' 09" EAST, 294.18 FEET; THENCE, SOUTH 31° 36' 41" WEST, 162.07 FEET; THENCE DEPARTING SAID EASTERLY LINE, NORTH 60° 52' 44" WEST, 371.65 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THE PARCELS CONVEYED IN INSTRUMENT RECORDED MARCH 28, 2016 UNDER RECEPTION NO. 20160018392.

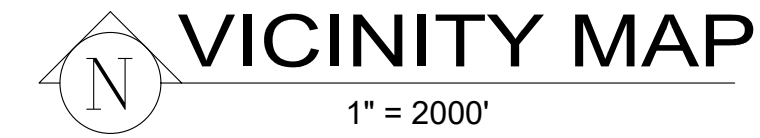
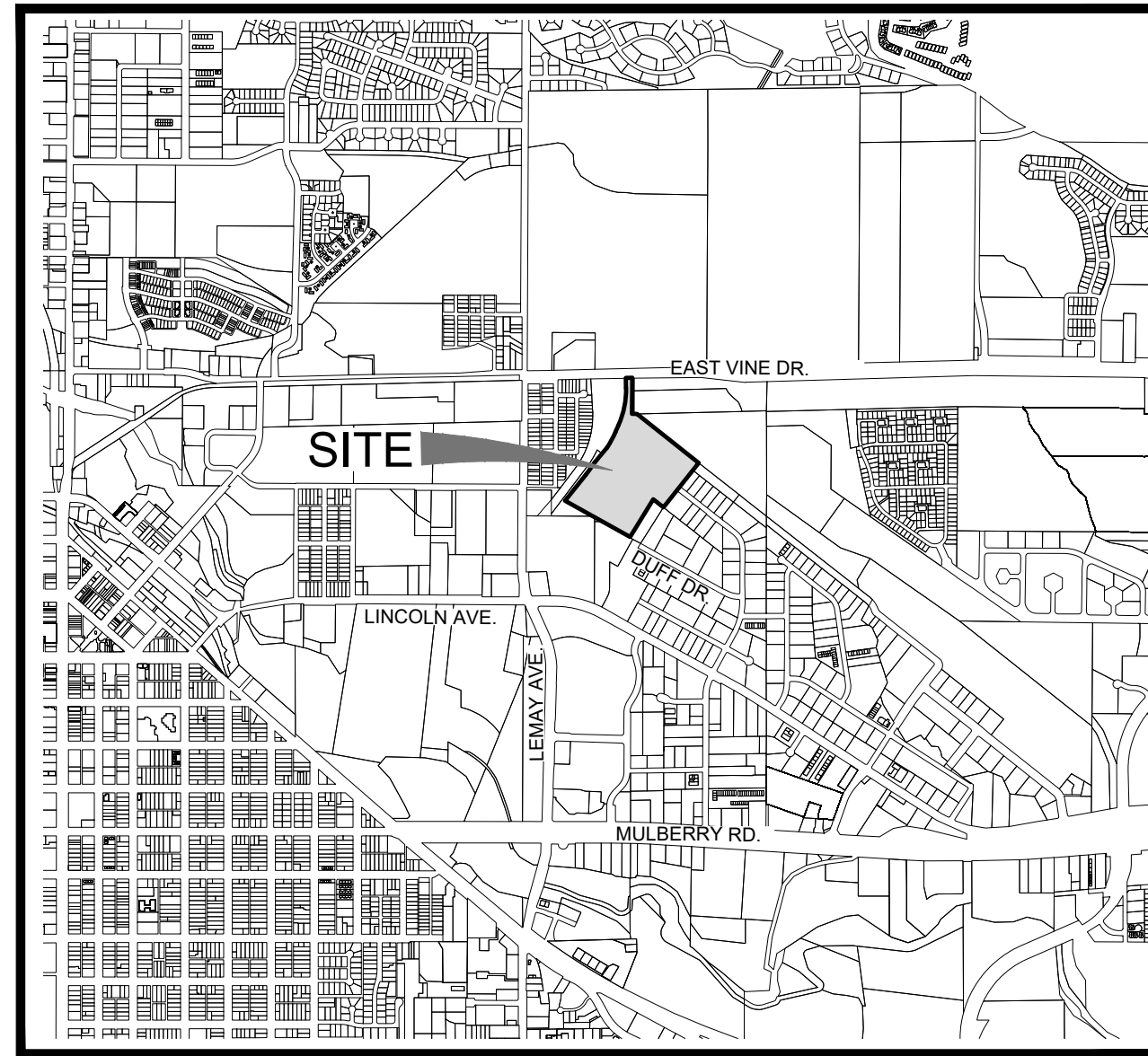
COUNTY OF LARIMER, STATE OF COLORADO.

PARCEL 3:

A TRACT OF LAND BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF LARIMER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 7 AS BEARING NORTH 00° 33' 51" EAST AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;
 COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 7; THENCE ALONG SAID WEST LINE, NORTH 00° 33' 51" EAST, 993.59 FEET; THENCE, SOUTH 89° 26' 09" EAST, 794.24 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO BEING ON THE NORTH LINE OF THAT TRACT OF LAND DESCRIBED AT RECEPTION NO. 20070066749; THENCE ALONG THE NORTH AND WEST LINES OF SAID TRACT THE FOLLOWING 2 COURSES AND DISTANCES: SOUTH 89° 26' 09" EAST, 26.74 FEET; THENCE, SOUTH 00° 33' 51" WEST, 14.55 FEET TO A POINT ON THE WEST LINE OF SAID TRACT; THENCE DEPARTING SAID WEST LINE, NORTH 60° 52' 44" WEST, 30.44 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THE PARCELS CONVEYED IN INSTRUMENT RECORDED MARCH 28, 2016 UNDER RECEPTION NO. 20160018392.

COUNTY OF LARIMER, STATE OF COLORADO.



NOTES:

- 1) Subject Property Address: NO PUBLISHED ADDRESS
- 2) This survey does not constitute a title search by Northern Engineering to determine ownership or easements of record. For all information regarding property lines and easements, Northern Engineering relied upon commitment number ABD25184271, dated 01/29/2021 by Land Title Guarantee Company.
- 3) This is not a statutory boundary survey, lines ran or shown have not been evaluated for title rights either written or unwritten.
- 4) This map is not a land survey plat or improvement survey plat, and it is not to be relied upon for the establishment of fence, building, or other future improvement lines.
- 5) Adjacent property owner information per the Larimer County Land information Locator.
- 6) Zoning information per the City of Fort Collins GIS FCMaps Zoning Portal.
- 7) Approximate Subject Property contains 744,987 square feet or 17.103 acres, more or less.
- 8) This is not a statutory land survey as defined by the State of Colorado. Monuments depicted for reference purposes only.
- 9) FLOOD ZONE DESIGNATION: According to FIRM Panels 08069C0981G, dated June 17, 2008, and 08069C0981H, dated May 5, 2012 for Larimer County, this tract lies within a FEMA designated 500-year floodplain.
- 10) The Professional opinion of the Surveyor is not a determination of law, nor a matter of fact.
- 11) Zoning Parcel descriptions are for reference purposes only. It is not the intent of the surveyor to create legal lots or subdivision as defined by the City of Fort Collins, the County of Larimer or State of Colorado. Zoning Parcel descriptions are not to be used in the transfer of real property or to replace deeded property descriptions.

SURVEYOR'S STATEMENT

I, Robert C. Tessely, a Colorado Registered Professional Land Surveyor, do hereby state that this map of land proposed to be rezoned in the County of Larimer, State of Colorado was prepared under my direct supervision from existing documents of record and that the same is true and correct to the best of my knowledge, information and belief.

For and on behalf of Northern Engineering Services, Inc.
 Robert C. Tessely
 Colorado Registered Professional Land Surveyor No. 38470

DRAFT

06-09-22

PRELIMINARY - NOT FOR CONSTRUCTION,
 RECORDING PURPOSES OR IMPLEMENTATION

DESCRIPTION OF REZONING PARCEL (SEE NOTE #11):

PARCEL 1:

BEGINNING AT THE EASTERLY CORNER OF LOT 1, FORT COLLINS BUSINESS CENTER, THIRD FILING;
 THENCE ALONG THE LINE OF SAID LOT 1 THE FOLLOWING TWO (2) COURSE AND DISTANCES:
 NORTH 50°01'54" WEST A DISTANCE OF 150.00 FEET;
 THENCE SOUTH 33°06'53" WEST A DISTANCE OF 512.11 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF DUFF DRIVE;
 THENCE NORTH 60°52'44" WEST A DISTANCE OF 863.88 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF LEMAY AVENUE;
 THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES AND DISTANCES:
 NORTH 38°38'49" EAST A DISTANCE OF 386.36 FEET;
 THENCE ALONG THE ARC OF A 1578.00 FOOT RADIUS CURVE TO THE LEFT A DISTANCE OF 176.94 FEET, THE LONG CHORD OF WHICH BEARS NORTH 35° 26' 05" EAST 176.85 FEET;
 THENCE NORTH 40°06'39" EAST A DISTANCE OF 217.06 FEET;
 THENCE ALONG THE ARC OF A 1380.00 FOOT RADIUS CURVE TO THE LEFT A DISTANCE OF 152.69 FEET, THE LONG CHORD OF WHICH BEARS NORTH 29° 33' 51" EAST 152.62 FEET;
 THENCE DEPARTING SAID RIGHT-OF-WAY LINE SOUTH 51°26'39" EAST A DISTANCE OF 566.76 FEET;
 THENCE SOUTH 39°58'06" WEST A DISTANCE OF 279.99 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF LARIMER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 7 AS BEARING NORTH 00° 33' 51" EAST AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;
 COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 7; THENCE ALONG SAID WEST LINE, NORTH 00° 33' 51" EAST, 993.59 FEET; THENCE, SOUTH 89° 26' 09" EAST, 794.24 FEET, SAID POINT ALSO BEING ON THE NORTH LINE OF THAT TRACT OF LAND DESCRIBED AT RECEPTION NO. 20070066749; THENCE ALONG THE NORTH AND WEST LINES OF SAID TRACT THE FOLLOWING 2 COURSES AND DISTANCES: SOUTH 89° 26' 09" EAST, 26.74 FEET; THENCE, SOUTH 00° 33' 51" WEST, 14.55 FEET TO A POINT ON THE WEST LINE OF SAID TRACT; THENCE SOUTH 60° 52' 44" EAST, 100.36 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE NORTHERLY LINE OF THAT TRACT OF LAND DESCRIBED AT RECEPTION NO. 86066341;
 THENCE ALONG THE NORTHERLY AND EASTERLY LINES OF SAID TRACT THE FOLLOWING 4 COURSES AND DISTANCES:
 SOUTH 89° 26' 09" EAST, 115.85 FEET; THENCE, SOUTH 00° 33' 51" WEST, 38.31 FEET; THENCE SOUTH 89° 26' 09" EAST, 294.18 FEET; THENCE, SOUTH 31° 36' 41" WEST, 162.07 FEET; THENCE DEPARTING SAID EASTERLY LINE, NORTH 60° 52' 44" WEST, 371.65 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THE PARCELS CONVEYED IN INSTRUMENT RECORDED MARCH 28, 2016 UNDER RECEPTION NO. 20160018392.

COUNTY OF LARIMER, STATE OF COLORADO.

PARCEL 3:

A TRACT OF LAND BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF LARIMER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 7 AS BEARING NORTH 00° 33' 51" EAST AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;
 COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 7; THENCE ALONG SAID WEST LINE, NORTH 00° 33' 51" EAST, 993.59 FEET; THENCE, SOUTH 89° 26' 09" EAST, 794.24 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO BEING ON THE NORTH LINE OF THAT TRACT OF LAND DESCRIBED AT RECEPTION NO. 20070066749; THENCE ALONG THE NORTH AND WEST LINES OF SAID TRACT THE FOLLOWING 2 COURSES AND DISTANCES: SOUTH 89° 26' 09" EAST, 26.74 FEET; THENCE, SOUTH 00° 33' 51" WEST, 14.55 FEET TO A POINT ON THE WEST LINE OF SAID TRACT; THENCE DEPARTING SAID WEST LINE, NORTH 60° 52' 44" WEST, 30.44 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THE PARCELS CONVEYED IN INSTRUMENT RECORDED MARCH 28, 2016 UNDER RECEPTION NO. 20160018392.

COUNTY OF LARIMER, STATE OF COLORADO.

DESCRIPTION OF ZONING PARCEL REMAINING (SEE NOTE #11):

A TRACT OF LAND SITUATE IN THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, LARIMER COUNTY, COLORADO WHICH CONSIDERING THE WEST LINE OF THE SAID NORTHWEST 1/4 AS BEARING SOUTH 02° 04' 03" WEST AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO IS CONTAINED WITHIN THE BOUNDARY LINES WHICH BEGIN AT A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN RAILROAD WHICH BEARS SOUTH 02° 04' 03" WEST A DISTANCE OF 80.00 FEET, AND AGAIN SOUTH 89° 36' 37" EAST A DISTANCE OF 977.15 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 7 AND RUN THENCE SOUTH 89° 36' 37" EAST A DISTANCE OF 265.85 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE;
 THENCE SOUTH 02° 04' 03" WEST A DISTANCE OF 420.81 FEET;
 THENCE SOUTH 89° 36' 58" EAST A DISTANCE OF 58.51 FEET;
 THENCE SOUTH 50° 01' 54" EAST A DISTANCE OF 914.21 FEET TO THE MOST NORTHERLY CORNER OF FORT COLLINS CENTER - SECOND FILING;
 THENCE ALONG THE BOUNDARY LINE OF SAID SECOND FILING, SOUTH 39° 58' 06" WEST A DISTANCE OF 377.87 FEET;
 THENCE NORTH 51°26'39" WEST A DISTANCE OF 566.76 FEET TO A POINT ON THE PROPOSED EASTERLY LINE OF LEMAY AVENUE;
 THENCE ALONG THE ARC OF A 1380.00 FOOT RADIUS CURVE TO THE LEFT A DISTANCE OF 59.19 FEET, THE LONG CHORD OF WHICH BEARS NORTH 25° 09' 56" EAST 59.19 FEET;
 THENCE NORTH 23°56'36" WEST A DISTANCE OF 89.54 FEET;
 THENCE ALONG THE ARC OF A 1005.00 FOOT RADIUS CURVE TO THE LEFT A DISTANCE OF 439.51 FEET, THE LONG CHORD OF WHICH BEARS SOUTH 25° 24' 54" EAST 436.02 FEET;
 THENCE NORTH 01°07'15" WEST A DISTANCE OF 117.25 FEET;
 THENCE SOUTH 89°36'37" EAST A DISTANCE OF 75.67 FEET
 TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THE PARCELS CONVEYED IN INSTRUMENTS RECORDED OCTOBER 17, 1986 UNDER RECEPTION NO. 86060308, NOVEMBER 13, 1986 UNDER RECEPTION NO. 86066341, MARCH 6, 1988 UNDER RECEPTION NO. 88025752 AND MARCH 28, 2016 UNDER RECEPTION NO. 20160018392.

COUNTY OF LARIMER, STATE OF COLORADO.

NOTICE:
 According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years after the date of the certificate shown herein.

SECTION:	7
TOWNSHIP:	7 N
RANGE:	68 W of the 6th PM

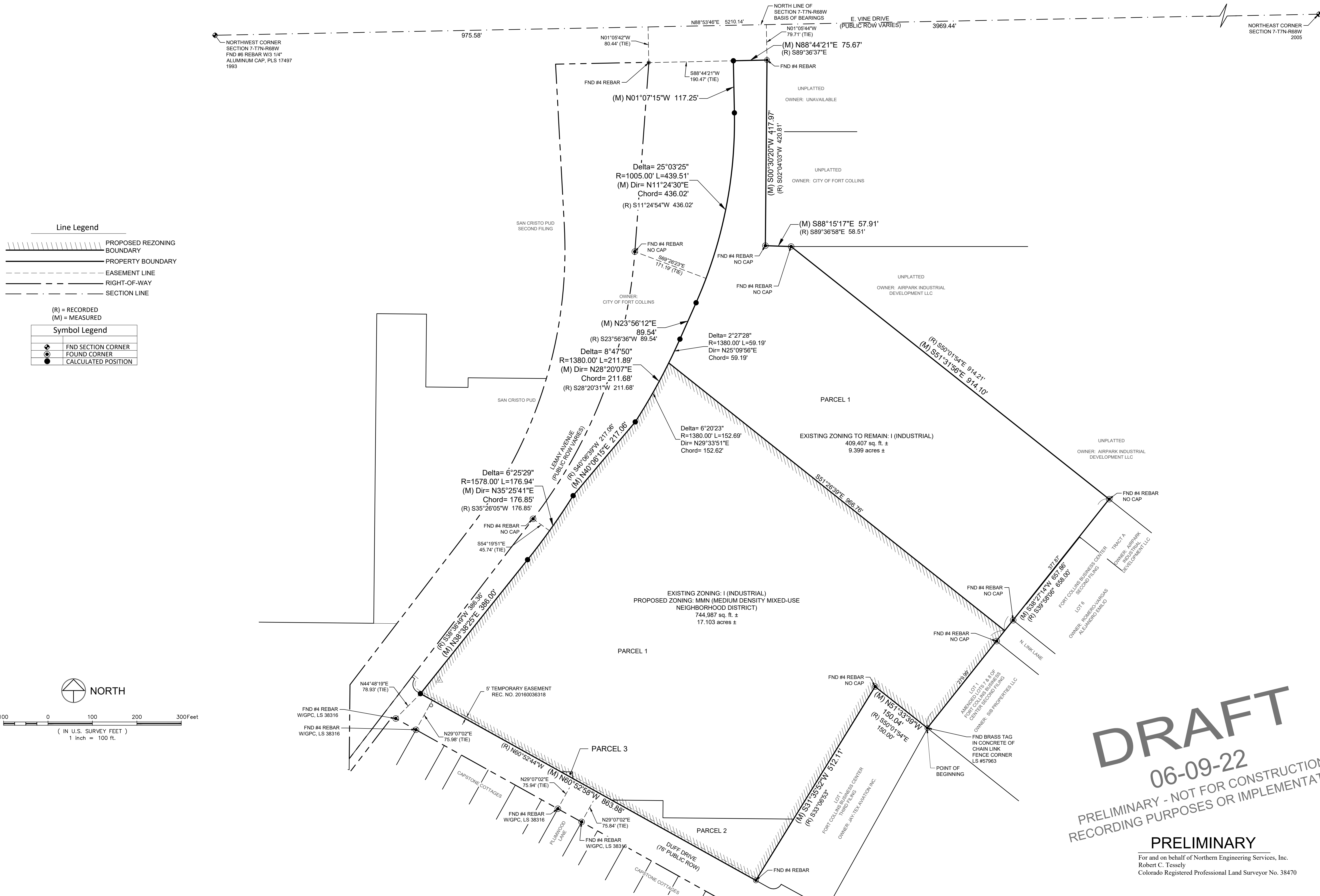
NORTHERN ENGINEERING
 970.231.4158
 northneengineering.com
 FORT COLLINS, 301 North Inland Street, Suite 100, 80521
 GREELEY, 820 8th Street, 80633

PROJECT:	1791-003	DATE:	06/09/22
CLIENT:	Thrift Residential	SCALE:	As Shown
DRAWN BY:	M. Kinnade	REVIEWED BY:	B. Tessely

THE LANDING AT LEMAY REZONE MAP
 CITY OF FORT COLLINS
 LARIMER COUNTY, COLORADO

THE LANDING AT LEMAY REZONE MAP

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH P.M., CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO



DRAFT
 06-09-22
 PRELIMINARY - NOT FOR CONSTRUCTION,
 RECORDING PURPOSES OR IMPLEMENTATION

PRELIMINARY
 For and on behalf of Northern Engineering Services, Inc.
 Robert C. Tesseley
 Colorado Registered Professional Land Surveyor No. 38470

NOTICE:
 According to Colorado law, you must commence any legal action based upon any defect in this survey within three years after you discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years after the date of the certificate shown hereon.

SECTION: 7
 TOWNSHIP: 7 N
 RANGE: 68 W of the 6th PM

NORTHERN ENGINEERING

 FORT COLLINS, CO North Inland Blvd, Suite 100, 80521
 GREELEY, 820 8th Street, 80633
 970.221.4158
 northernengineering.com

DATE: 06/09/22
 PROJECT: 1791-003
 CLIENT: Thompson Thrift Residential
 SCALE: 1" = 100'
 DRAWN BY: M. Kinnade
 REVIEWED BY: B. Tesseley

THE LANDING AT LEMAY REZONE MAP
 CITY OF FORT COLLINS
 LARIMER COUNTY, COLORADO

Sheet
2
 Of 2 Sheets

DRAWING FILENAME: S:\Survey\Job\1791-003\Draw\Map\1791-003 Rezone Map.dwg LAYOUT NAME: Sheet 2 DATE: Jun 10, 2022 - 2:13pm CAD OPERATOR: rha
 LIST OF XREFS:]

TYPES

Districts

- Downtown District
- Urban Mixed-Use District
- Suburban Mixed-Use District
- Neighborhood Mixed-Use District
- Mixed Employment District
- Research & Development/Flex District
- Industrial District
- Campus District

Other

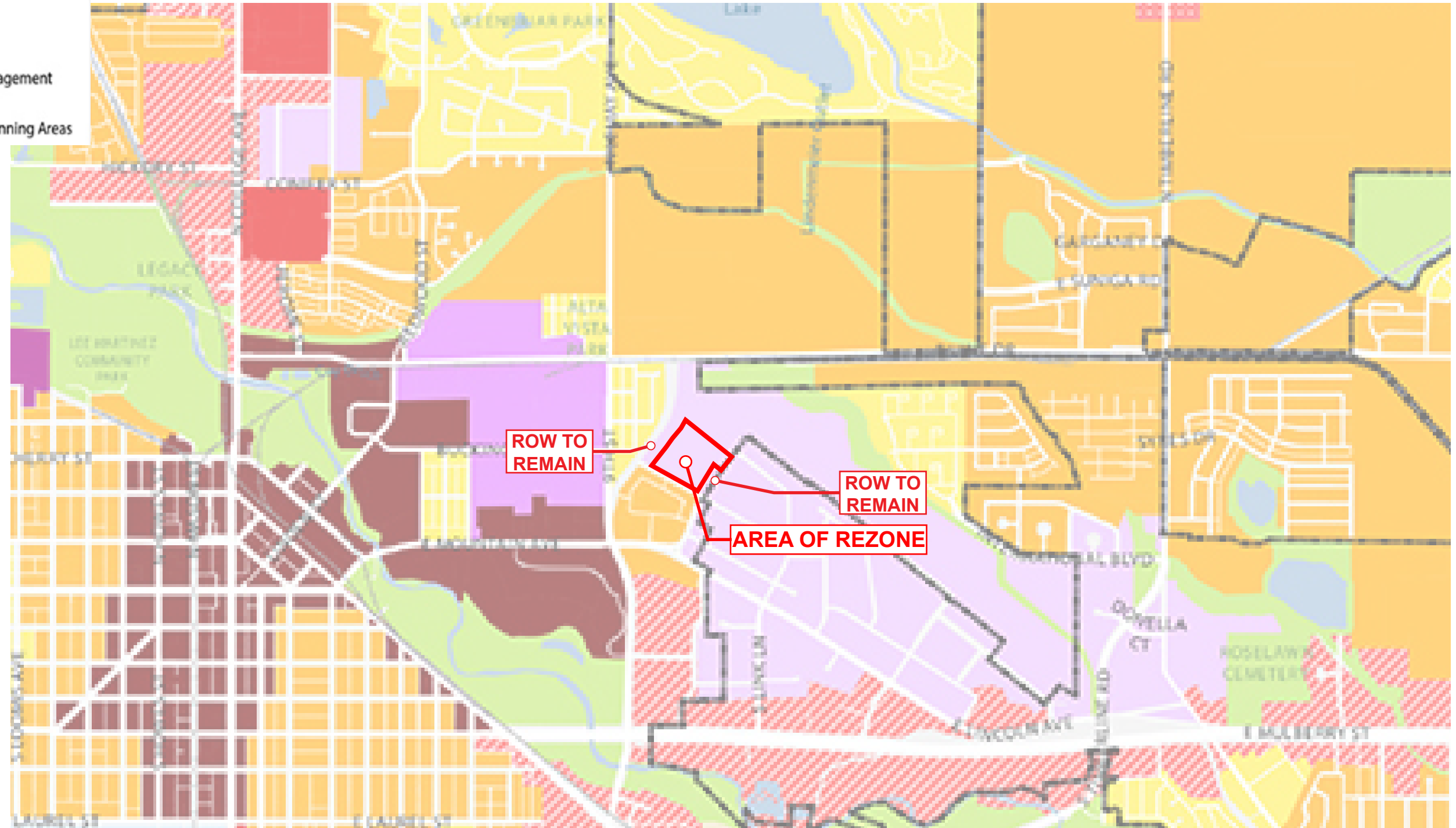
- Parks and Natural/Protected Lands
- Community Separator

Neighborhoods

- Rural Neighborhood
- Suburban Neighborhood
- Mixed Neighborhood

BOUNDARIES

- City Limits
- Growth Management Area (GMA)
- Adjacent Planning Areas



Industrial Land Use, Forecasts, and Absorption in Fort Collins

Prepared for:
Watermark Development

Submitted by:
Summit Economics

October 5, 2021



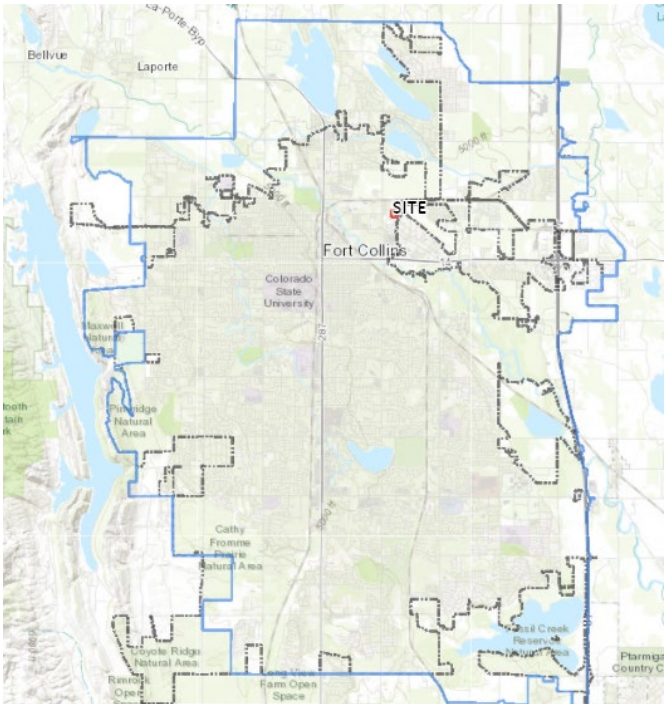
Research Scope

- 1. Review the most recent Fort Collins Comprehensive Plan to better understand Fort Collins’ industrial land development needs and goals.
- 2. Obtain and analyze data from Larimer County Assessor Office to determine industrial land absorption rates, with the focus being since 2000, in terms of acres and square feet of improvements.

Overview

The proposed site for the Watermark North Lemay multifamily site is located in a northeast Fort Collins transition zone influenced by the Cache la Poudre River and its natural areas to the west, agricultural lands to the northeast, legacy industrial land use to the west and southeast, Poudre Valley Hospital to the south, and Old Town Downtown to the west southwest. The site is close to the city border with the county and the Growth Management Area (GMA). This area can best be described as a hodgepodge of land uses.

A closer view within roughly half to three quarters of a mile of the site shows land use dominated by a combination of big box, small independent industrial, large-scale brewing, newer higher density residential, and rural residential and agricultural lands. The old airport runway areas to the east are zoned as an employment center and the agricultural lands to the north and northeast are zoned for low and moderate density mixed use. Just to the east of the site, in the neighboring smaller unit industrial area, is the Fort Collins Creator Hub.



A cursory review of land that appears vacant and zoned industrial shows that within Fort Collins and a mile from the site there are approximately 50 acres, plus an approximate 135 acres Employment Zone on the abandoned airport runway. In total this equates to 185 acres available for industrial/light industrial within the city, near the proposed development site.

Outside the city, within the county GMA and within roughly a mile of the site are another 120 acres zoned industrial under Larimer County’s zoning.

Key Findings from the Fort Collins City Plan

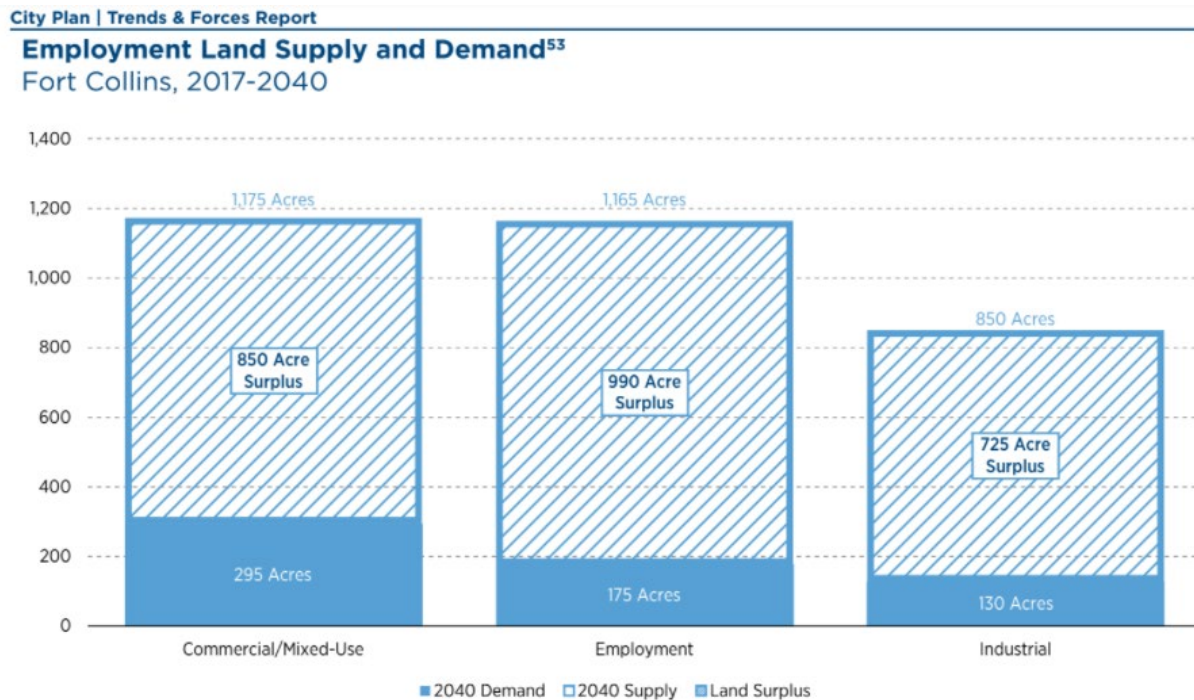
The “Fort Collins City Plan: Trends and Forces Report”, looked deeply into both “Buildout and Land Supply” and “Housing Access” for the City looking forward to 2040.

The diminishing amount of vacant land within Fort Collins is obviously a point of concern for the city. The City Plan warns, “vacant buildable land within Fort Collins and its GMA is becoming increasingly scarce” and it is forecasted that the city will “exhaust its supply of vacant land by 2040.” To deal with this issue, the city has “promoted a compact development pattern by encouraging higher densities in infill and redevelopment areas.”

The most pressing concern of the city’s development plans appears to revolve around this shrinking amount of vacant and buildable land and meeting future housing needs. In a stark observation the City Plan states, “The supply of land is not sufficient to meet our future housing needs”, and adds, “a forecast of future housing needs indicates that demand for housing will exceed the city’s capacity by around 2,000 units by 2040.”

Given the concerns of the City regarding providing sufficient residential space for its growing population, and the projection that demand will exceed capacity prior to 2040, the following chart illustrates from where the additional residential development will need to come. The only other available vacant land is slated for either “Commercial/Mixed-Use”, “Employment”, or “Industrial”.

The graphic below, taken from the City Plan, shows the total vacant land by use-type available today (on top of the box), the amount projected to be developed by 2040 (in the blue at the bottom), and the amount that is projected to still be vacant (i.e. “Surplus” come 2040 (amount in the center).

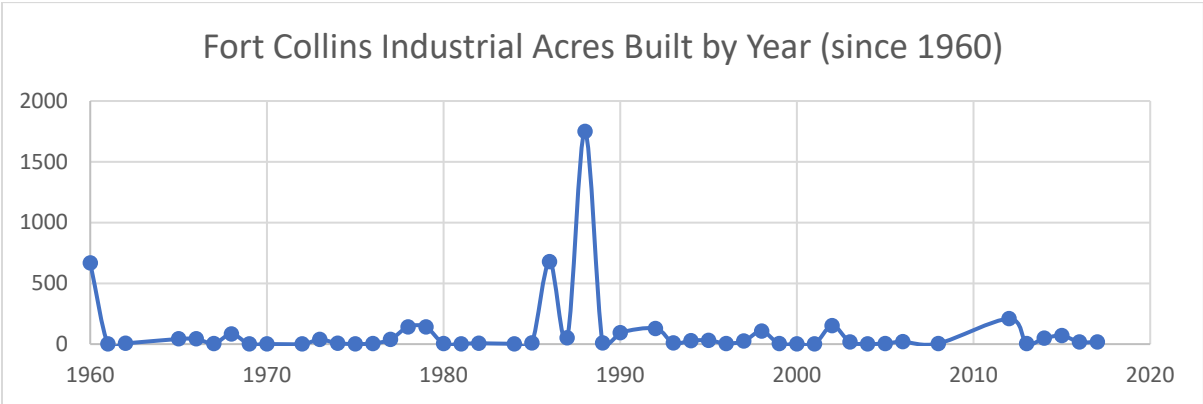


As can be seen, despite projecting that the land currently set aside for residential development will be exhausted by 2040, there is projected to be a “Surplus” of vacant land set aside for these other three categories, which includes industrial. Any additional residential development will need to come from one of the other areas.

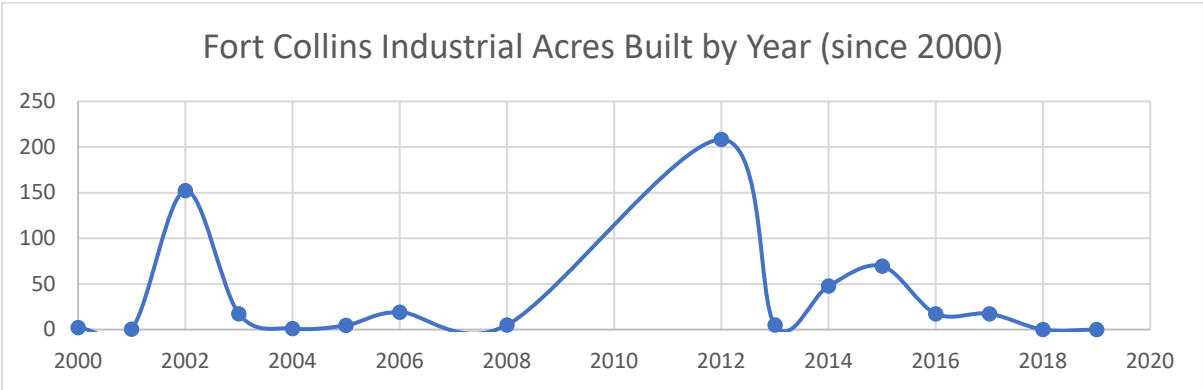
It is of interest that so much vacant land is set aside for industrial development. Currently, industrial land only accounts for 3% of land use in Fort Collins. However, 12% of current vacant land has this designation.

Fort Collins Industrial Land Absorption since 2000

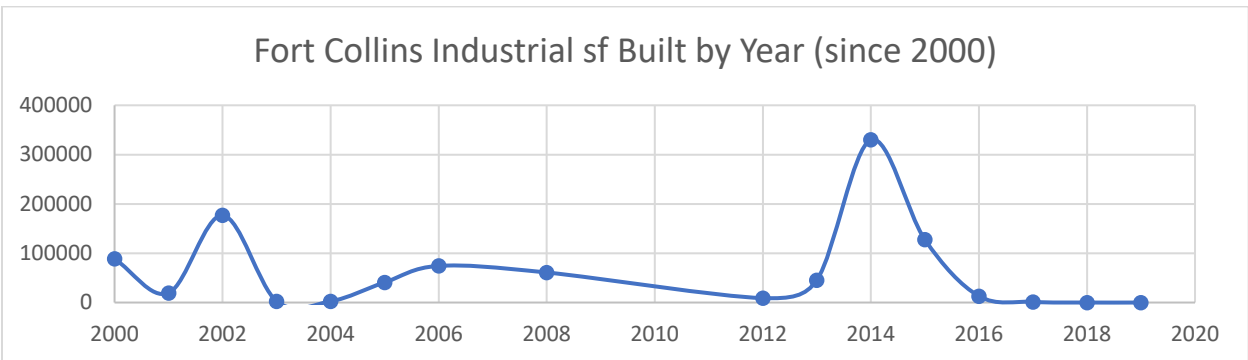
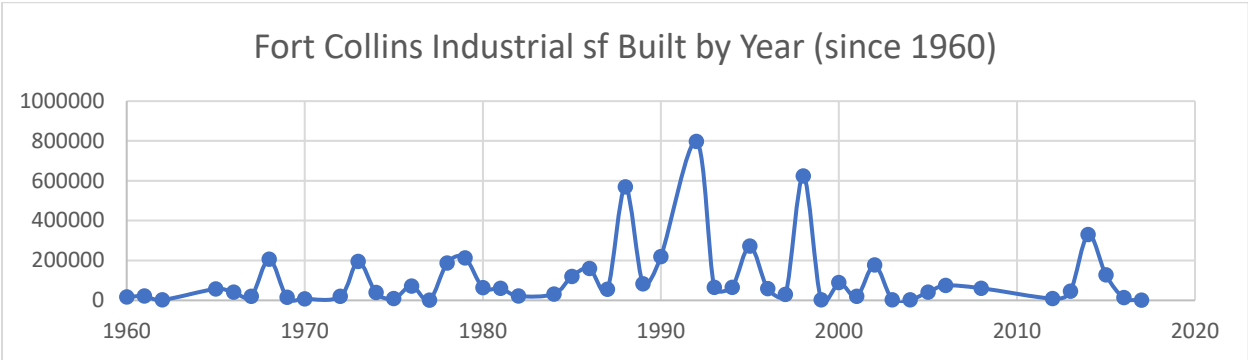
Reviewing data on all of the parcels in Fort Collins, from the Larimer County Assessor’s Office, we see that industrial construction has been minimal in Fort Collins since seeing a boom in the late 1980s (see chart below). Industrial construction peaked at 1750 acres of development in 1988, but has since dropped below even pre-1980s levels, despite the significant growth in population in the City and area.



Between 1960 and 1980, the City saw an average of 72 acres of industrial development per year. Then, during the 1980 – 2000 years, this number increased to over 160 acres annually. However, since 2000, the number has dropped to only 35 acres, on average, per year of industrial development.



Development by square-footage presents a similar story. From 1960 to 1980, 66,093 square feet of industrial space was built, on average, annually. This spiked to over 126,000 sf between 1980 and 2000, before dropping to 62,038 sf between 2000 and 2020, and even further to 52,654 sf since 2010.



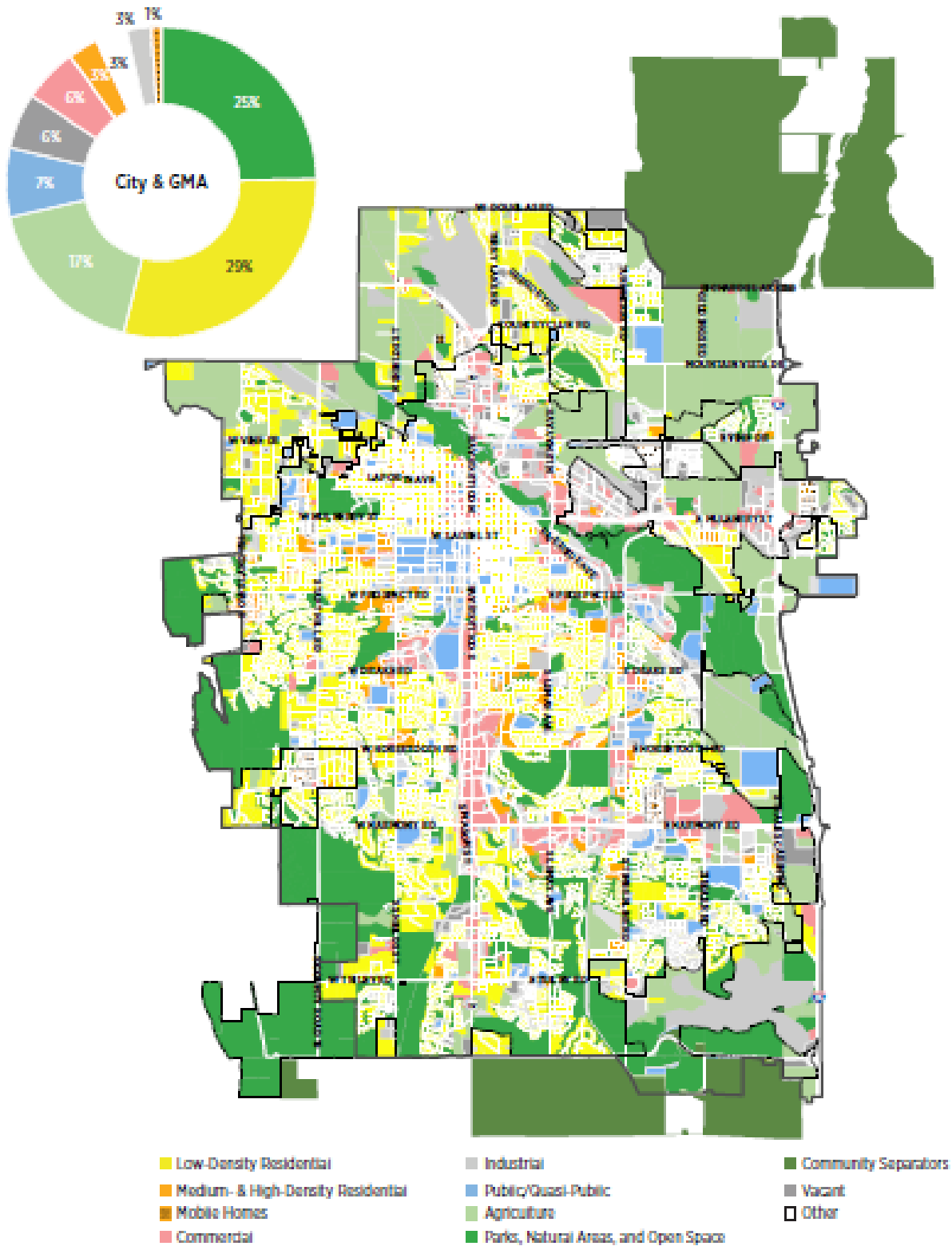
What we see is a significant decrease in the development of industrial space in Fort Collins since the late 1980s and early 1990s, despite a significant growth in population since that time (165,000 in 2020 and 87,000 in 1990).

Conclusion

There appears to be ample acreage, both in the immediate area as well as in Fort Collins, if an industrial facility desired to locate in the northeast area of Fort Collins, with good availability on multiple sites in the City and the GMA within one mile of the proposed development site. This, combined with the overall decrease in industrial development in the City and the diminishing availability of residential land, would indicate that this property would likely better serve the city as a residential development site than an industrial one. By developing the proposed site into multifamily residential housing close to numerous employment opportunities, healthcare, outdoor recreation, big box retail, and downtown Fort Collins, well-located residential requiring less travel on average would be created. This potentially supports multi-modal transportation and sustainability objectives. The proposed multifamily use appears to be a unique, desirable, and feasible opportunity for Fort Collins to generate residential development on an infill basis.

Appendix A: Current Land Use in Fort Collins and the GMA

Existing Land Use²⁵ Fort Collins & Growth Management Area, 2017



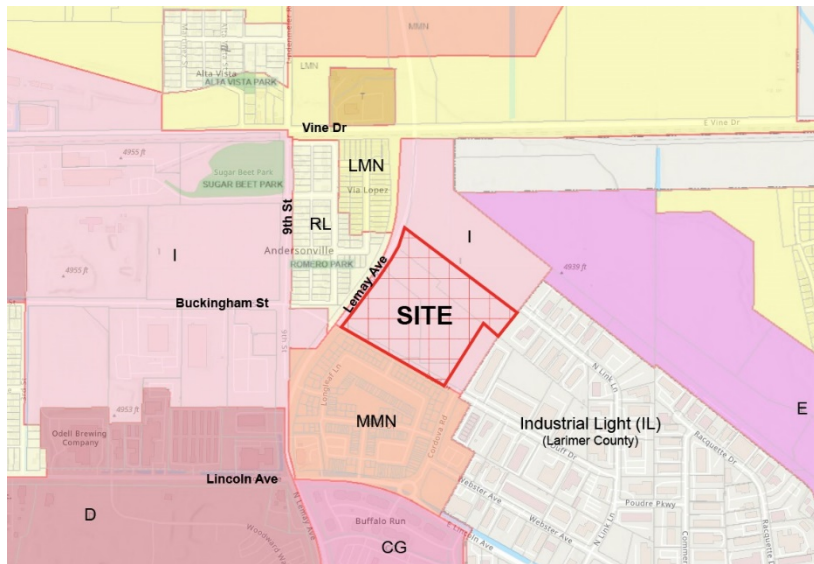
Planning and Zoning Commission Hearing: December 15, 2022

The Landing at Lemay Rezone & Structure Plan Map Amendment, #REZ220001

Summary of Request

This is a request to amend the Structure Plan Map and rezone 17.1 acres from the Industrial (I) zone district to the Medium Density Mixed-Use Neighborhood (MMN) zone district. If approved, the rezoning is likely to facilitate a future proposal for a multifamily development project.

Zoning Map



Next Steps

After receiving a recommendation from the Planning and Zoning Commission, the proposed Structure Plan amendment and rezoning will be presented to City Council for consideration of approval via ordinance.

Site Location

Located east of the intersection of Lemay Avenue and Duff Drive.

Petitioner

Thompson Thrift Residential
111 Monument Circle, Suite 1500
Indianapolis, IN 46204

Owners

John James & Marlena Niforos,
Representatives of the Tonia Niforos Estate
705 14th Street SE 303
Loveland, CO 80537

Staff

Ryan Mounce, City Planner

Contents

1. Project Introduction	2
2. Public Outreach	5
3. Land Use Code Article 2 Procedural Standards	5
4. Land Use Code Article 2 Standards	6
5. Findings of Fact/Conclusion	11
6. Recommendation	11
7. Attachments	12

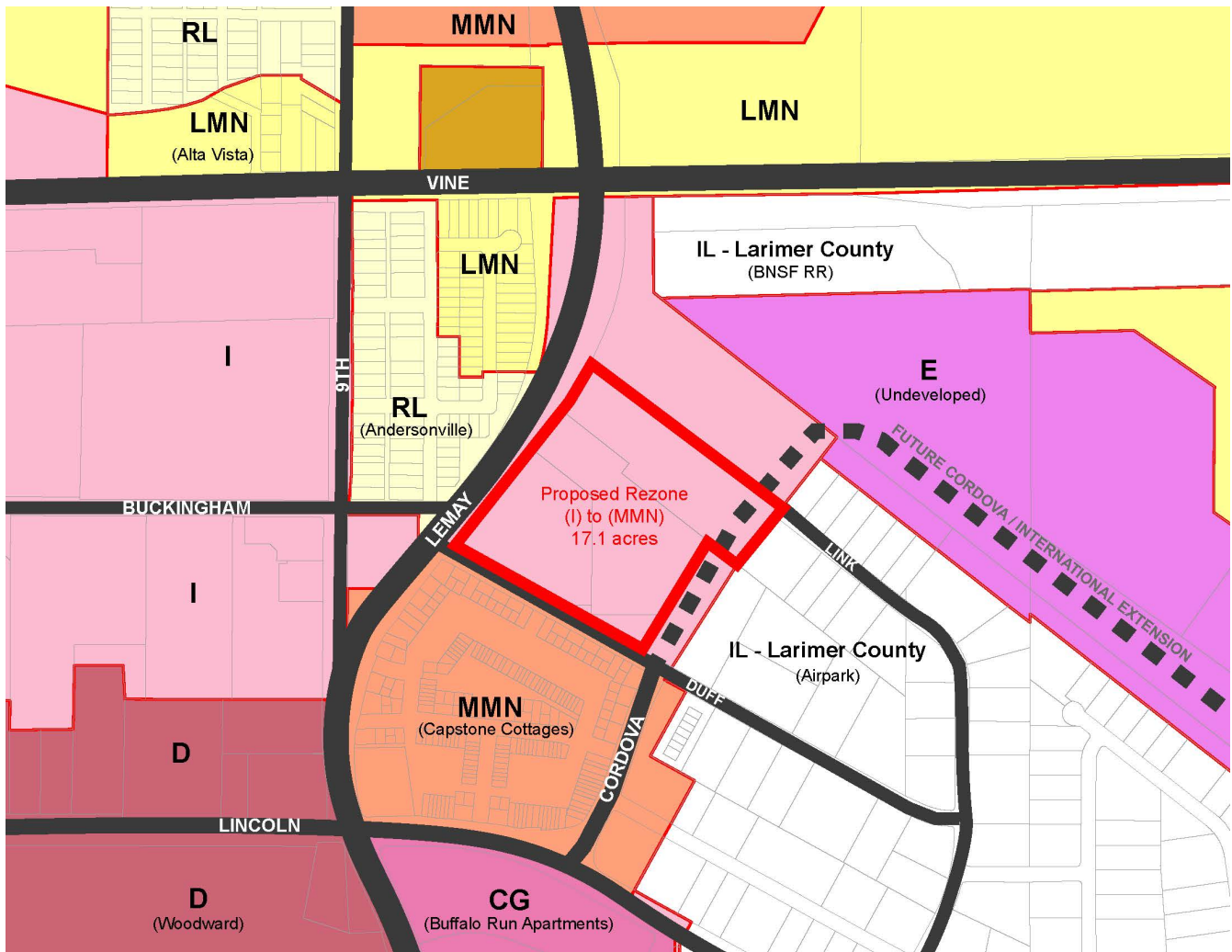
Recommendation

Approval with conditions

1. Project Introduction

A. PROJECT DESCRIPTION

The petitioners are requesting an amendment to the Structure Plan and Zoning Maps for a proposed 17.1-acre rezoning from the Industrial (I) zone district to the Medium Density Mixed-Use Neighborhood (MMN) zone district. The petitioners control approximately 26 acres of undeveloped land north of Cordova Road and Duff Drive and propose rezoning approximately the southern two-thirds of land to (MMN), which would permit consideration for a future multifamily residential project. The remaining 8.9 acres of land would remain under (I) zoning.



Site & Zoning Vicinity Map

B. BACKGROUND & CONTEXT

The site was originally annexed in 1986 as part of the larger Fort Collins Business Center Annexation. Under the zoning designations at the time, the site was zoned Light Industrial (IL), conditioned upon the property being developed as a planned unit development.

While development was contemplated for the site at various points, even leading to the recording of certain annexation and development agreements, the site remains vacant and undeveloped. Many of the obligations originally agreed upon in these prior agreements relate to right-of-way dedication and roadway construction when the property was to be developed, and have either been fulfilled by adjacent surrounding development, or superseded by changes to the City’s transportation network planning in the vicinity. In particular, some of the original street connections to Lemay Avenue are no longer possible now that the Lemay right-of-way has been realigned and the grade builds in height towards the overpass over Vine Drive.

Since annexation, the zoning for the site has remained under Industrial designations. Both the existing City Plan Structure Plan Map, as well as the 2002 East Mulberry Corridor Plan guide for Industrial land-uses. The City is currently working on updates to the East Mulberry Corridor Plan and if a rezoning is approved by City Council, staff will incorporate those changes into a new land use framework map for the East Mulberry Corridor planning effort.

1. Surrounding Zoning and Land Use

	North	South	East	West
Zoning	Industrial (I), Employment (E), Industrial Light (IL – Larimer County)	Medium Density Mixed-Use Neighborhood (MMN)	Industrial Light (IL – Larimer County)	Low Density Residential (RL), Low Density Mixed-Use Neighborhood (LMN)
Land Uses	Undeveloped land, Burlington Northern Santa Fe railroad yard	Single-unit attached, and duplex dwellings	Various industrial and custom industry / workshop uses	Single-unit dwellings, Institutional (Place of Worship, Museo de las Tres Colonias)

Beyond adjacent land-uses, a prominent characteristic of the site is its isolation due to nearby edges and barriers which limit connectivity from several directions:

- North of the site, the Burlington Northern Santa Fe railroad tracks and switching yard prevent street connectivity from Vine Drive.
- North and west of the site features the re-aligned Lemay Avenue as it curves and increases in height, building towards the overpass over Vine Drive. While the site has frontage along Lemay Avenue, visibility and direct access is limited due to mismatched grades.
- Following future development, the site’s eastern edge will be defined by an extension of Cordova Road, a collector street that is intended to curve 90 degrees northeast of the site and travel parallel to the old runways of the Fort Collins Airpark and connect with International Drive and Timberline Road. Given the older local streets of the airpark to the east and the much wider right-of-way of newer collector street standards, Cordova Road will create a defined edge between development on either side.

C. OVERVIEW OF MAIN CONSIDERATIONS

Five criteria govern the review and findings on rezonings. They can be paraphrased as ‘consistent with the comprehensive plan’; ‘warranted by changed conditions’; ‘compatible with surrounding uses’; ‘impacts to the natural environment’; and ‘a logical and orderly development pattern’.

These criteria are explained and evaluated in detail within the staff analysis section of this report. Staff finds that the collective rezoning criteria are either neutral or validate a rezoning request, with the most pertinent criteria relating to changed conditions. Policy support in the comprehensive plan and subarea plans support options both for a rezoning or continuing under the present Industrial (I) district designation.

Within City Plan, the community’s comprehensive plan, as well as the existing 2002 East Mulberry Corridor Plan, one can find multiple policies supporting both the importance of protecting and monitoring Fort Collins’ employment and industrial land supply, as well as a desire to support additional opportunities and housing capacity. These housing goals were reinforced more recently with the adoption of the Housing Strategic Plan. Staff’s evaluation details the tension between these policy goals in greater detail within the staff report as they relate to the proposed rezoning.

Changed conditions and a logical and orderly development pattern that would result from rezoning are staff’s primary evaluation areas supporting a potential rezoning. These are based on significant changes to infrastructure and connectivity surrounding the site, as well as a reduction in industrial land in the vicinity since the site was originally annexed and zoned 36 years ago.

The site’s most proximate land-uses are residential and industrial users. However, given a future collector street will form a boundary between the site and existing industrial development, there is an opportunity to expand a logical buffer separating residential and industrial land uses.

Finally, at the neighborhood meeting, common questions and concerns were raised about traffic with future (MMN) multifamily development, building height, impacts to wildlife using the property, water availability and efficiency, as well as a desire for better trail connections, different types of housing, and opportunities for more amenities such as retail or restaurants. Many of these concerns relate to any future development of the site, but several in particular related to building height, traffic, water availability, and opportunity for amenities can also be evaluated through the lens of potential outcomes under (I) versus (MMN) zoning designations.

2. Public Outreach

A. NEIGHBORHOOD MEETING

A neighborhood meeting for the rezoning was held October 2021 and a meeting summary is attached. The applicant's presentation focused on the proposed rezoning of the property from (I) to (MMN) zoning, and if approved, plans for a future three-story multifamily residential project. Other elements of the applicant presentation included highlighting opportunities and constraints of the property, such as proximity to Downtown and employment areas, as well as the site being located in a floodplain which will require mitigation measures for any future development of the property.

As previously noted, traffic, height impacts of future development, effects on wildlife, and water availability were primary concerns raised by meeting participants, along with suggestions to focus on trails and multimodal connectivity and a desire for different types of housing and retail or restaurants.

B. PUBLIC COMMENTS:

No public comments have been received.

3. Land Use Code Article 2 Procedural Standards

A. PROCEDURAL OVERVIEW

1. Preliminary Design Review - PDR190012

A preliminary design review meeting was held on August 11, 2021.

2. Petition – REZ220001

The rezoning petition and Structure Plan Map amendment was received on February 22, 2022.

3. Neighborhood Meeting

A virtual neighborhood meeting was held on October 4, 2021, via Zoom.

4. Notice (Posted, Written and Published)

Posted Notice: February 25, 2022, Sign # 710

Written Hearing Notice: December 1, 2022, 391 addresses mailed.

Published Hearing Notice: December 4, 2022

4. Land Use Code Article 2 Standards

A. DIVISION 2.9 – AMENDMENT TO ZONING MAP

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
<p>2.9.4 – Map Amendment Review Procedures</p>	<p>This Code Section enables City Council to approve a change to the zoning map after receiving a recommendation from the Planning and Zoning Commission; and contains the applicable standards governing rezoning of property, as follows:</p> <p>Any amendment to the Zoning Map involving the rezoning of land shall be recommended for approval by the Planning and Zoning Commission or approved by the City Council only if the proposed amendment is:</p> <ul style="list-style-type: none"> • Consistent with the City’s Comprehensive Plan; and/or • Warranted by changed conditions within the neighborhood surrounding and including the subject property. <p>Additional considerations for rezoning parcels less than 640 acres (quasi-judicial):</p> <ul style="list-style-type: none"> • Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zone district for the land. • Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment. • Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern. <p>Petitioners’ Justification: The petitioners’ justification is attached and addresses these criteria in detail.</p> <p>Staff Analysis: Staff analysis follows, for each of these criteria.</p>	<p>Complies</p>
<p>Staff Analysis: Is the proposed rezoning “Consistent with the City’s Comprehensive Plan”?</p>	<p>Consistency with City Plan, Fort Collins’ comprehensive plan, can come through both the land use guidance provided by the Structure Plan Map and City Plan principles and policies. City Plan also encourages the review of more specific subarea plans, adopted as elements of City Plan. For this site, the 2002 East Mulberry Corridor Plan is relevant for additional context and guidance.</p> <p>City Plan & East Mulberry Corridor Plan – Land Use Framework:</p> <p>The existing City Plan Structure Plan Map identifies the site as part of the Industrial Place Type, consistent with its established industrial zoning. This industrial designation is also represented in the Land Use Framework Map of the 2002 East Mulberry Corridor Plan. These land use designations are not consistent with the proposed MMN zoning, and a Structure Plan Amendment is required alongside a rezoning to create the necessary alignment between site zoning and the land use guidance provided in these policy documents.</p> <p>Staff is mid-process with an update to the East Mulberry Corridor Plan. If the proposed Structure Plan Map amendment and rezoning are approved by City Council, staff intends to reflect those changes in the upcoming Plan update.</p> <p>City Plan & East Mulberry Corridor Plan – Policies</p> <p>City Plan and East Mulberry Corridor Plan policies present a tension between a handful of policies that seek both to ensure the success and preservation of the community’s industrial and employment land supply, as well as policies seeking to</p>	<p>Complies</p>

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
	<p>maximize housing opportunities and the efficient use of land for housing located along transit and near employment and services.</p> <p>Relevant City Plan policies:</p> <ul style="list-style-type: none"> ▪ <i>Principle EH 4: Ensure that an adequate and competitive supply of space and/or land is available to support the needs of businesses and employers of all sizes.</i> ▪ <i>Policy LIV 5.1: To enhance community health and livability, encourage a variety of housing types and densities, including mixed-use developments that are well served by public transportation and close to employment centers, shopping, services, and amenities.</i> <p>The East Mulberry Corridor Plan also includes policies addressing both additional housing opportunities and retention/expansion of industrial space and businesses within the Mulberry corridor:</p> <ul style="list-style-type: none"> ▪ <i>Principle EMC.LU-4: The East Mulberry Corridor study area supports the retention of existing industrial and agricultural business uses and their future expansion.</i> ▪ <i>Policy EMC.LU – 4.1: Existing and future industrial uses will be supported and focused along I-25 frontage and around the Fort Collins Downtown Airport area.</i> ▪ <i>Policy EMC.H-1.1: A variety of housing types will be developed within new neighborhoods and located close to neighborhood shopping, employment, and recreation.</i> <p>These sets of policies could be used to support either the existing industrial designation of the property to ensure a long-term supply of land available for industrial development, or for a residential rezoning given the site’s proximity to transit along Lincoln Avenue and major employment and neighborhood retail in the nearby airpark, Lemay Crossing Shopping Center, and Downtown.</p> <p>Staff’s evaluation finds while there is sufficient compliance with City Plan policies to consider the residential rezoning, the weight of the other rezoning criteria may be of particular importance in evaluating the request given the tension between the provided policy guidance.</p>	
<p>Staff Analysis: Is the proposed rezoning “Consistent with the City’s Comprehensive Plan”?</p> <p>- Conclusion and Conditions</p>	<p>Conclusion and Recommended Conditions:</p> <p>As noted, staff’s analysis finds support through City Plan and the East Mulberry Corridor Plan policies to find compliance with the comprehensive plan. Alongside this compliance comes the opportunity cost of simply continuing the current industrial designation, which is also supported by City Plan policies.</p> <p>In an effort to respond to several concerns and ideas raised at the neighborhood meeting and to broaden City Plan policy support for the rezoning, staff discussed with the applicants providing additional public benefits as part of this proposal that relate to other City Plan policies and priorities.</p> <p>The framework and enforcement for the following conditions is based on the City’s recently adopted Residential Metro District points evaluation system (attached), approved by Council in 2021, anticipating extraordinary public benefits when a residential metropolitan district is sought. The Residential Metro District Policy is organized around a matrix of priorities for housing, efficiency, and livability measures</p>	

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
	<p>aligned towards City Plan policies. Each category provides a number of different options for a project to achieve enough points to demonstrate compliance with the overall intent of that category.</p> <p><i>Recommended Condition #1:</i></p> <p><i>Residential development within the boundaries of The Landing at Lemay Rezoning shall achieve 15 combined points from the Energy, Renewables, and Water Sub-Categories of the 2021 Residential Metro District Points System.</i></p> <p>This recommendation aligns with City Plan policies encouraging water efficiency and reducing water use in new developments, which was echoed by participants at the neighborhood meeting.</p> <p><i>Recommended Condition #2:</i></p> <p><i>Residential development within the boundaries of The Landing at Lemay Rezoning shall achieve 5 combined points from the Neighborhood Livability Category of the 2021 Residential Metro District Points System.</i></p> <p>The neighborhood livability category provides options for bike and pedestrian amenities beyond Land Use Code standards, additional off-site trail connections, and providing neighborhood services and enhanced gathering spaces. Not only do these align with multiple City Plan policies, but these types of amenities (trail connections, neighborhood amenities/restaurants) were also mentioned by participants at the neighborhood meeting as desirable for the area. Staff has heard similar sentiments during engagement events for the East Mulberry Corridor Plan update, and additional neighborhood-serving amenities is likely to remain a focus within the forthcoming plan update.</p>	
<p>Staff Analysis: Is the proposed rezoning “Warranted by Changed Conditions Within the Neighborhood Surrounding and Including the Subject Property”?</p>	<p>The site’s current industrial designation (and equivalent designations under prior zoning) date to the property’s annexation in the mid-1980s. The site was located in the middle of a larger geographic area of industrial zoning split between the City and Larimer County. To the south and west included other undeveloped or partially developed industrial land along Lincoln Avenue and Buckingham Street and to the east is the established airpark in Larimer County, featuring smaller-scale workshop and custom small industry businesses.</p> <p>Over the three decades since annexation and zoning, the vicinity has seen both physical, adjacent zoning, and market-based changes that have altered the suitability for certain types of industrial uses.</p> <p>Visibility & Connectivity</p> <p>Following annexation and zoning, early plans for the site included the possibility of a larger industrial planned unit development and older annexation agreements from the 1980s indicated future local streets would be constructed through the site and intersect with Lemay Avenue. With the realignment of Lemay Avenue and the new overpass over Vine Drive, the site no longer has opportunity for direct arterial street access and features reduced visibility due to the rising grade of the overpass, especially at the site’s northwestern boundary. Visibility and street connectivity from the north is also limited by the BNSF railroad yard.</p> <p>For certain types of industrial development such as logistics and warehousing, these visibility and accessibility impacts may reduce the suitability of the site for this type of industrial development. The City Plan Employment Land Demand Analysis, attached, weighs visibility and direct arterial and highway accessibility as some of the most important factors for industrial and employment development suitability.</p>	<p>Yes</p>

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
	<p>Changes in Adjacent Zoning</p> <p>There have also been prominent reductions in the amount of industrially zoned land around the project site. In 2015, the property to the southwest was rezoned from (I) to (MMN) and now features a residential project (Capstone Cottages) with attached and duplex housing. Combined with the Andersonville and San Cristo neighborhood to the northwest, the site now abuts residential zoning more so than industrial zoning.</p> <p>Part of the rationale for the Capstone Cottages rezoning was that the former Link-N-Greens golf course was rezoned from Public Open Lands (POL) to what is now the Downtown (D) zone district to accommodate the new Woodward headquarters. This resulted in a large net increase in employment in the vicinity, even factoring in the loss of industrial land as a result of the Capstone Cottages and this proposed rezoning.</p> <p>West of the site along Lincoln Avenue, former industrially zoned properties were also recently included in a new sub-district of the Downtown (D) zone, recognizing the growing shift in this area’s activity from traditional industrial developments such as supply yards, manufacturing, and outdoor storage, to an area increasingly focused on services and retail/tourism activities anchored by breweries.</p> <p>Given these rezonings and shifts in prior industrial activities, the site is now on the edge of an industrial area rather than being within the middle of a broader industrial district as it was in the 1980s when the site was originally annexed and zoned.</p> <p>Market Dynamics / Industrial Development Demand & Available Sites</p> <p>With policy direction in City Plan encouraging a long-term adequate supply of industrial and employment land, staff also requested updated market and industrial development history information from the applicants. Summit Economics, hired by the applicant team, provided information that since 2000 the average annual industrial development square footage built per year in Fort Collins is approximately 55,000 square feet. While larger spikes of industrial demand were observed in the 1980s and 1990s, the last several decades have observed flat or even slightly decreasing industrial demand and development in Fort Collins even as the population has continued to grow.</p> <p>If these trends persist, Fort Collins should have ample industrial land available for new development through 2040 and beyond. The most recent 2018 City Plan Trends and Forces Report, attached, provided an estimate of 850 acres of remaining vacant industrial land in the community. Assuming a 20% floor area ratio for new industrial development, approximately seven acres of industrial land is needed each year to meet recent average annual industrial demand. This does not account for additional space achieved through redevelopment and intensification of existing sites, or development of industrial space and activities in other commercial zone districts which permit similar activities and land uses, such as custom small industry spaces.</p> <p>While overall available space and land needs may be met, the quality and suitability of the land is also an important factor. Larger sites with high visibility and highway access are particularly suitable for logistics/warehousing and industrial flex space and have been some of the most popular recent forms of new industrial development regionally/nationally. However, the inventory of sites in Fort Collins meeting the aforementioned criteria remain largely undeveloped. For example, large areas of industrial zoned properties located along I-25 between Mulberry Street and Mountain Vista Drive remain undeveloped.</p> <p>The City Plan Trends and Forces report documents the growing popularity of this style of industrial development with large warehouse space in back and office/workshop/retail activities located up front in multi-tenant spaces. In recent years, large new industrial flex developments have been constructed regionally in Loveland near I-25 and Crossroads Boulevard and in Johnstown east of I-25 and US34. Fort</p>	

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
	<p>Collins has also seen several examples of this development in the Harmony Technology Park and the under construction Mulberry Connection development near I-25 and Mulberry.</p> <p>Summary</p> <p>Since the original annexation and zoning of the site, adjacent infrastructure and zoning changes have eroded what was once planned as a larger and more cohesive industrial area. Due to rezonings and the reorientation of preexisting industrial land toward services, retail, and tourism-based activity, the site now sits at the edge of an industrial area rather than in the middle. Changes in visibility and access due to the construction of the Lemay Overpass may make the site less suitable for certain types of industrial development, while demand for industrial space in Fort Collins over the past several decades has been flat or slightly decreasing.</p> <p>Given the suitability characteristics of the site, demand trends, and the remaining inventory of industrial land in the community in more favorable locations, staff feels the City’s overall industrial land inventory for the future remains intact if the proposed rezoning is approved.</p>	
<p>Staff Analysis: “... Compatible with Existing and Proposed Uses... and is the Appropriate Zone District for the Land”</p>	<p>As previously discussed, the site now sits on an edge between two different types of land-uses and zoning: residential from the southwest to northwest, and industrial from the northeast to southeast. Given this edge condition, compatibility to adjacent land-uses could be argued both for the existing industrial designation or to a residential alignment. Already the site vicinity features multiple instances of either (MMN) zoning and development near (RL) and (LMN) zoning or (I) zoning near these three residential zone districts. The extension of Cordova Drive as the future eastern edge of the site also presents the opportunity for a slightly larger industrial-residential buffer due to an expanded collector-street right-of-way from the industrial to the east.</p> <p>Other qualitative compatibility factors related to intensity or possible nuisance and quality-of-life issues are difficult to evaluate, especially for the industrial district which permits a large variety of land-uses and has more potential for direct visual or noise impacts given relaxed standards for industrial businesses to utilize outdoor storage, heavy machinery and/or the presence of larger vehicles. Alternatively, a large multifamily proposal under (MMN) zoning may be considered a more intensive use of the land from a traffic or building height perspective when compared to some of the other nearby industrial development analogs in the nearby airpark.</p> <p>Ultimately, either land use would be expected to mitigate potential issues through Land Use Code compatibility and buffer standards when a specific development is proposed. In regard to impacts northwest of the site and the lower intensity residential uses in the (RL) and (LMN) zones, impacts may be partially moderated due to the visual and distance buffer provided by the overpass over Vine Drive and serve to improve compatibility whether the site remains (I) or is rezoned to (MMN).</p> <p>More compelling for a residential zoning of the site and discussed in greater detail under a logical and orderly development pattern section below, is the nearby presence of shopping/services, employment, and transit which provide amenities for MMN-style development.</p>	<p>Yes</p>
<p>Staff Analysis: “...Adverse Impacts on the Natural Environment...”</p>	<p>The site does not contain any yet identified sensitive or natural features and a rezoning from (I) to (MMN) is not likely to substantially alter the level of intensity or impact on the natural environment from either a future industrial or residential development.</p>	<p>NA</p>

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
<p>Staff Analysis: “...a Logical and Orderly Development Pattern”</p>	<p>The site’s vicinity features a mix of different zoning designations and land-uses and abuts both residential and industrial zoning. Given the adjacent land uses and the lack of a more cohesive land-use pattern, staff finds the proposed rezoning would create a logical and orderly development pattern by extending an abutting area of (MMN) zoning and using the future extension of Cordova Road to establish a clear boundary and buffer between the more industrial airpark east of the site and the residential areas to the west.</p> <p>Under the City’s industrial zone district Land Use Code standards, buffers are to be established where the (I) district abuts residential zone districts or development as follows:</p> <p><i>A minimum eighty-foot deep landscaped yard shall be provided along any boundary line that adjoins a residential land use or a zone district (whether within or beyond the City’s jurisdictional boundary) that is predominately characterized by residential uses as permitted uses. This residential buffer yard may be reduced to thirty (30) feet if the adjoining residential land use or zone district (whether within or beyond the City’s jurisdictional boundary) is separated by a public street.</i></p> <p>The future extension of Cordova Road as a collector street provides the impetus to reduce the required 80-ft buffer to a 30-ft required buffer on the applicant’s site. Staff is recommending an additional condition of approval to establish the 30-ft required buffer on site to achieve the full intended buffer standard from the Land Use Code.</p> <p>This additional 30-ft buffer along Cordova Road will mimic the same setback condition that was already established at the Capstone Cottages further southwest along Cordova Road, and no interruption to the function and appearance of the building to street environment is anticipated.</p> <p><i>Recommended Condition #3:</i></p> <p><i>Residential buildings shall be setback a minimum of 30-ft from the Cordova Road right-of-way.</i></p> <p>In addition, an (MMN) zoning designation for the site follows similar zoning and intensity patterns established elsewhere in the community where multifamily residential and (MMN) zoning is typically utilized as an intermediate zone district between nearby commercial and industrial zoning and other lower intensity residential zone districts such as (LMN) or (RL).</p> <p>Extending beyond the immediate vicinity, the site also has access to well established employment areas along the Mulberry Corridor and Downtown, as well as the amenities and shopping Downtown and just south of Lincoln Avenue at the Lemay Crossing Shopping Center. Transit access on Lincoln Avenue in addition to the aforementioned features make this site well suited towards providing amenities for residential units.</p>	<p>Yes</p>

5. Findings of Fact/Conclusion

In evaluating the petition for The Landing at Lemay Rezoning and Structure Plan Amendment from Industrial (I) to Medium Density Mixed-Use Neighborhood (MMN), staff finds that the petition complies with the standards in Section 2.9 with three recommended conditions.

6. Recommendation

Staff recommends that the Planning and Zoning Commission approve a motion to recommend that City Council approve The Landing at Lemay Rezoning and Structure Plan Amendment, #REZ2200001, based on the analysis and Findings of Fact in the Staff Report, with the following three conditions:

1. Residential development within the boundaries of The Landing at Lemay Rezoning shall achieve 15 combined points from the Energy, Renewables, and Water Sub-Categories of the 2021 Residential Metro District Points System.
2. Residential development within the boundaries of The Landing at Lemay Rezoning shall achieve 5 combined points from the Neighborhood Livability Category of the 2021 Residential Metro District Points System.
3. Residential buildings shall be setback a minimum of 30-ft from the Cordova Road right-of-way.

7. Attachments

1. Rezoning Petition
2. Rezoning Map
3. Applicant's Project Narrative & Justification
4. 2021 Residential Metro District Evaluation System
5. Industrial Land Use, Forecasts, and Absorption in Fort Collins Report
6. City Plan Land Employment Analysis
7. City Plan Trends & Forces Report
8. Neighborhood Meeting Summary
9. Staff presentation

Fort Collins City Plan Employment Land Demand Analysis

The Economics of Land Use



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1. INTRODUCTION AND SUMMARY OF FINDINGS

Project Background

The City of Fort Collins is updating its comprehensive land use and transportation plan—City Plan. A major component of the update to City Plan is the development of a revised Structure Plan map. The City has not done a major update to the Structure Plan map in 20 years. To inform the updates to the Structure Plan map and accompanying policies, an employment land demand study was desired. This report provides a summary of the employment land demand study. The report also contains summaries of regional and local employment conditions and trends; national and regional commercial and industrial development trends; and employment land demand estimates.

Summary of Findings

1. The Fort Collins-Loveland MSA has rebounded from the economic recession of 2008 and 2009 and has grown at an accelerated pace since 2010.

The rate of employment growth has increased significantly since 2010 in Larimer County. The annual rate of growth for employment in the County is less than found in the 1990's but the county is producing more total new jobs annually than in the 1990's. Employment has grown at annual rate of 3.2 percent since 2010 and adding 4,700 new jobs annually.

2. The major industries in Fort Collins including health care, education, retail trade and accommodations and food service continue to grow and produce new employment.

The economic base of Fort Collins is driven by health care and education. Growth in these two industries has produced over 6,000 jobs since 2010 in Larimer County. Retail trade and accommodations and food services are also growing and producing several new jobs as the county continues to be regional hub for northern Colorado and southern Wyoming.

3. Professional services, manufacturing, clean energy and transportation and warehousing are emerging industries in Larimer County with significant employment growth since 2010.

Professional and technical services is growing sector and is becoming one of the larger sectors in the region. Employment in transportation and warehousing is growing in the county but these jobs have largely not been locating in Fort Collins. Lastly, manufacturing has traditionally been a major industry in Fort Collins but the composition of manufacturing in Fort Collins and the county has shifted. Computer equipment manufacturing was a major component of the economy in the 1990's and early 2000's; however, employment has been declining in this subindustry. Manufacturing jobs have grown since 2010, driven by food and beverage manufacturing (e.g. brewing) and the growth of Woodward, Inc. Larimer County has an estimated 2,600 jobs related to Clean Energy and industry is bolstered in the City by research and development activities being generated through CSU.

4. Average wages in Larimer County are growing faster than inflation, however the majority of the wage growth is in industries with higher than average annual wages

Wages in the county have grown at an annual rate of 5.7 percent since 2010. The City's and County's major industries are a mixture of below and above average wage industries. Industries with a below average annual wage (more than 20% less than the county average) accounted for 42 percent of new jobs in the county since 2010, however industries with above average wages (more than 20% greater than county average) accounted for 54 percent of the wage growth since 2010.

5. Employment in Larimer County and Fort Collins outpaced household growth since 2010 and is forecasted to through 2040.

Employment continues to grow at a faster rate in the City and county than household growth and is forecast to continue. This miss-match in growth has several impacts on the community. From a workforce perspective, the miss-match puts greater pressure on an already tight labor market and has forced employers to aggressively seek ways to attract new workers to the region to fill jobs. The slower housing growth is increasing demand for housing, which is increasing housing prices within Fort Collins. The affordability of housing may impact the economic health of the City.

6. Fort Collins has captured a smaller share of commercial and industrial development over the past decade as the economic activity within the County has shifted toward I-25.

The City of Fort Collins is capturing a smaller share of county employment oriented development. Development has been clustering desirable areas and the center of economic gravity for the county has shift from the US 287 corridor to the I-25 corridor. Much of the recent commercial and industrial development has gravitated to I-25 or along arterials connecting to I-25, such as US 34, Harmony Road and Mulberry Street. The shift to the east has resulted in greater opportunities for neighboring communities. Fort Collins captured less than half of county wide development for commercial and industrial space over the past 10 years despite account for the majority of total space for all three uses (retail, office, and industrial).

7. The City has an adequate supply of land for employment uses however the land may not be development ready or in locations that are competitive for capturing future employment growth.

Employment forecasts estimate the County will grow in employment by 85,000 jobs by 2040, with jobs within the City's targeted industries and other primary industries account for 44 percent of job growth. The City has a total supply of buildable employment lands that exceeds estimated demand. The forecast new jobs are estimated to generate demand for 22 million square feet of new commercial and industrial development, with Fort Collins capturing 7.5 million square feet of new space (33 percent of county demand). This estimated new development will require an estimated 600 acres of land and the City has approximately 2,900 acres designated for employment uses. The majority of employment land capacity is on the edge of the City in the northeast portion of the Growth Management Area (GMA) and is in many cases lacking existing infrastructure. Areas that have been capturing new development within the City (primarily downtown area and Harmony Road) have limited

capacity for new development. The excess capacity would suggest that the City could be more flexible with use of employment lands in some areas. As well, the City should also focus efforts on a few primary areas to capture employment growth similar to their historic efforts along Harmony Road. The buildable lands designated for residential may need to be re-evaluated during the City Plan process as they may be better suited for employment lands (and vice-versa).

2. ECONOMIC CONDITIONS AND TRENDS

This chapter provides a summary of the economic conditions and trends impacting Fort Collins. Trends in employment for the Larimer County and the City of Fort Collins are summarized.

Regional Economic Base and Trends

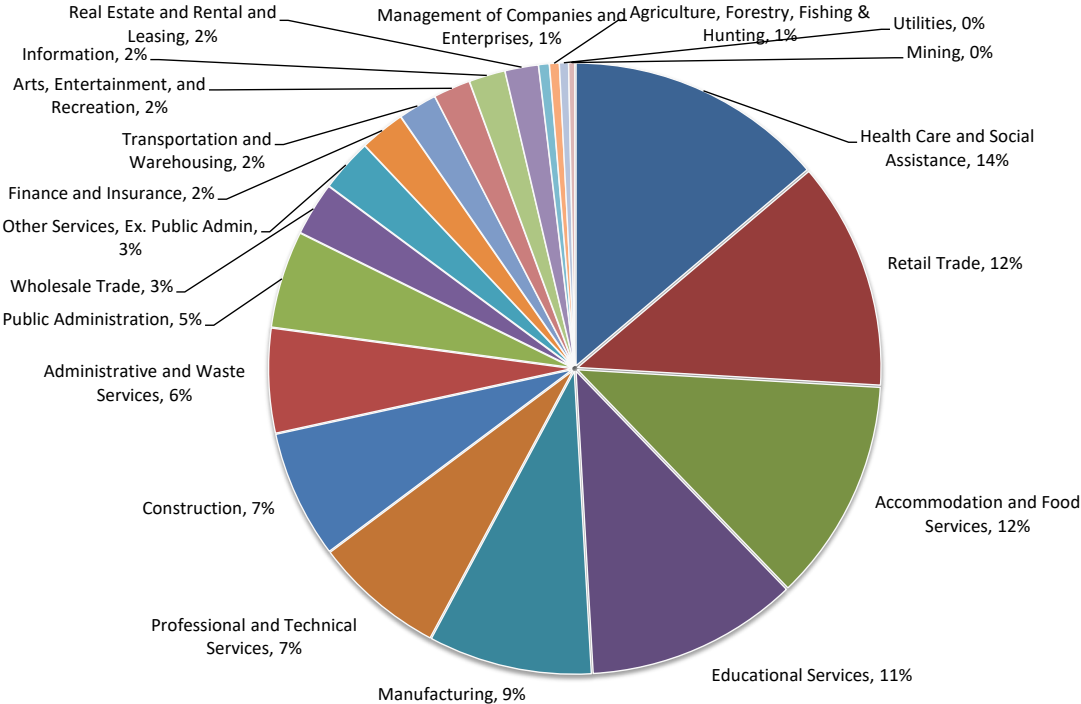
Fort Collins is the largest city (population) and economy (jobs) along the northern Front Range of Colorado. The largest communities in the northern Front Range are Fort Collins and Loveland, within Larimer County, and Greeley in Weld County. Combined there is over 250,000 jobs in the two counties (60 percent in Larimer County and 40 percent in Weld County). Historically, these cities have functioned more like stand-alone communities with distinct economies, but as the region grows the communities are becoming more intertwined. As a result, the economic activity has shifted somewhat away from the traditional downtown/city centers towards Interstate 25. Northern Colorado communities are becoming more intertwined in terms of employment and labor force, which has pushed economic leaders to begin discussions on how to work together to address these collective economic opportunities.

Economic Base

The City of Fort Collins is the county-seat and economic center of Larimer County, also known as the Fort-Collins metropolitan statistical area (MSA). The largest industries in Larimer County are Health Care (21,111 jobs), Retail Trade (18,582 jobs), Accommodation and Food Service (18,175 jobs) and Education (17,295 jobs). Combined these four industries account for half of the jobs in Larimer County, as shown in **Figure 1**.

Clean energy is a growing sector in Colorado's economy. The components of Clean Energy include renewable energy, energy efficiency, advanced grid technology, advanced transportation, and clean fuels. Larimer County has an estimated 2,600 jobs related to Clean Energy.

Figure 1
Larimer County Distribution of Jobs by Industry, 2016



Source: Colorado Dept. of Labor and Employment

Employment Trends

Over the past 30 years, the County has grown steadily in employment with periods of accelerated employment growth. Employment in the County grew by 4.5 percent annually from 1990 to 2000, as shown in **Table 1**. The two national economic recessions (01) and (08-09) that occurred from 2000 to 2010 reduced the rate of employment growth in the County to 0.8 percent annually. Since 2010 however, the County has begun to grow at a faster rate (3.2 percent annually from 2010 to 2016), producing more new jobs annually in this period than in the 1990’s.

Table 1
Fort Collins-Loveland MSA Current Employment Statistics, 1990 to 2017

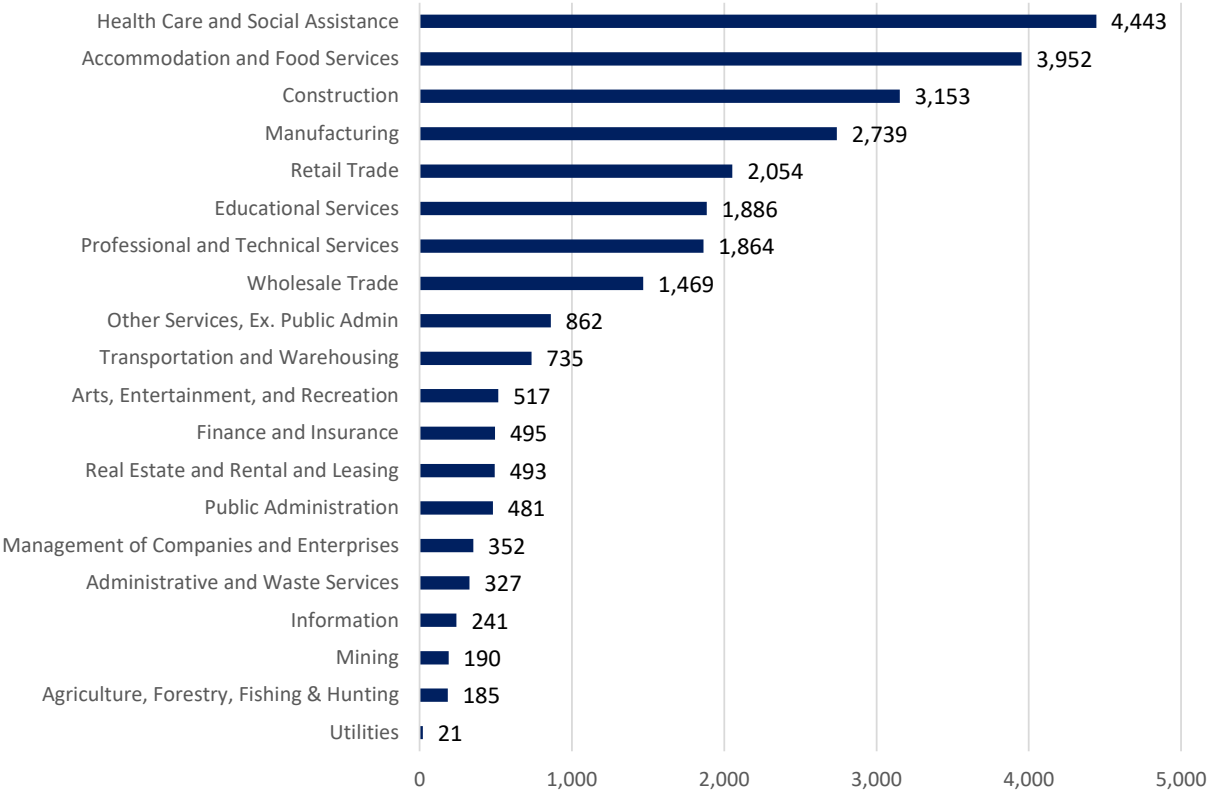
Description	1990	2000	2010	2017	1990-2000			2000-2010			Change 2010-2017		
					Total	Ann.#	Ann. %	Total	Ann.#	Ann. %	Total	Ann.#	Ann. %
Total Nonfarm	79,200	123,400	133,900	167,100	44,200	4,420	4.5%	10,500	1,050	0.8%	33,200	4,743	3.2%
Total Private	60,800	98,700	104,400	128,200	37,900	3,790	5.0%	5,700	570	0.6%	23,800	3,400	3.0%
Goods Producing	18,000	25,200	18,100	25,600	7,200	720	3.4%	-7,100	-710	-3.3%	7,500	1,071	5.1%
Service-Providing	61,200	98,200	115,800	141,500	37,000	3,700	4.8%	17,600	1,760	1.7%	25,700	3,671	2.9%

Source: US Bureau of Labor Statistics Current Employment Statistics (CES): Economic & Planning Systems

E:\Fort Collins\163125-Employment Trends-1-8-18.xlsx\Table 1-CES

Larimer County had a total wage and salary employment of 153,103 in 2016, which is an increase of approximately 26,500 jobs since 2010. The traditional major industries in the County (Health Care, Retail, Food/Accommodations, and Education) continue to experience strong employment growth. The industries with the largest amount of employment increase since 2010 were Health Care (4,443 new jobs), Accommodation and Food Service (3,952 new jobs), Construction (3,153 new jobs), and Manufacturing (2,739 jobs), as shown in **Figure 2**.

Figure 2
Larimer County Change in Employment by Industry, 2010 to 2016



Source: Colorado Dept. of Labor and Employment

Emerging industries in the county that are experiencing stronger growth than traditionally found in the community include manufacturing, logistics (wholesale trade and transportation and warehousing), and professional and technical services. Manufacturing has been growing at an annually rate of 3.9 percent since 2010 after declining in employment during the previous decade. In the 1990's and early 2000's, manufacturing was by computer and electronic product manufacturing, anchored by Hewitt-Packard. The recent growth has been more diversified within a variety of manufacturing subindustries, spurred on by growth in food and beverage manufacturing (e.g. breweries) and the growing presence of Woodward, Inc. The growth of the region in population and employment has increased demand for logistics related industries. Lastly, business services (which includes professional and technical services and also administrative support services) has traditionally been a growing industry in the region, but in the past six years professional services jobs have grown by over 1,800 jobs while growth in administrative services has been relatively flat.

Wage Trends

The average annual wage in Larimer County was \$56,987 in 2016, as shown **Table 2**. Wages in the past six years have grown at a healthy 5.7 percent annual rate compared to 2.3 percent annually in the 2000's, indicating that even when accounting for inflation, wages are growing significantly.

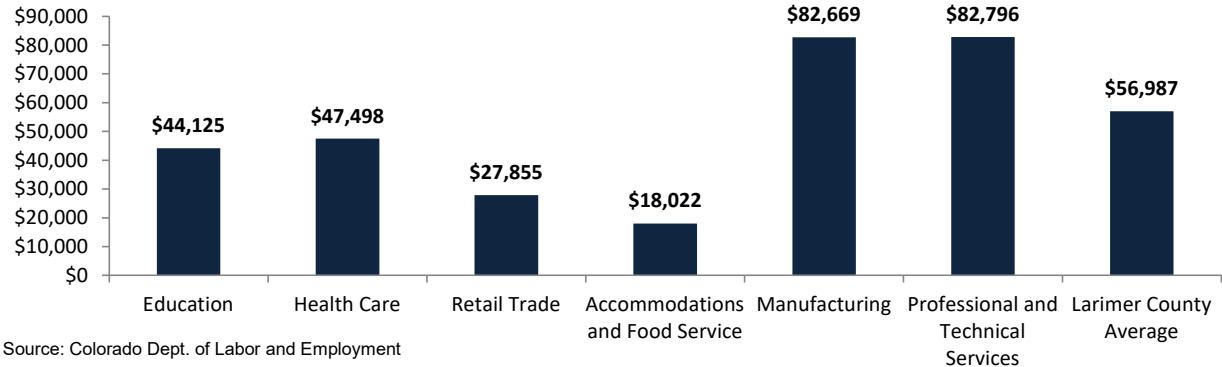
Table 2
Larimer County Average Annual Wage by Industry, 2000 to 2016

Description	2000	2010	2016	2000-2010			Change 2010-2016		
				Total	Ann.#	Ann. %	Total	Ann.#	Ann. %
Agriculture, Forestry, Fishing & Hunting	\$20,842	\$28,302	\$33,123	\$7,460	\$746	3.1%	\$4,822	\$804	2.7%
Mining	\$33,748	\$46,061	\$60,825	\$12,313	\$1,231	3.2%	\$14,764	\$2,461	4.7%
Utilities	\$48,315	\$68,556	\$85,041	\$20,241	\$2,024	3.6%	\$16,485	\$2,748	3.7%
Construction	\$34,156	\$44,940	\$53,649	\$10,784	\$1,078	2.8%	\$8,710	\$1,452	3.0%
Manufacturing	\$60,184	\$73,722	\$82,669	\$13,538	\$1,354	2.0%	\$8,947	\$1,491	1.9%
Wholesale Trade	\$37,190	\$53,071	\$65,326	\$15,881	\$1,588	3.6%	\$12,255	\$2,043	3.5%
Retail Trade	\$20,333	\$23,680	\$27,855	\$3,347	\$335	1.5%	\$4,175	\$696	2.7%
Transportation and Warehousing	\$29,335	\$38,963	\$43,522	\$9,628	\$963	2.9%	\$4,559	\$760	1.9%
Information	\$39,041	\$48,722	\$49,659	\$9,680	\$968	2.2%	\$937	\$156	0.3%
Finance and Insurance	\$40,277	\$50,967	\$70,103	\$10,690	\$1,069	2.4%	\$19,136	\$3,189	5.5%
Real Estate and Rental and Leasing	\$23,373	\$31,620	\$43,845	\$8,247	\$825	3.1%	\$12,225	\$2,038	5.6%
Professional and Technical Services	\$41,143	\$69,407	\$82,796	\$28,264	\$2,826	5.4%	\$13,389	\$2,232	3.0%
Management of Companies and Enterprises	\$41,269	\$84,847	\$140,357	\$43,578	\$4,358	7.5%	\$55,510	\$9,252	8.8%
Administrative and Waste Services	\$21,239	\$28,906	\$34,798	\$7,667	\$767	3.1%	\$5,892	\$982	3.1%
Educational Services	\$31,910	\$39,091	\$44,125	\$7,180	\$718	2.1%	\$5,034	\$839	2.0%
Health Care and Social Assistance	\$31,010	\$42,583	\$47,498	\$11,572	\$1,157	3.2%	\$4,916	\$819	1.8%
Arts, Entertainment, and Recreation	\$14,737	\$22,855	\$24,678	\$8,118	\$812	4.5%	\$1,823	\$304	1.3%
Accommodation and Food Services	\$10,923	\$14,665	\$18,022	\$3,742	\$374	3.0%	\$3,357	\$560	3.5%
Other Services, Ex. Public Admin	\$20,388	\$28,061	\$34,048	\$7,673	\$767	3.2%	\$5,987	\$998	3.3%
Public Administration	\$38,607	\$55,219	\$60,784	\$16,612	\$1,661	3.6%	\$5,565	\$928	1.6%
Unclassified	---	\$60,293	\$68,445						
Total	\$32,394	\$40,810	\$56,987	\$8,417	\$842	2.3%	\$16,176	\$2,696	5.7%

Source: Colorado Dept. of Labor and Employment QCEW; Economic & Planning Systems

The City’s six largest industries have a wide variety of average annual wages, with some much higher than average and some well below the County average. Education and Health Care have average wages of \$44,125 and \$47,498, which are slightly below average, as shown in **Figure 3**. Retail Trade and Accommodations and Food Service have average annual wages that are less than half of the County average. This reflects both lower hourly wage rates as well as higher percentage of part time jobs in these industries. Manufacturing and Professional and Technical Services have higher than average annual wages of \$82,669 and \$82,796 respectively.

Figure 3
Larimer County Largest Industry Average Annual Wage, 2016



Recent employment growth by industry was split based on average wages for that industry to understand how even the growth in employment has been between low paying, medium paying and high paying industries. Industries with an average annual wage greater than 20 percent less than the county average of \$56,987 were considered below average wage industries (less than \$46,000 annually). Industries with an average wage greater than 20 percent more than the county average were considered above average wage industries (greater than \$68,000). Lastly, industries with an average wage within 20 percent of the average wage for the county were considered average wage jobs. From 2010 to 2016, below average wage jobs accounted for 42 percent of new jobs in the county, with majority within retail and accommodations and food service. Thirty eight percent of new jobs since 2010 were in average wage paying industries, with health care accounting for half of those jobs. Lastly, above average wage paying industries accounted for 21 percent of employment growth.

City Employment Conditions

The City of Fort Collins is the economic center of the northern Colorado region. Fort Collins accounts for over 55 percent of the employment in the Fort Collins/Loveland Metropolitan Statistical Area (MSA), with over 85,000 jobs in Fort Collins, with Colorado State University as the largest employer in the region. The economic strengths of Fort Collins are aligned with the identity of the City. Fort Collins is a community with quality educational options and natural assets and amenities that promote and encourage a healthy lifestyle. The two largest industries in Fort Collins, Education and Health Care, reflect these major assets. These assets that have produced an educated workforce and a high quality of life have historically attracted large employers in manufacturing and technology to locate in the city.

Economic Base Organization

The City’s 2015 Economic Health Strategy Plan provides the roadmap for addressing the threats the city’s economy faces and the opportunities it has for economic growth and diversity. The plan is organized around five major themes;

- Community prosperity – Enhancing opportunities for all residents to participate in the local economy.
- Grow our own – Continuing the City’s history of producing new innovations and new businesses through entrepreneurship and investment in research and development.
- Place matters – A commitment to developing and maintaining the assets and amenities needed to support economic growth.
- The climate economy – Helping the business community adapt to the challenges presented by climate change and leveraging opportunities to create new economic activity through innovation in climate adaptation.
- Think regionally – Shifting and embracing the benefits in addressing economic health issues and opportunities through regional collaboration and strategies.

The City of Fort Collins has a total employment of approximately 85,000 jobs, as shown in **Table 3**. Traditionally, the economy has been driven by education and health care. However, the City has a long history of entrepreneurship and development of new ideas and products that serve not just residents but the nation and the world. The City’s targeted industries are advanced manufacturing, health care and bioscience, and computer technology design and development. These are primary job industries that produce goods and service exported to the nation and the world. The City’s economic health strategy also targets economic activities that are unique to Fort Collins, that not only create products and services but creates the quality of life and culture that fosters innovation. Examples of these industries and activities include breweries, bike manufacturing, local foods, and arts and culture.

Lastly, the City is committed to identifying ways to leverage the impacts of climate change to create opportunities to foster innovation in climate adaptation through clean energy and other industries. Defining clean energy and the climate economy through the traditional NAICS industries is difficult as many industries are involved in these activities so specific sector is not isolated, but the clean energy economy is represented in the several of the City’s target industries and other primary industries, including manufacturing, professional and technical

services, mining/oil and gas, and others. As well, the City's utilities and other utility providers play a major role in the City's efforts to foster innovation in clean energy and climate adaptation.

The economic base was organized into three categories to help illustrate the composition of the City's employment and also the importance of the industries the City has targeted. Industries identified as target industries and other primary industries account for 48 percent of the City's employment base, as shown in **Table 3**. The other components of the economy are industries that support the business community (Business Support Services) and industries that support the residents of the city (Community Support Services). Business support service industries account for 16 percent of the economic base, and community support services industries account for 36 percent of employment.

The purpose of this organization is to isolate the industries that drive the economy to analyze what is needed to support these industries and estimate the demand for new development. The policies and locations needed to support these target industries are a key focus of City Plan. Organizing the industries in Fort Collins by business and community support industries also helps understand the demand related to how and where to support the target and primary businesses and how to support residents' quality of life.

Table 3
Fort Collins Employment by Industry, 2016

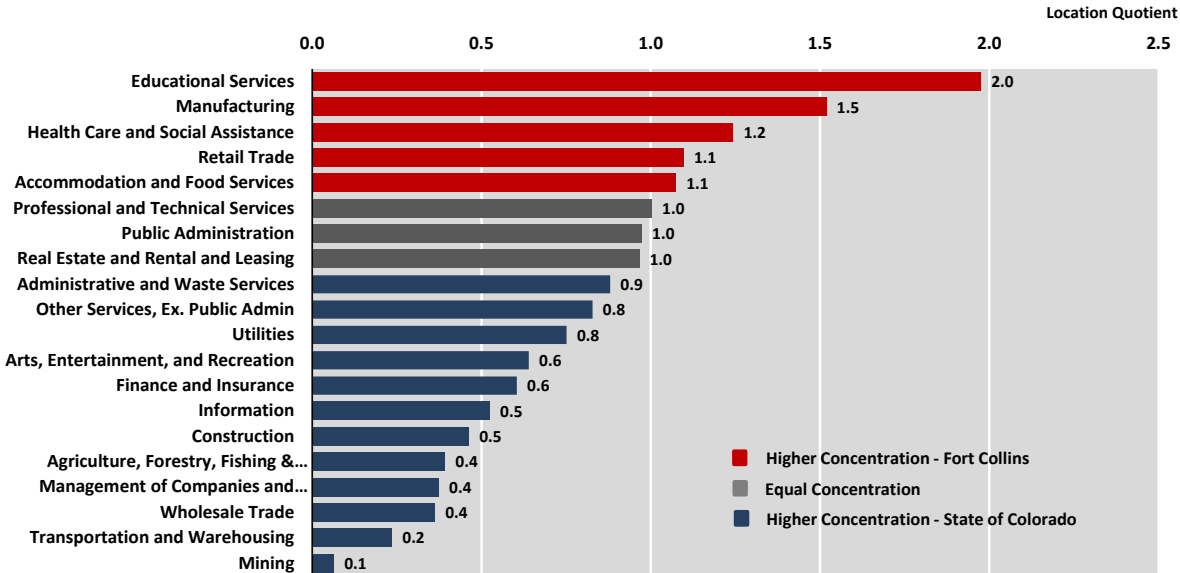
Sector	2016 Jobs	% of Jobs
Target and Other Primary Industries		
Hospitals and Health Providers	9,885	12%
Education	14,268	17%
Food and Beverage Production/Agriculture	1,718	2%
Manufacturing	5,733	7%
IT/Technology Development	446	1%
Professional and Technical Services	7,080	8%
Management of Companies	459	1%
Mining/Oil and Gas	51	0%
Arts and Entertainment	<u>1,252</u>	<u>1%</u>
Target/Primary Industries Total	40,891	48%
Business Support Services		
Utilities	355	0%
Construction	2,443	3%
Wholesale Trade	1,267	1%
Transportation and Warehousing	645	1%
Information (non-internet)	856	1%
Finance and Insurance	2,206	3%
Real Estate and Rental and Leasing	1,600	2%
Administrative and Waste Services	<u>4,657</u>	<u>5%</u>
Business Support Services Total	14,029	16%
Community Support Services		
Nursing/Social Assistance	3,712	4%
Retail Trade	9,887	12%
Accommodation and Food Service	9,720	11%
Other Services	2,181	3%
Public Administration	<u>4,753</u>	<u>6%</u>
Community Support Services Total	30,252	36%
Total	85,173	

Source: Colorado Department of Labor; Quarterly Census of Employment and Wages, Economic & Planning Systems

Industry Specialization

The largest industries in Fort Collins are also the industries that the City has higher concentrations of as compared to the State of Colorado. Education and Manufacturing have location quotients of 2.0 and 1.5 respectively, which means they have higher concentrations of employment in Fort Collins than in the State of Colorado, as shown in **Figure 4**. Fort Collins has much lower concentrations of Wholesale Trade and Transportation and Warehousing, as these industries have location quotients of 0.4 and 0.2, despite the growing number of jobs in these industries in Larimer County.

Figure 4
Fort Collins Location Quotient, 2016



Source: Colorado Department of Local Affairs; Economic & Planning Systems

Workforce Conditions

The Fort Collins Chamber of Commerce in concert with the City of Fort Collins and several other regional partners active in economic development commissioned studies of the workforce challenges and opportunities facing Fort Collins and northern Colorado. The most recent study, *Talent 2.0*, identified three major challenges related to workforce.

- First, employment growth has been outnumbering the growth in workforce in the recent past, which is creating a tight labor market and putting more pressures on companies to be proactive in recruitment.
- Second, the labor force is not expected to grow at the same rate that job openings will in the near term, putting more pressure on the labor market.
- Third, an estimated quarter of the labor force in Larimer County is 55 years or older and many will retire over the next 10 years.

The impact of these challenges on City Plan is the need to have a strategy that plans for a city that is attractive and accessible to a growing workforce. Housing diversity and affordability are key elements to the accessibility of the workforce. Another major concern coming out of the

Talent 2.0 study was the rate of underemployment. An estimated 45 percent of labor force has a bachelor's degree; however, only 20 percent of jobs require a college degree. The concern is much of the labor force is stuck in jobs that they are over-skilled or overqualified for.

3. REAL ESTATE DEVELOPMENT CONDITIONS AND TRENDS

This chapter includes a review of National real estate conditions and trends affecting real estate demand. It is followed by an analysis of office, retail, and industrial/flex development trend sin Larimer County.

National Trends

There are a number of trends impacting commercial and industrial development in the United States. These trends were analyzed and summarized below to understand their potential impact on commercial and industrial development in Fort Collins.

Office Development Trends

Office Park Development

Nationally, office development is moving away from the single use, suburban office park or corporate campus to more mixed use, centrally located, and often transit-accessible locations in major urban areas. Much of this trend has been driven by shifting preferences from the workforce, especially younger, college educated Millennial-aged workers, who wish to have more access to amenities near work such as shopping, services, and dining. Their choice of place to live is being driven by considerations of quality of life and opportunity for employment. As result, employers are making decisions on locations based centrality of the workforce and locations that have an attractive quality of life.

The focus on improving suburban business parks dates back at least 15 to 20 years. In 2002, the Urban Land Institute (ULI) published a study titled *Ten Principles for Reinventing America's Suburban Business Districts*. The report authors state that existing suburban business districts "encompass a disparate group of isolated uses with little or no integration, a transportation system that is auto oriented and often hostile to pedestrians, and a near total absence of civic identity". They suggest that in response to the social and economic forces identified above, there is a potential to "transform America's more than 200 suburban business districts into more integrated live-work-shop places". It also suggests that the same forces that led to the resurgence of central business districts in the 1990s—such as increasing development densities, improving pedestrian connections between buildings, and improving transit—will be focus of smart growth and the reinvention of suburban business districts. The report's principles include: "Break up the Superblocks and Optimize Connectivity; Embrace Mixed Uses; Honor the Human Scale by Creating a Pedestrian-friendly Place: and Think Transit - Think Density".

Notable efforts are underway at some of the most prominent business parks including a new 50-year master plan for Research Triangle Park that allows for mixed use and higher densities, and a study to evaluate innovation district potentials for Stanford Research Park. In some of the most vibrant urban markets (including San Francisco, Boston, Seattle, and Denver), the appeal of the downtown mixed use environment has grown to the point where real estate values are higher downtown than in the premier suburban business districts, including rents, occupancy rates, and even absorption. A significant portion of the millennial workforce, particularly those employed in technology and other knowledge based industries, are showing a preference for living in

downtowns and other mixed use activity centers where they can live and work in close proximity with available transit to minimize dependencies on the auto or long commute to work. As a result there are a greater number of small businesses forming or locating in these urban, mixed use areas and even some notable examples of larger companies moving from the suburbs back to the central city.

Office Space Trends

More Efficient Office Space - Businesses are leasing less office space per person than in past years. Technology has reduced the need for space, and new workplace designs are more efficient. Open floor plans and shared spaces are becoming more common. In these settings, workers are freer to move around an office with a laptop and mobile phone. The National Association for Industrial and Office Parks (NAIOP) reported in 2015 that the average office lease size had dropped by approximately 10 percent from 2004 through 2014. Some of the trend in efficiency (more workers per square foot of building area) is driven by cost. Fast growing industries like technology are not necessarily cutting space requirements as they desire spacious and luxurious offices to attract the highest skilled talent. Slower growth industries such as law and accounting are reducing their space requirements to cut costs.

Co-Working Space - Co-working space is a new type of office space in which tenants rent desk(s) space in a space shared with other workers and firms. They are popular with small new firms, which can be in any field including professional services, creative industries, and technology. Tenants have access to conference rooms and shared office equipment (e.g. printers). The benefits of co-working space are that they typically have lower tenant finish levels and lower cost than traditional office space and are flexible in that they give a firm a low-cost way to grow from one to a few employees. They also offer, and are marketed for, opportunities for collaboration and knowledge sharing with likeminded people and potential business partners. Some also offer events including networking, speakers, and skill development workshops. Co-working space is popular with entrepreneurs and remote workers. It is becoming more common in major and mid-sized cities but is still a small portion of the total office market. Fort Collins has captured its share of co-working spaces, primarily located in downtown and has an alliance (fo(co)works) of independent co-working spaces to jointly promote and market their spaces and events.

Innovation Districts

The centers of American innovation have evolved since the industrial revolution. The original locations for innovation were the concentrations of manufacturing jobs and large factories in cities in the same or similar industries (e.g. car manufacturing and Detroit). In the second half of the 20th century, innovation shifted to the suburban office/science park with clusters of firms in isolated campuses and buildings. The latest shift has been to areas with concentrations of assets, companies and institutions, often in urban areas, that foster innovation.

These concentrations have been identified, by Brookings Institute and others, as “Innovation Districts”. The Brookings Institute defines Innovation Districts as “geographic areas where leading-edge anchor institutions and companies cluster and connect with start-ups, business incubators, and accelerators. They are also physically compact, transit-accessible, and technically-wired and offer mixed-use housing, office and retail.” Their research suggests there are three general models for innovation districts:

- **Anchored Districts** – These projects are clustered around major anchor research institutions and are typically in downtown or mid-town settings. Examples include the Kendall Square/ MID cluster in Cambridge; the University City/University of Pennsylvania cluster in Philadelphia; and the Saint Louis/Washington University and Saint Louis University cluster in Saint Louis. (The most applicable model for Fort Collins)
- **Re-imagined Urban Areas** – These projects include revitalizing industrial districts and waterfronts in major urban areas including: San Francisco’s Mission Bay; Boston’s South Waterfront; and Seattle’s South Lake Union.
- **Urbanized Science Park** – This model is focused around the urbanization and diversification of traditional business research parks. Examples include the new master plans for Research Triangle Park and Stanford Research Park as well as similar efforts at the University of Wisconsin-Madison, University of Virginia-Charlottesville, and University of Arizona-Tucson.

The innovation district concept is a reaction to employment and workforce trends. The concept tries to leverage these trends. Innovation districts are promoted as being well suited to accommodate knowledge based economy. The U.S. economy is increasingly dependent on knowledge workers with skills to fill STEM related occupations. Research activities, firms, and jobs related to STEM fields are increasingly finding benefits to clustering of activities and of educated workers. The Innovation District concept provides the opportunity for these companies and activities to cluster in environments that foster interaction.

Another benefit of the district concept is that it provides the connections to jump-start entrepreneurship. New business creation plays an increasingly important role in economic growth in communities, but the rate of new business has been declining in the U.S. The rise of collaborative working spaces has decreased the cost and risk for new businesses, while the clustering of economic activities allows these new businesses to leverage assets needed to grow their ideas and businesses.

The districts also support formal and informal interactions. Regular interactions of workers and residents increase the social networks of workers in the districts and also grow the resources of the companies they work for. These districts—and entities that help manage them—are designed to facilitate increased interaction through formal events but also through every-day interactions and events. Lastly, planners and urban economist are promoting districts as having the ability to foster more inclusive job growth. Locating employers, research activities, and the spin-off social/entertainment activities in centralized urban areas increases the diversity of jobs in the district. The superior connectivity of these areas makes it easier for workers of all backgrounds to work in the same area and share the same social networks, which is the opposite of the traditional models where knowledge workers were clustered in suburban office parks with little interaction with others outside the park.

Medical Districts

A related planning concept is medical districts that are intended to capitalize on the business and research associated with major medical institutions. These include city-initiated efforts that are intended to organize the spinoff business development surrounding major hospitals and/or clusters of hospitals, as well as university-driven projects created to capture commercialization of basic research taking place within university medical centers.

The recently completed University of Texas at Austin Medical District Master Plan creates a partnership between UT Austin, Seton Healthcare, and Central Texas Healthcare to create a compact urban development on the southern edge of the UT campus in downtown Austin. It will contain the university’s planned new medical school and medical research building, as well as a new teaching hospital and medical office building. The vision for the district integrates health care teaching and research within an interdisciplinary setting taking advantage of adjacent university resources.



The University of Colorado Anschutz Medical Campus

A Colorado example is the creation of a medical district at the Anschutz Medical Campus in Aurora. The University of Colorado relocated its medical school, hospital and research facilities to a 200 acre campus site at the former Fitzsimons Army Medical Center. Children’s Hospital of Denver and Veteran’s Hospital are located on an adjacent 25 acre site. The public medical facilities are complemented by a 160-acre bioscience research park intended to facilitate the commercialization of university research as well as capture other private sector medical related

businesses. The Anschutz Medical Campus has been the fastest growing employment center in the metro area since 2005, having captured nearly 20,000 jobs over the last 10 years.

Retail Development Trends

The retail industry has shifted greatly over the last 10 to 15 years, impacted by the growth of internet sales, declining brick and mortar store sales, retail chain consolidations, and demographic shifts and preferences. Collectively, these trends are impacting store sizes and reducing the overall demand for new retail space locally and nationally.

The Rise of E-Commerce

Between 2001 and 2015, total online retail purchases (excluding auto related) grew from approximately \$29 billion to \$310 billion, an 18.4 percent annual growth rate. Online sales accounted for 22 percent of total retail sales growth. During the same period, brick and mortar stores grew at a 3.7 percent annual growth rate, decreasing their share of the total retail market from 98 percent to 89 percent. Despite still accounting for only 11 percent of overall spending, the growth in online shopping is impacting the demand for traditional brick and mortar stores. This also affects the way retailers are doing business, pushing them to alter store formats and incorporate online sales and marketing into their business concepts. The list of top online retailers reinforces this point as many have a significant brick and mortar presence as well. This group includes such major retailers as Walmart, Target, Home Depot, Best Buy, and Bed Bath & Beyond.

Bifurcating of Retail Demand

Changes in spending patterns are also affecting the amount and mix of retail space. Consumer spending is split between low-cost, high convenience retail options—where the internet is making significant impacts—and more experience, community, locally oriented retail options. On the low cost, high convenience end of the spectrum, online retailers like Amazon and warehouse club retailers such as Costco are performing the best. On the other end, the shift to more experience oriented retail is being driven by the millennial generation. A portion of this generation is highly mobile, are less likely to accumulate furniture and home furnishings and other large, high cost items. They are also more interested in experiences, emphasizing travel and entertainment. However, they still like to shop but in more experience-oriented retail areas and/or with retailers that match with their lifestyle. Their spending patterns are similar to the boomer generation who has already purchased much of the goods they need and are downsizing their homes and accumulated items. Boomers are also spending more of their income on travel, leisure, entertainment, and dining out.

Social Media and "Showrooming"

According to the National Retail Federation, 86 percent of American consumers at least occasionally research items online before buying in a store; of these, 22 percent conduct this research primarily on blogs and 32 percent primarily on Facebook. Electronics is most researched, followed by apparel, appliances, and then shoes. Many consumers will also look at or try on an item in a store and then price shop and purchase it online.

Changing Retail Mix

These changes in spending patterns are impacting the mix of retail space in aggregate as well as within individual districts, corridors, and centers. Sales for prepared foods are now outpacing sales for food for home consumption. The restaurant, bar, and microbrewery segment has grown rapidly and new food and beverage formats have been introduced (e.g., food halls and market halls, farm to table restaurants, and food trucks). These market/food hall establishments (Denver metro area examples include Denver Central Market, The Source, and Avanti in Denver and Stanley in Aurora) focus on creating a community atmosphere with shared eating and common spaces and a variety of food options and small format retail options.

Store and Chain Consolidation

Over the past five years, there have been nearly 200 retail chain bankruptcies. In 2017, CNN Money reported that there were 5,300 store closing announcements through June 20 compared to 6,200 in 2008 during the Great Recession—the worst year so far for store closings. There are fewer stores in the market now, making it more difficult to find tenants for new retail developments, as well as increasing vacancies in existing centers as large blocks of space are vacated by store brands that no longer exist.

Industrial Development Trends

The industrial development industry is shifting significantly in reaction to increase in technology and the internet. The shifts are having both positive and negative impacts on the economic health of communities. Generally, the shifts are pushing towards more industrial oriented development but at the same time resulting in fewer jobs as automation improves efficiency.

Globalization and Automation Impact on Manufacturing

Industrial employment, particularly manufacturing, has recovered slightly since the economic recession of 2008 and 2009, but has not returned to pre-recession levels. Sharp declines in industrial employment often are precipitated by recessions, and employment either continues to decline or fails to recover to pre-recession levels. As a comparison, at the national level, manufacturing jobs are down 37 percent from their peak in 1979. Globalization and automation are the major reasons for these continual declines. The number of robots per capita employee has increased dramatically in the last 25 years and economists estimate that each additional robot reduces employment in a commuting area by 3 to 6 workers and wages by 0.25-0.5 percent. The rate of robot substitution varies across industries, but manufacturing tends to have high factors. Off-shoring of manufacturing has impacted numerous manufacturing subindustries including computer equipment manufacturing.

Growth of Logistics

As e-commerce has driven down demand for retail space, it has at the same time driven up demand for industrial development supporting its growth. Logistics and distribution oriented employment sectors (transportation and warehousing, wholesale trade) and industrial development are the largest drivers of new industrial development. As e-commerce retailers and traditional retailers are pushing for more convenience and more online shopping, demands for local distribution are growing. Industrial buildings and developments related to logistics want to locate centrally to their service market, and along major transportation routes. Industrial spaces

for logistics activities look for larger floor plates, with higher ceilings, which make newer buildings more attractive.

Middle Skill Jobs

Traditionally, jobs within industrial oriented businesses are an important source of “middle skill” jobs—jobs that don’t require a college degree but rather some form of specialized training. Manufacturing wages are typically higher than wages in other industries accessible to workers without a college degree, such as retail and food service. Unlike service industries, manufacturing wages approach, and/or exceed, a living wage. However, there are trends impacting the presence of these middle skill jobs. Automation is reducing employment in industrial oriented employment sectors. As well, industrial areas in urban areas are under threat for redevelopment. In larger urban areas, including Denver, communities are considering policies related to industrial preservation as redevelopment pressures are pushing industrial uses to the fringes of metro areas and either driving middle, lower income residents out or increasing their commutes.

Small Urban Manufacturers (SUMs)

Urban manufacturing today is largely occupied by small, specialized firms in collaborative and interdependent networks. In Fort Collins, 80 percent of manufacturing firms have fewer than 20 employees. The average size of a manufacturing firm is 28 employees but the median size is six employees. Manufacturers nationally have also been trending towards smaller footprints and fewer employees. Research has shown that small urban manufacturers (SUMs) are more productive when located in denser urban areas. These firms desire the centrality within their market, which helps with employee attraction and also proximity to goods and services needed to support their businesses. SUMs also tend to pay higher median wages with higher wage growth and skill development opportunities. However, these smaller manufacturers are typically looking for existing, lower cost spaces at least initially. As they grow, finding locations with a larger building and/or the ability to build to suit their own facility is a need, which is increasingly harder to find in central locations and at an affordable cost.

Local Real Estate Development Conditions and Trends

Inventory, Rent and Vacancy Rates

Fort Collins has nearly 70 percent of the office space in Larimer County, and 57 and 56 percent of the retail and industrial space as well. However, over the past 10 years the City has been capturing a decreased share of new commercial and industrial development. Fort Collins captured only 45 percent of office development in the past 10 years and 46 percent of retail development since 2007. The City captured only 34 percent of industrial space, as shown in **Table 4**. As neighboring communities have grown, many have been able to attract and develop their own retail centers, primarily centered along I-25. As the labor force has become more interconnected within the region, I-25 has grown in importance and the market has responded. The City of Fort Collins has not made the same proactive efforts to grow along I-25. The declining capture illustrates this growing competition from neighboring communities for new development.

The job growth in the past five to seven years has been driving demand for spaces for businesses to locate. Vacancy rates for office, retail and industrial space in the City and Larimer County are low and in most cases indicate demand for new development. The office vacancy rate

at the end of 2017 was 3.7 percent, indicating demand for new inventory. The vacancy rate in the county for office space is also low at 4.7 percent. The county has a higher average rental rate of \$22.11 per square foot, versus \$16.05 in the city—which may be a result of the lack of newer office space in the city.

Retail space in Fort Collins has grown by an average of 150,000 new retail square feet per year in the past 10 years, with a total inventory of 11.3 million square feet. Capture of recent development is down from traditional amounts, as described above, but is outpacing the city’s capture of population growth. Retail rates in the city are higher than the county’s on average (\$19.53 versus \$18.51). The vacancy rate within the city is 6 percent, which is near equilibrium, but the county rate is 3.5 percent, which is low and indicates demand for new space. The city’s vacancy rate is still relatively low considering the addition of space within the Foothills Mall redevelopment, which has been slow to absorb.

Strong demand for industrial and flex space in the City Fort Collins is reflected in the 3.1 percent vacancy rate in fourth quarter 2017. Vacancy in the county is higher at 6.8 percent but still low for industrial space. Rental rates have been growing in recent years and average rates are essentially the same in the city and elsewhere in the county.

**Table 4
Larimer County Commercial and Industrial Development Inventory**

Use	Fort Collins	% of County	Larimer County
Office			
Inventory (sq ft)	7,600,180	69%	11,005,512
New Development past 10 years (2007-2017)	839,547	45%	1,884,712
Average Rental Rates	\$16.05		\$22.11
Vacancy Rate	3.7%		4.7%
Retail			
Inventory (sq ft)	11,329,874	57%	19,866,822
New Development past 10 years (2007-2017)	1,506,387	46%	3,271,971
Average Rental Rates	\$19.53		\$18.51
Vacancy Rate	6.0%		3.5%
Industrial/Flex			
Inventory (sq ft)	12,019,153	56%	21,472,142
New Development past 10 years (2007-2017)	620,379	34%	1,837,487
Average Rental Rates	\$9.44		\$9.36
Vacancy Rate	3.1%		6.8%

Source: CoStar

Development Locations

Office development over the past 17 years has been clustered in three major locations. The three major clusters of new development are the Harmony Corridor, the Centerra development north of the intersection of I-25 and US-34 highways, and in and around downtown Fort Collins. The clusters along Harmony Road and in Centerra have been built over the past 15 to 20 years, as shown in **Figure 5**. The new development has moved employment away from the central locations along US 287 to the east towards I-25. The clustering of office development mirrors national trends of concentrations of office employment especially in central locations with superior transportation access and within more mixed-use environments, albeit largely suburban/auto-oriented in local context.

Retail development patterns in the past 15 to 20 years provide the most stark illustration of the shift of the economic activity in Larimer County away from US 287 to I-25. The majority of retail development in the county has occurred along US 34 and Harmony Road towards the intersections with I-25, as shown in **Figure 6**. The growth of the region has shifted the orientation of retail away from the individual communities to regional locations. The traditional location for regional retail was along College Avenue anchored by Foothills Mall. The Shops at Centerra and other retail components of the Centerra development create a major new node of regionally oriented retail in northern Colorado. The shift impacted Foothills Mall and led the City to proactively work to redevelop Foothills Mall. Smaller communities in northern Colorado, such as Windsor, Johnstown, and Timnath, have been making aggressive efforts to capture retail development primarily along I-25.

Industrial development has also been clustered in a few primary locations in Larimer County, as shown in **Figure 7**. The concentrations include the Mulberry Corridor (both outside and inside the city boundaries), near the intersection of US 34 and I-25, and smaller concentrations in Loveland near the intersection of US 34 and US 287 and at the northern edge of Loveland along US 287. The growth of the region and national retail trends have grown the concentrations of logistics/distribution related activities, which have gravitated to the US 34 and I-25 area.

Figure 5
Larimer County Office Development, 2000 to 2017

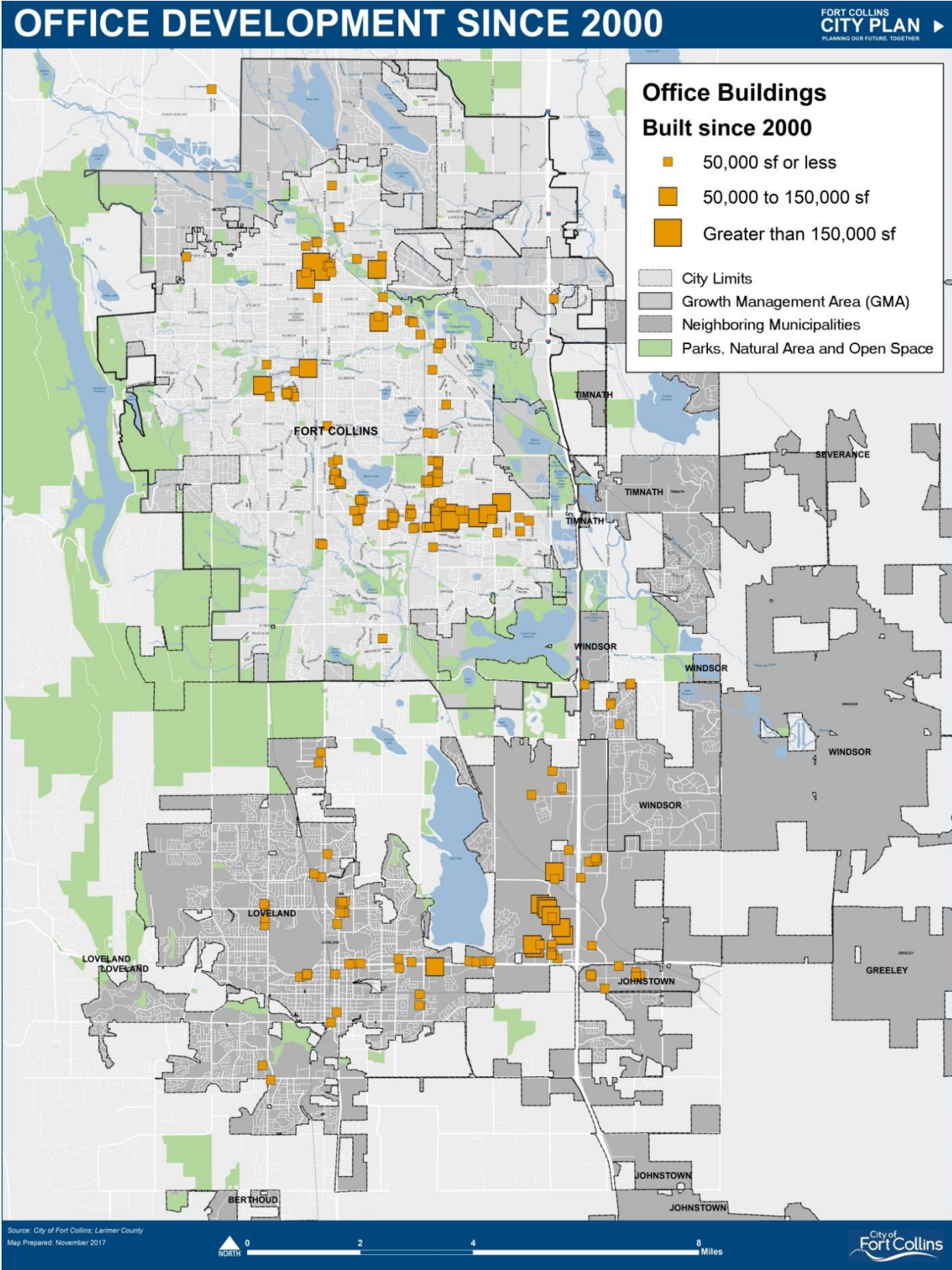


Figure 6
Larimer County Retail Development, 2000 to 2017

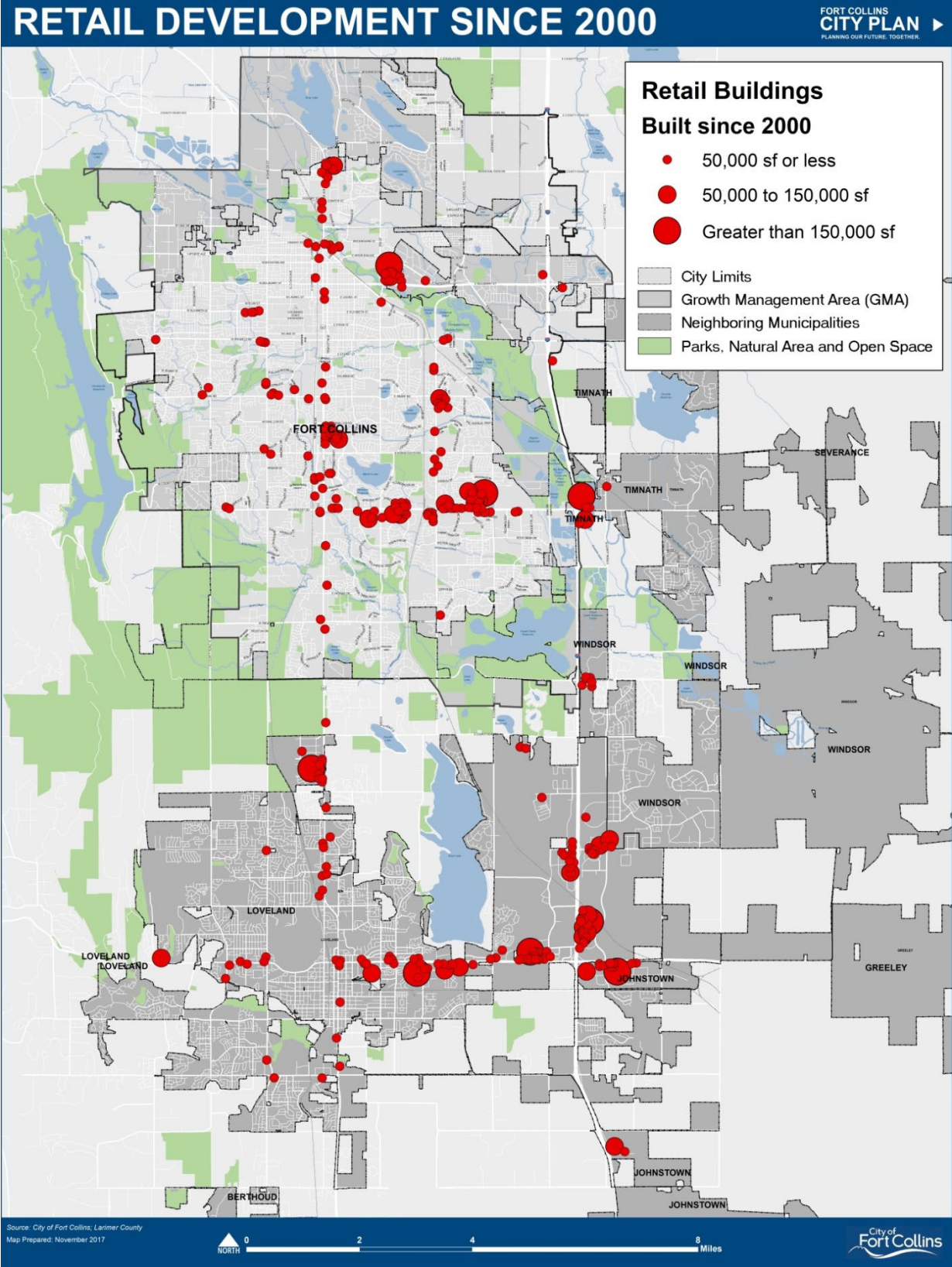
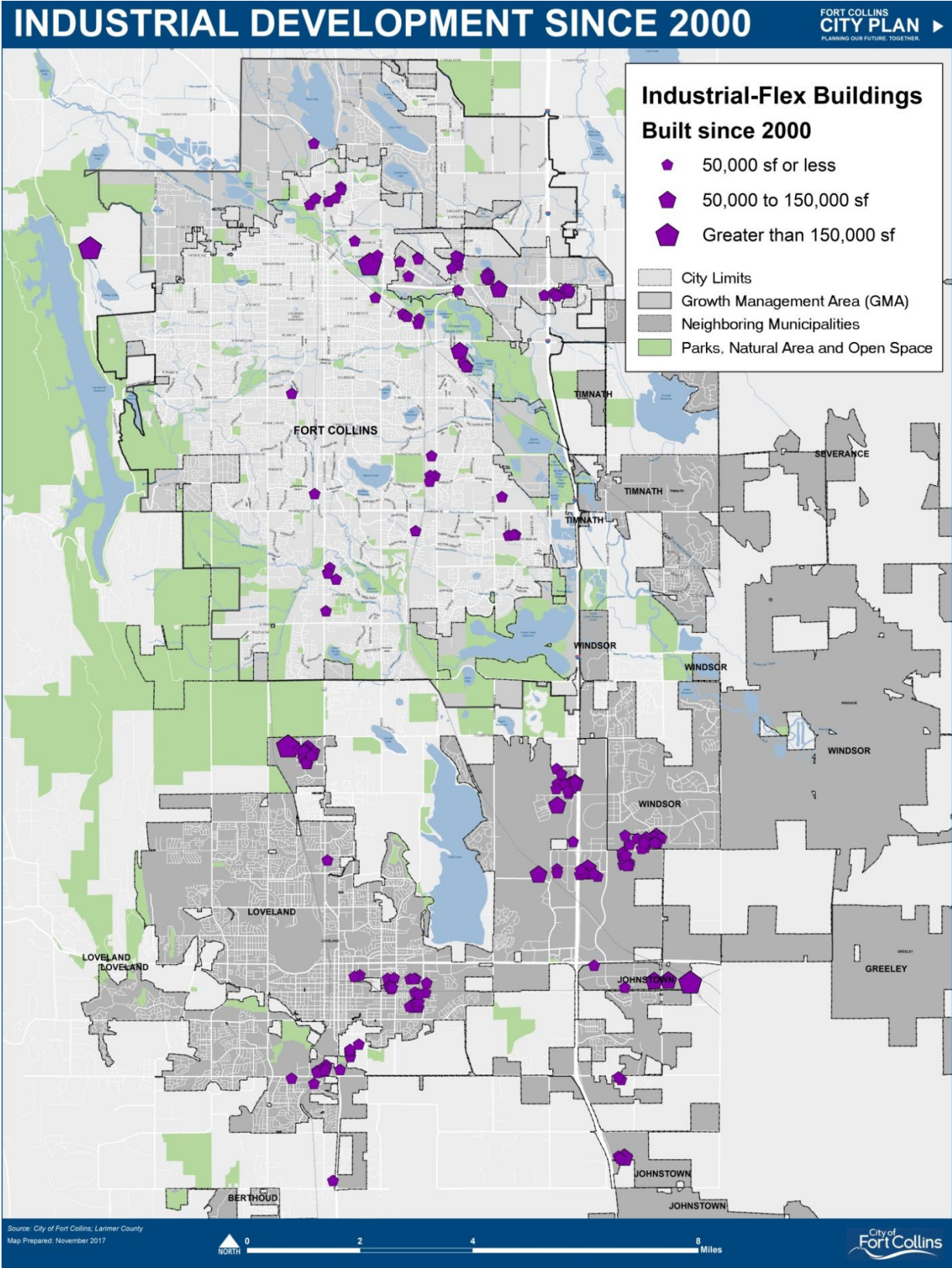


Figure 7
Larimer County Industrial Development, 2000 to 2017



4. LAND DEMAND METHODOLOGY AND INPUTS

This chapter provides an overview of the land demand model and demand forecast developed for City Plan. The chapter provides an explanation of methodology, summary of employment forecasts, identifies major model inputs and assumptions, and provides a summary of the estimated land demand by development type and corresponding land use designations.

Methodology

To estimate land demand for employment uses, EPS utilizes a four step process illustrated in **Figure 8**. Employment in the region is forecasted by industry sector and then allocated to building types based on existing location patterns by industry in the city. Estimated new jobs by building type are translated to demand for buildings square feet using national averages of employees per square feet. Lastly, density factors (floor area ratio) per building type are derived from existing and recent development within the region are used to estimate demand for land.

Figure 8
Employment Land Demand Methodology



To forecast future employment growth by industry, EPS relied on four major sources. First, the Northern Colorado MPO’s total employment forecast for the county was used as a general guide towards the overall total employment growth between 2015 and 2040. Historic employment growth rates and annual new jobs averages, growth estimates from Woods & Poole (a secondary employment data provider), and growth estimates by industry provided by the Colorado Department of Labor and Employment are used to develop estimated growth rates in employment by sector from 2016 to 2040, as shown in **Figure 9**. The rates used largely rely on historic annual job growth averages and the state’s forecast by industry.

Figure 9
Employment Forecast Methodology



Next, the forecast of employment by industry are allocated to building types. Four simple building types were used; retail, office, industrial/flex and industrial. These building types were chosen to align with the City’s three major land use designation categories for employment, which are commercial/mixed use, employment, and industrial. Square foot per employee factor, which were developed using national/industry averages, were used to estimate demand for building space in the county. The factors used are shown in **Figure 10**. The estimated capture of new building space in Fort Collins’s GMA was estimated using historic capture rates for new development. The demand for building space was then translated into demand for land using floor area ratios for each building type, as shown in **Table 5**.

Figure 10
Future Employees to Future Building Demand Methodology

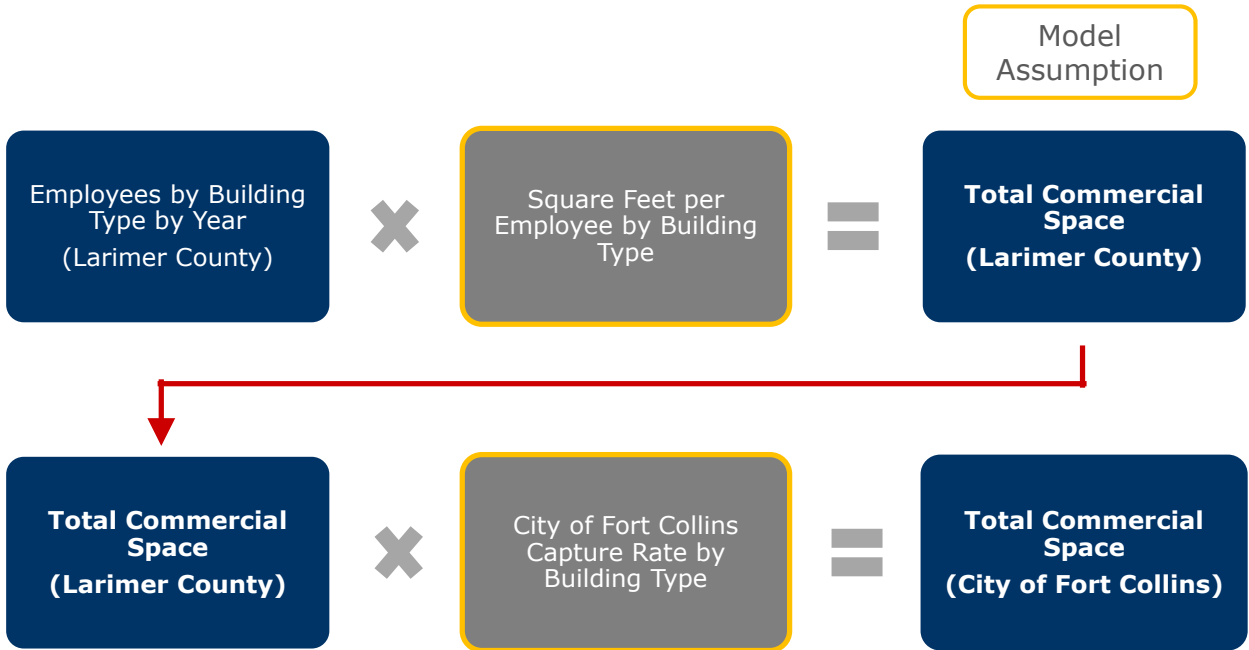


Table 5
Employee per Square Feet and Floor Area Ratio Factors

Factors	Commercial/Mixed Use		Employment		
	Retail	Office	Office	Industrial/Flex	Industrial
Square Feet per Employee	350	225	225	400	700
Floor Area Ratio	0.25	0.50	0.40	0.30	0.20

Source: Economic & Planning Systems
 E:\163125-Employment Land Demand.xlsx\Conversion Factors

Employment Forecast

The growth in wage and salary jobs in the county was estimated by industry from 2016 to 2040 to estimate the demand for new commercial and industrial development. Wage and salary employment is estimated to grow by 85,633 jobs, which is an annual rate of 1.9 percent, as shown in **Table 6**. It is important to note job growth is forecast to outpace housing growth in the county, which unless otherwise addressed will continue the inflow workers from other counties.

**Table 6
Larimer County Employment Forecast by Industry, 2016 to 2040**

Sector	2016	2026	2040	Change 2016 to 2040		
				Total	Ann. #	Ann. %
Target and Other Primary Industries						
Hospitals and Health Providers	15,372	20,659	27,259	11,887	495	2.4%
Education	17,295	20,471	24,869	7,574	316	1.5%
Food and Beverage Production/Agriculture	2,811	4,365	5,604	2,793	116	2.9%
Manufacturing	11,237	13,698	14,688	3,451	144	1.1%
Technology Development	862	1,276	1,803	941	39	3.1%
Professional and Technical Services	10,662	14,329	18,394	7,732	322	2.3%
Management of Companies	860	1,156	1,525	665	28	2.4%
Mining/Oil and Gas	498	702	853	355	15	2.3%
Arts and Entertainment	<u>3,006</u>	<u>3,962</u>	<u>5,228</u>	<u>2,222</u>	<u>93</u>	<u>2.3%</u>
Target/Primary industries Total	62,603	80,618	100,224	37,621	1,568	2.0%
Business Support Services						
Utilities	737	775	819	82	3	0.4%
Construction	10,426	14,850	19,594	9,168	382	2.7%
Wholesale Trade	4,359	6,149	7,574	3,215	134	2.3%
Transportation and Warehousing	3,151	4,034	4,833	1,682	70	1.8%
Information (non-internet)	2,088	2,109	2,139	51	2	0.1%
Finance and Insurance	3,673	4,566	5,781	2,108	88	1.9%
Real Estate and Rental and Leasing	2,721	3,449	4,489	1,768	74	2.1%
Administrative and Waste Services	<u>8,518</u>	<u>8,954</u>	<u>9,337</u>	<u>819</u>	<u>34</u>	<u>0.4%</u>
Business Support Services Total	35,673	44,884	54,566	18,893	787	1.8%
Community Support Services						
Nursing/Social Assistance	5,740	7,348	9,695	3,955	165	2.2%
Retail Trade	18,582	21,565	25,485	6,903	288	1.3%
Accommodation and Food Service	18,175	24,190	31,918	13,743	573	2.4%
Other Services	4,314	5,742	7,371	3,057	127	2.3%
Public Administration	<u>7,926</u>	<u>8,755</u>	<u>9,388</u>	<u>1,462</u>	<u>61</u>	<u>0.7%</u>
Community Support Services Total	54,737	67,599	83,856	29,119	1,213	1.8%
Total	153,013	193,101	238,646	85,633	3,568	1.9%

Source: Colorado Department of Labor; Quarterly Census of Employment and Wages, Economic & Planning Systems

Future Land Demand

The estimated new 85,633 jobs by 2040 are estimated to generate demand for 22 million square feet of commercial and industrial development. The City of Fort Collins (including the current GMA) is estimated to capture a third of new development in the county, with an estimated 2.8 million square feet of retail, 2.4 million square feet of office/general commercial space, and 2.2 million square feet of industrial/flex space, as shown in **Table 7**. The estimate land demand (between 2016 and 2040) for Commercial/Mixed Use areas is 11.8 million square feet or 294 acres; the demand for Employment areas is estimated to be 7.7 million square feet or 176 acres; and the demand for Industrial areas is estimated to be 5.6 million square feet or 128 acres.

Table 7
Fort Collins Estimated Employment Building and Land Demand, 2016 to 2040

	Commercial/Mixed Use		Employment		Industrial
	Retail	Office	Office	Indust/Flex	
All Industries					
Larimer County Building Demand	7,861,668	1,968,470	3,721,565	2,995,443	5,588,382
% Capture in Fort Collins GMA	35%	45%	45%	35%	20%
Fort Collins Building Demand	2,751,584	885,812	1,674,704	1,048,405	1,117,676
Fort Collins Land Demand (Sq Ft)	11,006,335	1,771,623	4,186,760	3,494,684	5,588,382
Fort Collins Land Demand (Acres)	253	41	96	80	128

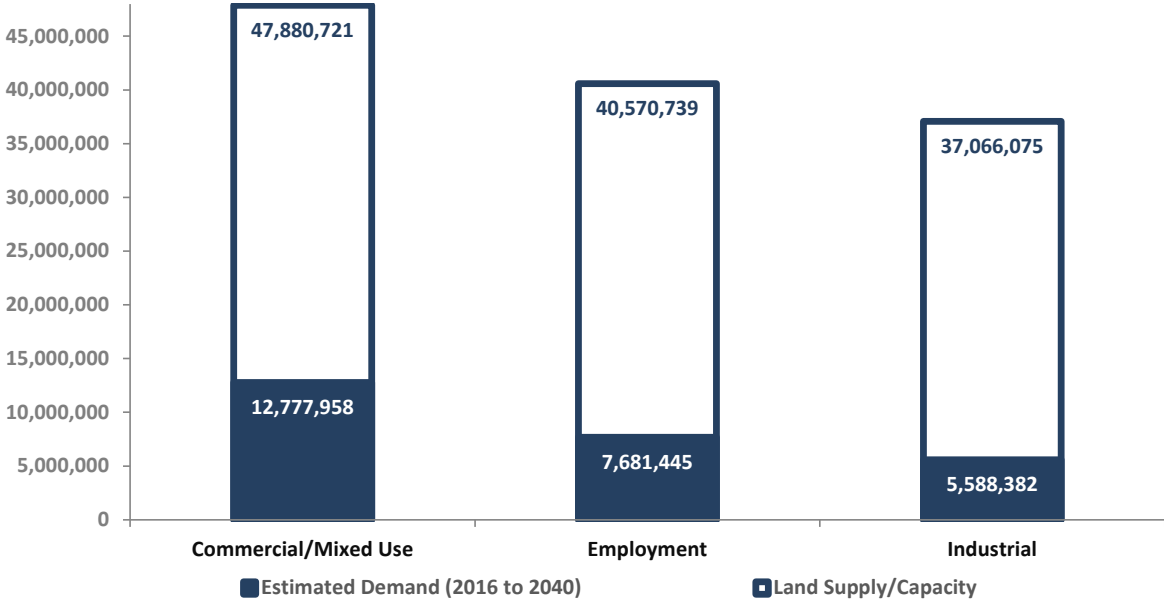
Source: Economic & Planning Systems

Comparison of Demand to Supply

The City of Fort Collins has an estimated 7,556 acres of vacant and potential redevelopment land capacity for growth, as estimated by the City of Fort Collins. The majority, 90 percent, of the land in the capacity estimate is “vacant” land. Thirty-eight percent of the land capacity is estimated to be for employment uses within three categories; commercial/mixed-use, employment, and industrial. This totals to 2,882 acres or 125 million square feet.

As shown in **Table 7**, the estimated demand for new employment land is approximately 600 acres. The estimated demand for employment oriented development accounts for 20 percent of the estimated supply. The estimated demand for commercial/mixed-use development accounts for 27 percent of capacity, and demand for employment and industrial development account for 19 and 15 percent of estimated supply.

Figure 11
Estimated Land Demand versus Supply, 2016 to 2040



Source: Economic & Planning Systems; City of Fort Collins

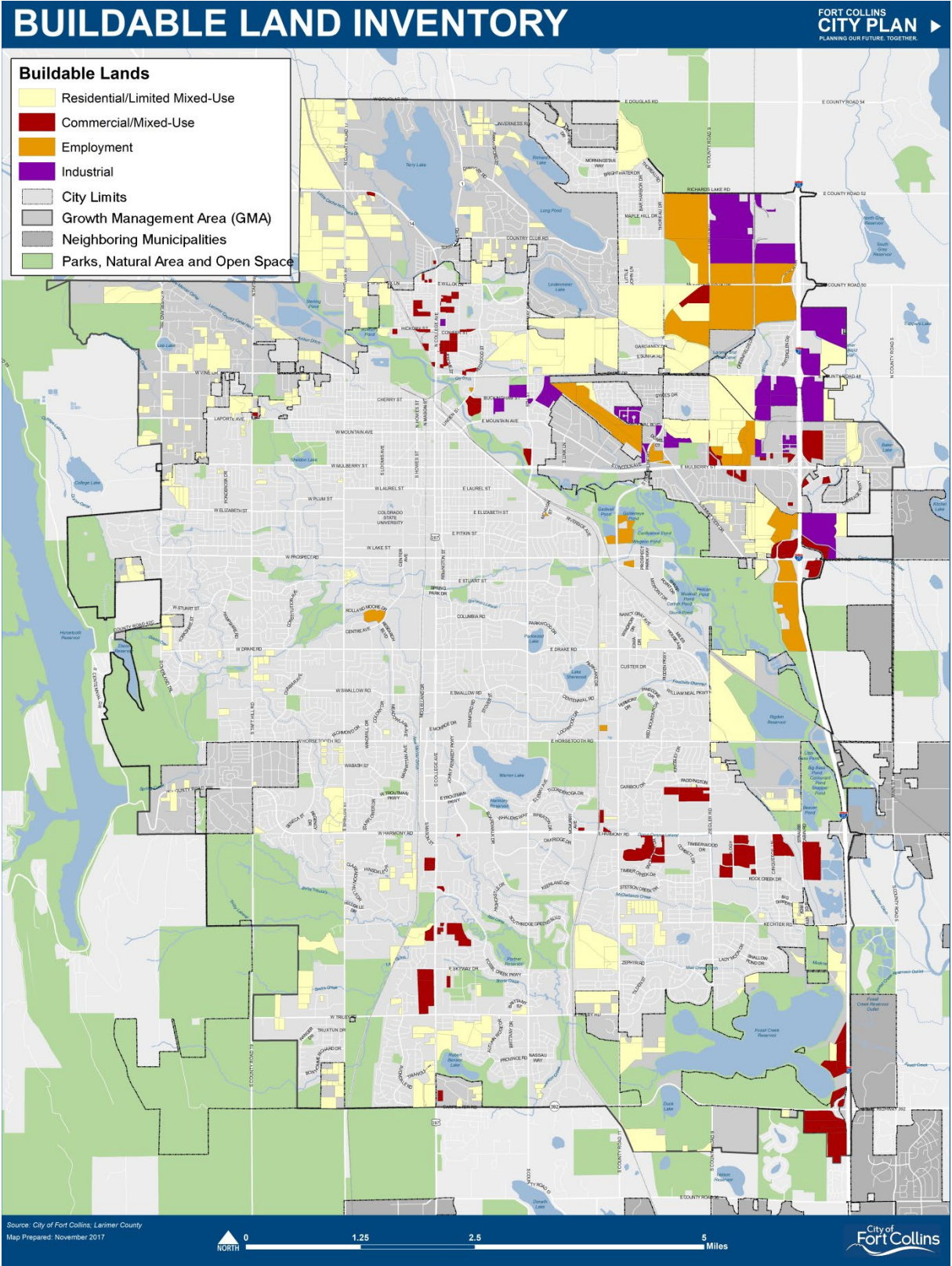
Location of Capacity and City Plan Implications

The locations of buildable land capacity (vacant land), as identified by the City of Fort Collins, are shown in **Figure 12**, based on current zoning. The majority of land zoned for new employment development is located in the northeast portion of the city along Mulberry and along I-25. There are also a number of larger development sites along the Harmony Corridor, which are zoned for commercial/mixed-use. Other commercial/mixed-use parcels are located around the I-25/Highway 392 interchange in the southeast edge of the city, and along College Avenue on the northern and southern edges of the community. Areas with potential for redevelopment were also evaluated by the City of Fort Collins. These sites are generally scattered throughout the city and only account for 10 percent of land capacity.

The buildable employment lands the City has greatly exceeds the demand for new employment lands by 2040. The majority of employment and industrial capacity within the city is located north of Mulberry and are in areas with limited infrastructure to support new development. As well, the majority of the buildable land capacity in the city is outside of the City’s current water service boundary. The location of areas designated for employment uses needs to be re-examined through the City Plan process.

As described above, development pressures for office have primarily been in downtown, along the Harmony Corridor, or at Centerra. As well, industrial development has located primarily near the Mulberry Corridor and in Loveland. There are also large portions of land designated for residential to the east of downtown and along Mulberry, which could be re-examined. The excess capacity would suggest that the City could be more flexible with use of employment lands in some areas. The City should also focus efforts on a few primary areas to capture employment growth, similar to its historic efforts along Harmony Road.

Figure 12
Buildable Lands Inventory



CITY PLAN

Employment Land Suitability Analysis

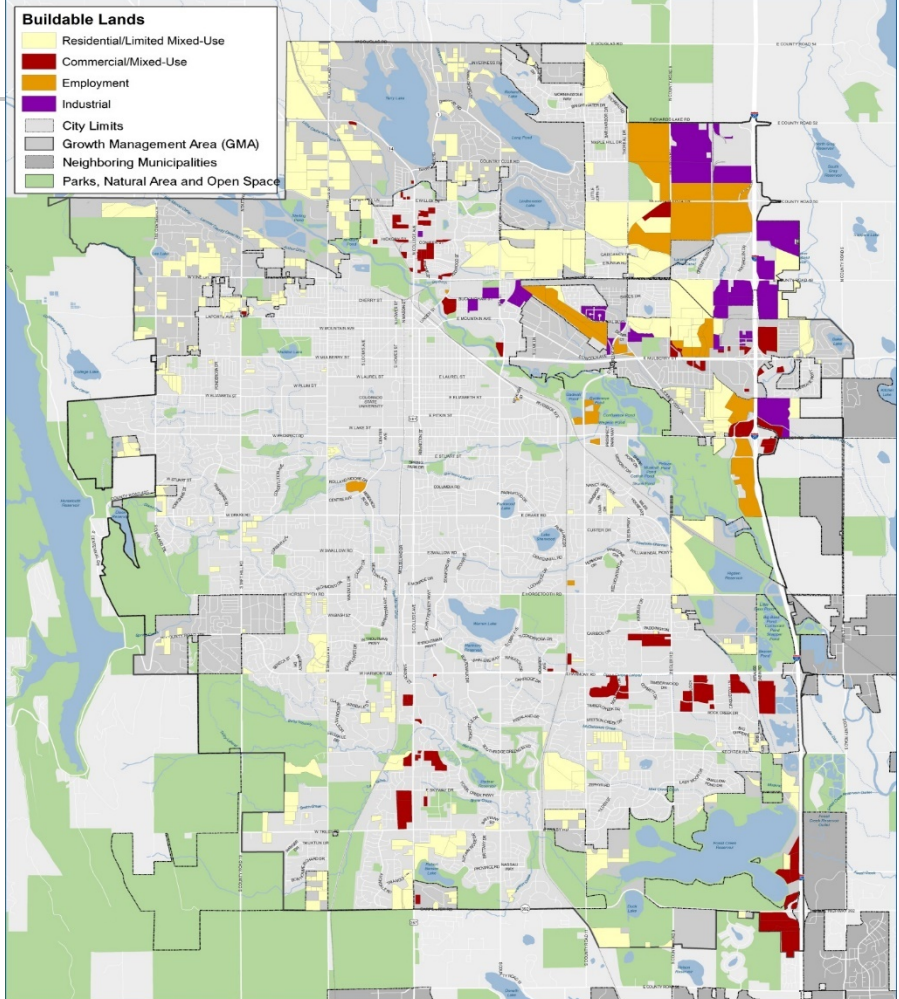
MAJOR TASKS

1. Develop attributes desired by regional/community retail, office/employment, and industrial space users
2. Measure the presence of the attributes in the Growth Management Area for each use utilizing a grid of approximately 40 acre squares.
3. Develop a desirability score for each use for each of the grids and compare them to the Opportunity Areas
4. Assess the desirability of each use type in the Opportunity Areas

Item 14. **DEVELOPMENT CAPACITY**

VACANT AND UNDERUTILIZED LAND

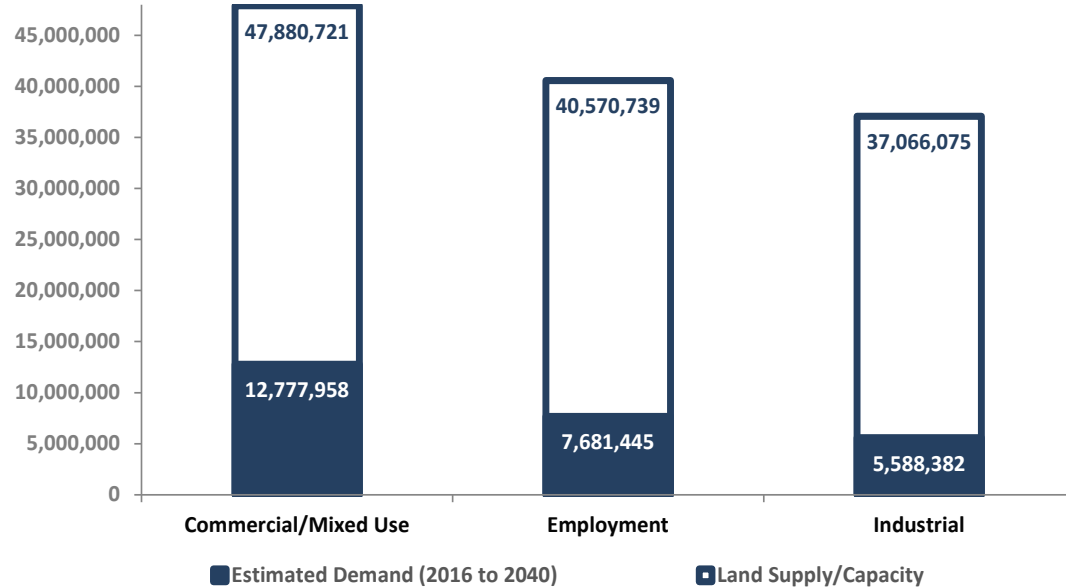
- Much of capacity is near I-25
- Large amount of vacant employment in area lacking infrastructure and access to I-25
- Likely more redevelopment capacity than estimated



Item 14. **MAND VS CAPACITY**

LAND ACRES OF DEMAND VS CAPACITY

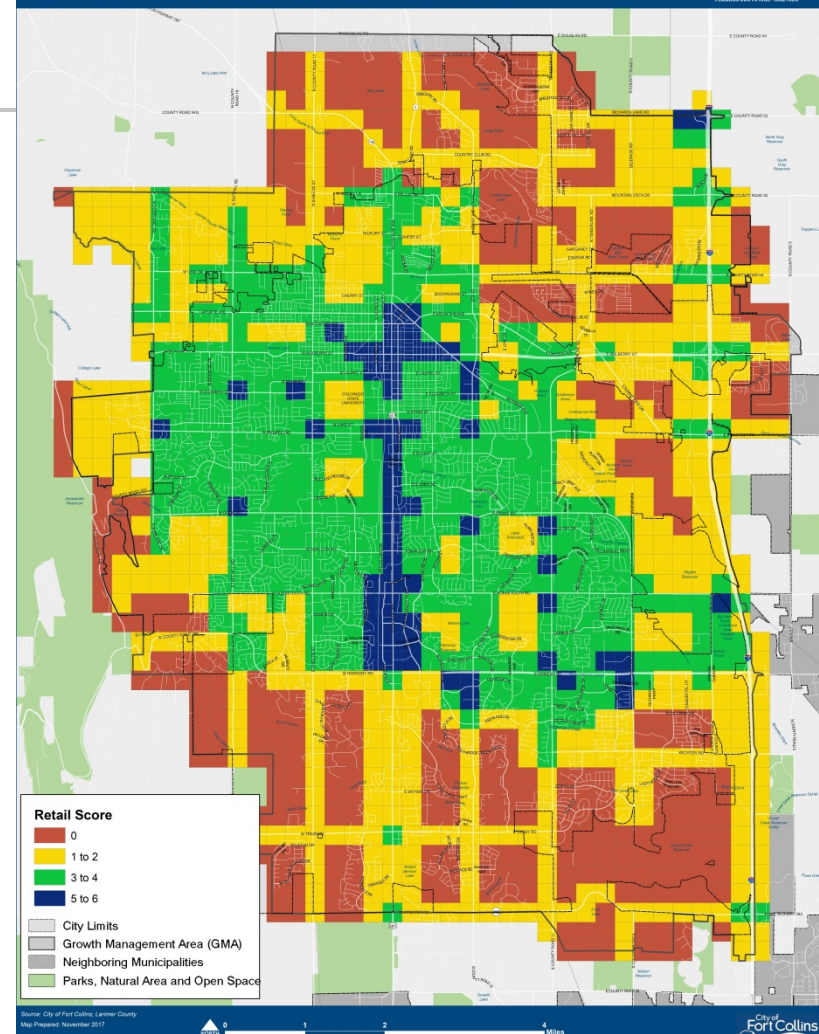
- Excess capacity of employment land
- Large amount of vacant employment in area lacking infrastructure and access to I-25
- Likely more redevelopment capacity than estimated
- Existing employment land often not desirable to prospective employers



REGIONAL/COMMUNITY RETAIL

ATTRIBUTES MEASURED

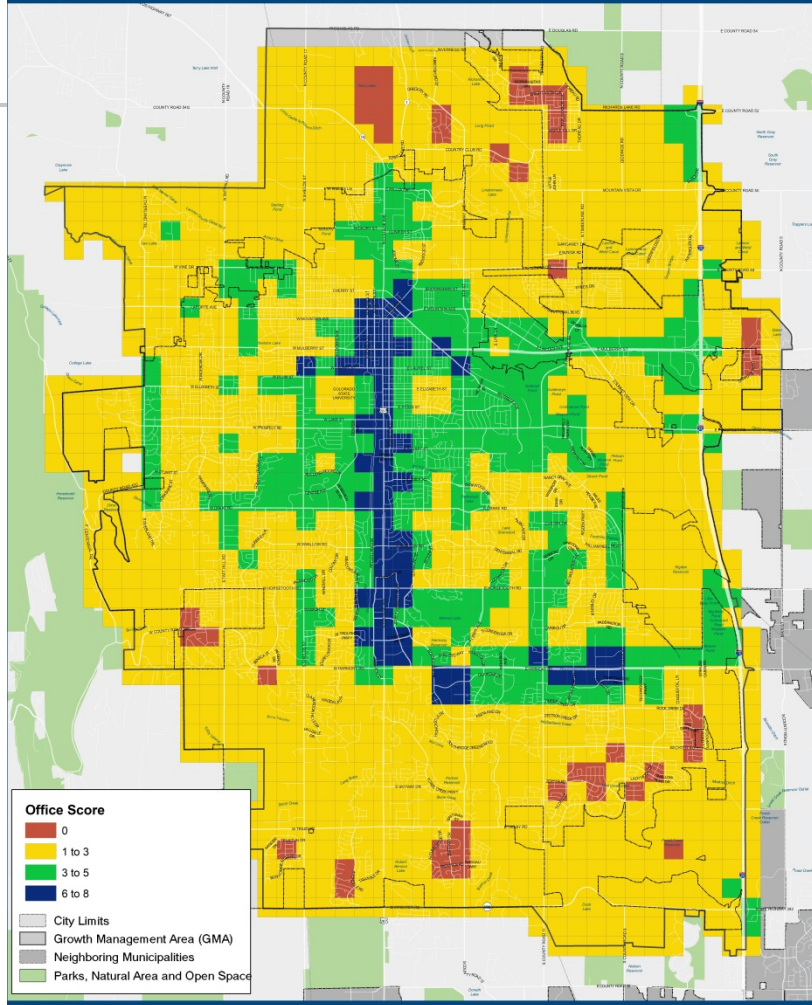
- Surrounding Housing density
 - Average housing density in grid of greater than 2 households per acre
- Visibility and Access from highways/major arterials
 - Within ¼ mile of Major Arterial or Highway
 - Adjacent to Arterial
- Highway Interchange
 - Adjacent to interchange
- Presence of Existing Retailers
 - Greater than 4 retailers in grid
- Served by City's Water and Sewer
 - Water - Yes/No
 - Sewer - Yes/No



Item 14. OFFICE/EMPLOYMENT

ATTRIBUTES MEASURED

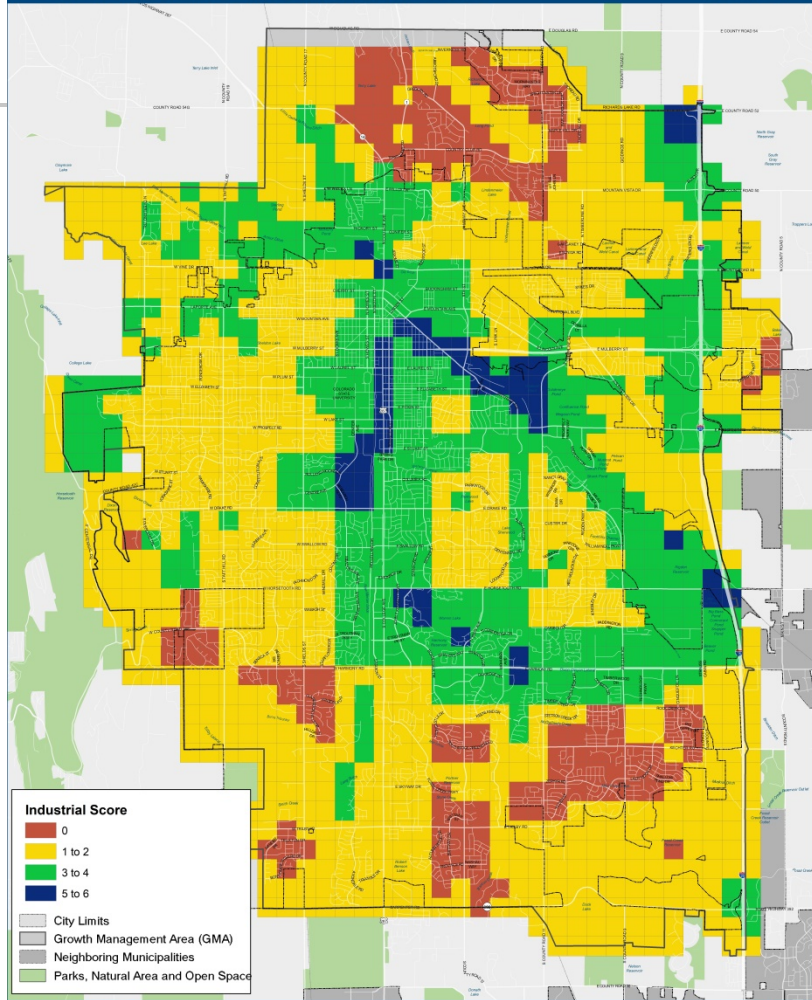
- Employment Density
 - Average employment density of greater than 60 jobs per grid
- Housing Density
 - Average housing density in grid of greater than 2 households per acre
- Proximity to highways/major arterials
 - Within 1/4 mile of Major Arterial/Highway
- Highway Interchange
 - Adjacent to interchange
- Access to Transit
 - Adjacent to Max Stop
- Presence of Enterprise Zone
 - In a enterprise zone Y/N
- Served by City’s Water and Sewer
 - Yes/No
- Average parcel size
 - Average parcel size of greater than 0.5 acres



Item 14. **INDUSTRIAL**

ATTRIBUTES MEASURED

- Access to highways/major arterials
 - Within ½ mile of Major Arterial or Highway
- Highway Interchange
 - Adjacent to interchange
- Access to freight transportation
 - Adjacent to rail
- Presence of Enterprise Zone
 - In an enterprise zone Y/N
- Served by City’s Water and Sewer
 - Water - Yes/No
 - Sewer - Yes/No
- Average parcel size
 - Average parcel size of greater than 2 acres



COMPARISON TO OPPORTUNITY AREAS

QUALITATIVE ASSESSMENT BASED ON SCORING

- Retail Focus Areas
 - Downtown, College and Harmony Corridors and select Highway interchanges
- Office Focus Areas
 - Greater downtown area, Midtown and Harmony Corridors, select opportunities near interchanges
- Industrial Focus Areas
 - Interstate/interchanges, Mulberry Corridor, North College

	Regional/Community Retail	Office/Employment	Industrial
Downtown	Green	Green	Red
Mountain Vista Area (north of Vine, excluding interchange areas)	Red	Red	Red
North College Corridor	Yellow	Yellow	Green
East Mulberry Corridor (except interchange area)	Yellow	Yellow	Green
Midtown Corridor	Green	Green	Yellow
Harmony Corridor	Green	Green	Yellow
Timberline Corridor (Horsetooth to Harmony)	Yellow	Yellow	Red
W. Elizabeth Corridor	Yellow	Yellow	Red
Mountain Visa Interchange	Yellow	Red	Green
Vine Interchange	Yellow	Red	Green
Mulberry Interchange	Green	Yellow	Green
Prospect Interchange	Yellow	Yellow	Green
Harmony Interchange	Green	Yellow	Yellow
Hwy 392 Interchange	Green	Yellow	Yellow

LEGEND

	Limited	Adequate	Good
Desirability	Red	Yellow	Green

FUTURE LAND USE SCENARIO DIRECTION

AREA SPECIFIC RECOMMENDATIONS

- Downtown, I-25 interchanges, and major corridors (College Avenue, Harmony Road, and Mulberry Street) should be the focus areas for employment uses
- Areas near downtown should be designated for employment areas. Specifically, areas between Vine and Mulberry from the river to Timberline Road should be prioritized for employment uses, except where residential uses are already present. Suggested changes to the future land use map include changing residential areas to employment and/or industrial.
- The north side of the Mulberry corridor should be designated for employment and industrial uses (behind commercial frontages) where not already designated. This area is more attractive for employment areas than other areas currently designated for employment. However, the infrastructure issues in the area may be limiting in terms of development potential.
- Large portions of the Mountain Vista subarea currently designated for employment uses likely will not be able to attract the desired employment uses over the plan horizon. Different uses should be considered for these areas aside from areas near I-25 and with access to I-25.
- The City should focus regional commercial/retail oriented designations along I-25 around major interchanges including Highway 392, Harmony Road, and Mulberry.

FUTURE LAND USE SCENARIO DIRECTION

AREA SPECIFIC RECOMMENDATIONS CONTINUED

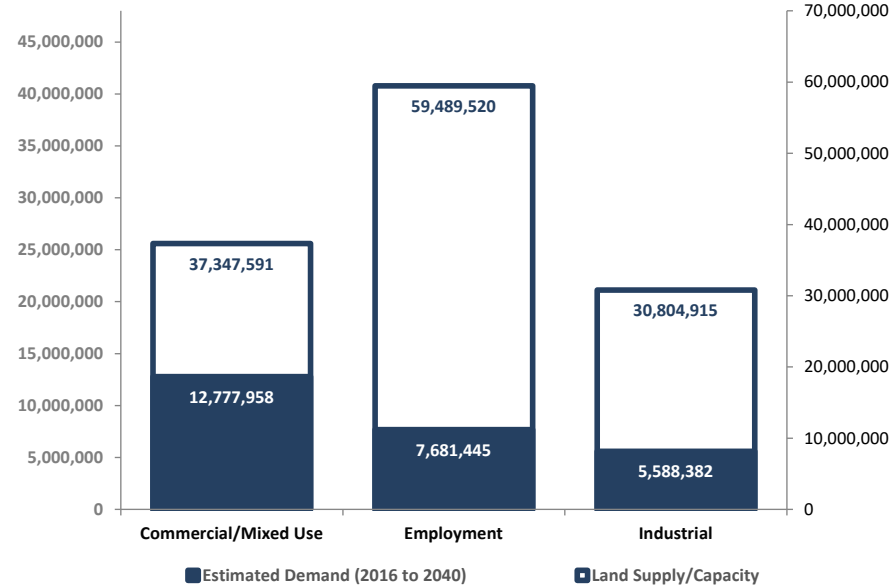
- The demand and attractiveness for industrial development in Fort Collin's industrial areas is lower than the demand and value to the City than uses that could fit in employment areas. The potential for logistics oriented industrial uses exists and is attracted primarily to areas along I-25. However, the demand likely exceeds what is currently designated along I-25. Portions of industrial and commercial designated lands currently along I-25, specifically near the Prospect interchange and north of the Mulberry interchange, could be designated for employment as a way to replace employment areas re-designated to other uses in less attractive areas.
- Certain remaining parcels along Harmony Road that are further from Harmony Road and behind larger commercial and employment uses could be considered for designation as residential uses. Specifically the City should strive for higher density residential uses in these areas given their proximity to employment and potential enhanced transit routes.
- Lastly, even with changes to the future land use plan map, the city will still have plenty of land to accommodate employment growth. However, the current and potentially new, larger areas designated for employment uses still may not be attractive to desired employers and developments. The areas designated to for employment need to be support with investments enhance their attractiveness and development readiness.

IMPACT OF SCENARIOS ON LAND SUPPLY

CHANGES TO SUPPLY VS DEMAND BASED ON POTENTIAL SCENARIOS

- Capacity in the Baseline Scenario is based on the Baseline growth framework plan. The totals do not match the City’s current estimates of capacity based on zoning but are approximately the same.
- Under the Baseline Scenario, the City has ample land to accommodate future employment demand in all categories, with a large surplus of employment land.
- Reductions in employment and industrial designated lands likely won’t impact the City negatively if areas of lower value for employment uses are re-designated to other uses.

Baseline Scenario

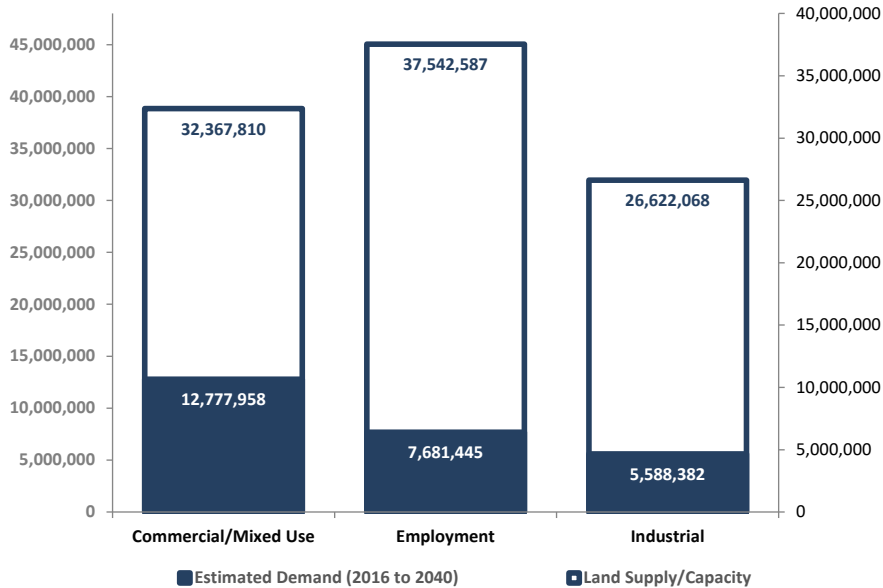


Source: Economic & Planning Systems; Clarion Associates, City of Fort Collins

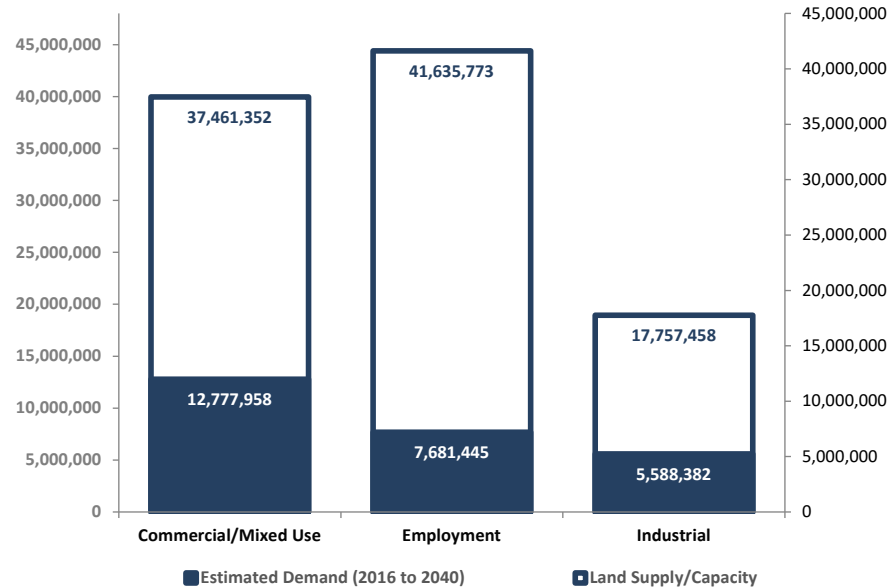
IMPACT OF SCENARIOS ON LAND SUPPLY

CHANGES TO SUPPLY VS DEMAND BASED ON POTENTIAL SCENARIOS

Scenario 2



Scenario 3



FORT COLLINS RESIDENTIAL METRO DISTRICTS EVALUATION POINTS SYSTEM

Required Number of Points:

Housing - 5 points

Energy Conservaton and Renewables - 10 points *

Indoor Water Conservation - 3 points

Outdoor Water Conservation - 7 points

Neighborhood Livability - 5 points

* At least one Enhanced Energy Performance option must also be selected

NOTES		Points
HOUSING		
1. Housing Supply, Diversity, and Choice		
A. 10% Home Ownership at <120% AMI	10% deed restricted, for-sale, single family units not to exceed 120% AMI *Point multiplier: If all housing units meet DOE Zero Energy Ready (ZER) standard, 1 additional point received	4/5*
B. Limit Unit Size for 20% single family homes	A combination of Attached or detached, single family units based on at least 2 of the following breakpoints: 5% less than 800 SF 5% between 800 to 1,100 SF 5% between 1,100 to 1,300 SF 5% between 1,300 to 1,600 SF 5% between 1,600 and 2,200 SF **Option for Point multiplier: If 3 of the following breakpoints are selected, 1 additional point OR If all housing units meet DOE Zero Energy Ready (ZER) standard, 1 additional point received	2/3**
C. Accessory Dwelling Units (ADU's)	Detached or attached Accessory Dwelling Units between 300 and 800 SF in size for a minimum of 10% of the units within the development plan.	2
2. Affordable Rental Housing		
A. 10% Affordable Rental Housing	10% rental units serving an income average not to exceed 60% AMI	2
B. 10% Affordable Rental Housing that does not utilize competitive funding sources	10% rental units serving an income average not to exceed 60% AMI that does not utilize competitive funding sources, i.e.- local limited Private Private Activity Bonds, Low Income Housing Tax Credits (LIHTC) and City competitive grant process funding (CDBG/HOME/Affordable Housing Fund), or a development that otherwise demonstrates it contributes net-new units of affordable housing into the Fort Collins community.	3
Required number of Housing Points		5

	NOTES	Points
ENERGY, RENEWABLES & WATER		
1. Enhanced Energy Performance		
A. DOE Zero Energy Ready (ZER) Home Performance Path Certified with balanced mechanical whole dwelling ventilation	<p>Very similar to current code, but with more rigorous 3rd party inspection. Studies show incremental cost of building to ZER ranges from only 0.9-2.5%, with Fort Collins likely be on lower end with existing stricter building code. ZE and ZER levels of efficiency could be achieved without aggressive or cutting-edge envelope and HVAC solutions.¹</p> <p>Local example - REVIVE: Total Marginal Cost for Zero Ready (4.8%) - Increase monthly mortgage payment=\$84, Monthly savings=\$138. Projected monthly utility energy bill=\$20.²</p> <p>1. Peterson, Gartman, Cordivae, The Economics of Zero Energy Homes, Rocky Mountain Institute, 2019 https://rmi.org/wp-content/uploads/2018/10/RMI_Economics_of_Zero_Energy_Homes_2018.pdf 2. McFaddin, Economics of Energy Performance – REVIVE Properties, 2019 https://www.fcsny.com/greenbuilding/files/mcfaddin_green-finance-2019.pdf?21584398326</p>	4
B. OR HERS index of 47 or less without solar and single family detached and attached dwellings must achieve 2.0 or less ACH50 and provide balanced mechanical whole dwelling ventilation	<p>Building records confirm new homes in Fort Collins built to code are delivering scores of 58-62. Proficient builders are capable of achieving a HERS in the mid 40's resulting in an average annual energy cost savings of \$350-400 over a code built home.³ For Multifamily development, the HERS score shall be in accordance with RESNET Guidelines for Multifamily Energy Ratings</p> <p>3. https://www.hersindex.com/</p>	4
C. OR Energy Rating Index (ERI) path single family detached and attached dwellings must achieve 2.0 or less ACH50 with balanced mechanical whole dwelling ventilation	<p>Energy Rating Index (ERI) of 40 or lower. ERI as a metric has a backstop to prevent builders from a reduced envelope performance. Must also achieve 2.0 or less ACH50 and</p>	3
D. OR Net Zero Energy Home Performance Path - HERS of 0 or less with balanced mechanical whole dwelling ventilation	<p>Optional compliance paths that would replace all of the above requirements.</p>	7

NOTES		Points
ENERGY, RENEWABLES & WATER		
2. Energy Components		
A. Heat homes with efficient electric heat	Efficient electric heat is defined as a Geothermal Heat Pump or Cold Climate Air Source Heat Pump (ccASHP) with a COP of 1.9 or greater at a heating design temp of 5° F. Product list of qualifying ccASHP's: https://neep.org/high-performance-air-source-heat-pumps/ccashp-specification-product-list	2
B. Build to Passive House Standard	5% of homes built to either International Passive House Association (IPHA) or Passive House Institute US (PHIUS) standard.	3
C. Build air tight homes with balanced whole dwelling ventilation with heat or energy recovery	Build homes to ≤ 1.5 ACH50 air tightness. Balanced mechanical whole dwelling ventilation via Heat Recovery Ventilator (HRV) or Energy Recovery Ventilator (ERV).	1
D. District Heating and Cooling for Neighborhood	Utilize electric-based centralized heating and cooling systems such as a neighborhood scale ground source heat pump. Usually more cost effective for commercial and mixed use and not residential SF.	3
E. Install qualifying connected thermostat	Install qualifying connected thermostat from Fort Collins Utilities Peak Partners demand response (DR) program. This bolsters the utilities DR effort by increasing the number of homes that can opt-in to the program. https://peakpartnersfortcollins.com/	1
F. Install air source heat pump electric water heater	Fort Collins Utilities Peak Partners connected air source heat pump water heaters get the additional point (up to 3 pts). https://peakpartnersfortcollins.com/	2-3
G. Provide EV-Installed charging for buildings containing R-1 or R-2 occupancies.	Provide EV-Installed charging for 7% of the total parking spaces for buildings containing R-1 or R-2 occupancies. Single family detached and single family attached are excluded as current code requires all new single family homes have EV ready conduit installed from the panel to a junction box located in a garage or carport. https://www.swenergy.org/transportation/electric-vehicles/building-codes#who	1
3. Renewable		
A. Install % of total energy need in solar (50/75/100%)	Installations may be on individual rooftops or in shared as in "solar gardens" and will be virtually net metered. These additional points cannot be used toward total if Enhanced Energy Performance item D - Net Zero Energy Home above is utilized.	1 - 3
B. Smart storage and grid interactivity	Install interactive grid storage system that allows owners to optimize renewable energy storage and energy utilization through smart grid technologies. Points are differentiated by size of battery, and capability of export to the grid (3 pts)	1 - 3
Required number of Energy Saving & Renewable Points		10

NOTES		Points
ENERGY, RENEWABLES & WATER		
4. Indoor Water *		
A. WaterSense fixtures performing above code	New construction provides fixture efficiencies surpassing code standards and must all be WaterSense Certified. <ul style="list-style-type: none"> • 1.0 GPF/600 gram MaP score toilets (dual flush code def) & • 1.5 gpm showerheads 	2
B. Install leak detection and notification system	Each home or unit must be water shutoff valve enabled and installed by a licensed plumber. Flo by Moen and Phyn Plus Smart Water Assistant are two examples.	1
C. Sub-metering	Privately owned and maintained sub-metering is provided for individual units within multi-family development to help with water management and leak detection.	1.5
D. Efficient plumbing design	Meet Section 3.3 of the WaterSense New Home Specification, which requires that hot water distribution systems store no more than 0.5 gallons of water between the source of hot water and the furthest existing fixtures and provides inspection and compliance methods and details. This is also the standard used in DOE's Zero Energy Ready program.	0.5
E. Indoor Water Use Innovation	The project demonstrates indoor water use innovation and pursuit of building certifications. Points are achieved when applied to all applicable buildings within the development.	1
Required number of Indoor Water Points		3

NOTES		Points
ENERGY, RENEWABLES & WATER		
5. Outdoor Water *		
A. Efficient Residential irrigation systems **	Install efficient irrigation systems for all residential sprinkler systems, WaterSense Certified (WS), where available: <ul style="list-style-type: none"> ☑ Pressure reducing heads (WS) and high efficiency nozzles ☑ Weather-based irrigation controller (WS) ☑ Flow sensor ☑ Master valve 	2
B. Water efficient landscaping for residential front yards	Front yard - Create waterwise, plant friendly landscapes, including a water budget on a 10 gallon or less per SF basis within residential front yards. Consider plant selection, tree protection/selection, mirroring water budget table requirements on the commercial side, but less than 10 gpsf	2
C. Separate drip system for trees within parkways and medians	Establish separate drip systems for trees in common areas to support urban forest health and resiliency, especially during water shortages.	2
D. Common area water use performing above code	12 gallons per sq. ft. max or sliding scale (e.g. – 3 pt for 8 gpsf or less, 2pts for 9-11gpsf, 1pt for 12-14 gpsf or something similar). Align metrics to ELCO water budget table	1 - 3
E. Stormwater Innovation	Uses innovative stormwater techniques such as Low Impact Development (LID) or Green Infrastructure to capture and treat runoff at the source as defined and illustrated in the City's LID Implementation Manual. https://www.fcgov.com/utilities//img/site_specific/uploads/fcscm-appendix-c.pdf?1549566344	1 - 2
F. Rain barrels	0.5 pt for every two, 100-gallon barrels. 1 pt maximum (CO State Law - 2 x100 gallons per residential unit on units 4 or fewer)	0.5 - 1
G. Outdoor Water Use Innovation	The project demonstrates outdoor water use innovation and pursuit of building certifications. Points are achieved when applied to all applicable buildings within the development: <p>For single family and duplex homes: HERS H20 (No minimum score, but certification required)</p> <p>WERS (No minimum score, but certification required)</p> <p>Net Blue – offset 25% or more water use from new developments with water efficiency upgrades/retrofits to existing and/or the new development(s), per the Net Blue program</p>	1 1 2
Required number of Outdoor Water Points		7

*Compliance with these indoor and outdoor water standards do not alter a project's responsibility to satisfy water supply requirements of ELCO, FCLWD, Fort Collins Utilities or other governing water service district. To receive listed points, measures must be applied to all applicable areas, properties and buildings within the development.

**For water sources other than potable, additional requirements shall be included, such as water filtration, purple pipe and valve box, no cross contamination with potable supplies, and no drip irrigation on non-potable systems.

	NOTES	Points
NEIGHBORHOOD LIVABILITY		
1. Transportation		
A. Off-site Trail Connection	Direct connections to off-site bicycle and pedestrian facilities, including but not limited to the regional paved trail system, the low-stress bicycle network and other local paved trail systems.	1
B. Exemplary Bicycle and Pedestrian Improvements	Provide pedestrian and bicycle circulation improvements exceeding Larimer County Urban Areas Street Standards (LCUASS) requirements. e.g. - buffered bicycle lanes, concrete crosswalks, enhanced intersection paving design, enhanced streetscape design, and pedestrian-oriented lighting.	1
C. Level 3 EV Charging Stations	Publicly-accessible Level 3 EV charging stations provided in convenient locations.	1
D. Trail Connection provided to a School	An off-site and off-street trail connection is provided to a neighboring public or private school.	1
E. Transportation Innovation	The project provides innovative transportation improvements.	1
2. Neighborhood Amenities		
A. Access to Essential Neighborhood Services	Includes at least two neighborhood-serving retail or service uses, e.g.- recreation facilities, childcare, daycare, and healthcare facilities in the project (1 point) , or three or more uses (2 points), and 3 points for a grocery store or supermarket.	1 - 3
B. Vertical Mixed-Use Buildings	A mixture of uses are provided in the same building. Lower floors typically include more public uses with private uses on the upper floors. Examples include ground floor retail or services, with remaining floors including residential units.	2
C. Community Gathering Spaces	Provides a plaza, public square, park or other similar public open space within the project that exceeds requirements of Section 4.5.	1
D. Community Workspace	Provide common neighborhood workspaces; (e.g., workshops, maker spaces, over/under live workspaces).	1
E. Common Areas Food Production	Provisions for community gardens, edible landscapes, and/or on-site urban agriculture.	1
F. Innovative Neighborhood Amenities	The project provides innovative neighborhood amenities.	1

	NOTES	Points
NEIGHBORHOOD LIVABILITY		
3. Natural Environment		
A. Access to Parks & Open Spaces	Each resident is within 1,320 feet of a park and/or open space, including areas of respite (i.e., places that are quiet, beautiful, naturalistic).	1
B. Enhanced Habitat	Integrate pollinator corridors in design, create and/or enhance wildlife habitat/corridors, ecological restoration of degraded systems using native and adaptive landscaping in common areas.	1
C. Expansion of Adjacent Natural Habitat	If the site is contiguous or adjacent a natural area or natural habitat or feature, creates internally contiguous habitat opportunities a minimum of ten (10) percent greater than the requirements specified in 3.4.1.	1
D. Innovation in Natural Environment Protection	The project provides innovative measures to protect or enhance the Natural Environment.	1
4. Health, Culture & Education		
A. Universal Design	Create interior spaces that are accessible to people with diverse ability levels and that support lifelong living (1 point), e.g.- doorways that provide 32 inches of clearance and a ground floor bathroom accommodating future installation of grab bars . Provide zero step entryways (2 points)	1 - 2
B. 0.5% for Arts & Culture	The amount equal to one half (0.5) percent of the total capital infrastructure construction costs of the Metro District for the planning, design and construction of public art, including "functional art" in community spaces, parks, plazas, playgrounds, or other areas viewable to the public.	1
C. Sustained Educational Programing	Provide long-term funding in infrastructure for ongoing community engagement and educational programming that support learners of all ages (e.g. High Plains Environmental Center, library branch, community college branch).	1
D. Excellence in Community Engagement	Community engagement process follows the National Charrette Institute (NCI) standards that engage diverse constituents in participatory design processes designed to understand and accommodate community aspirations and priorities for the specific site.	1
E. Health, Culture or Education Innovation	The project provides innovative techniques to promote health, culture or education.	1
Required Number of Neighborhood Livability Points		5



Community Development and Neighborhood Services

Planning Services

281 North College Ave.
P.O. Box 580
Fort Collins, CO 80522

970.221.6750
970.224.6134 - fax
fcgov.com/developmentreview

Watermark N Lemay Neighborhood Zoom Meeting Summary (10-04-21)

Overview

City Staff:

Alyssa Stephens- Neighborhood Development Liaison
Pete Wray- Senior City Planner and Project Planner
Sylvia Tatman-Burruss- City Planner
Marc Virata- Engineer
Sophie Buckingham- Engineer

Owner/Applicant Team:

Jessica Tuttle- Thompson Thrift
Russ Lee- Ripley Design
Monica- Thompson Thrift

Neighborhood Meeting Date: Monday October 4, 2021, 5:45 PM- 8:00 PM

Proposed Project Review Process

Project Information by Pete Wray

- Rezoning of Watermark N Lemay
- The site is a 4-parcel site on 16 acres
- Currently an industrial district
- Located within the East Mulberry Corridor Plan
- Surrounded by low density residential, industrial, and businesses
- Request for rezoning of a portion of the site to medium density mixed use neighborhood
- Subject to review by Planning Commission and decision by City Council
- Still in the early stages of the process

Applicant Presentation

Thompson Thrift Presentation by Jessica Tuttle

- Proposing a multifamily development on the southern parcel (MMN zoning)
- Need for attainable housing, and looking for community input, and see if it's a good fit
- Leaving the northern portion as industrial use
- The site is within a flood plain so it will be raised
- These will be market rate apartments and not student housing with average age of 35
- 324 units, three stories high
- Watermark has a large portfolio and a similar Longmont property
- There will be a clubhouse and outdoor amenities

Ripley Design presentation by Russ Lee

- Will include a vibrant street scape and surface and garage parking
- Concept may change over time
- Site will be fully parked, with a club house in the corner of site
- May or may not have apartments in the same building as the clubhouse
- Street trees on both sides of the project
- There will be a sound barrier with trees from adjacent single-family neighborhood
- Benefits of the proposed MMN zoning are that it will provides attainable housing near employment zoning, allows for a short commute to nearby employment, it will be pedestrian friendly with bike trials, a water fountain, and a bike repair station
- Multifamily development is ok next to existing industrial zoning while providing a buffer to residential uses
- Not student housing
- Not rent by bedroom
- Design will fit the community

Primary Issues

- Wildlife
- Trail connections
- Traffic
- Diversity of building types
- Activation of streets
- Vandalism/ crime in industrial park
- Building heights
- Water
- Land changes

Questions/Comments and Answers

General

Alyssa Stephens- Neighborhood Development Liaison will be the facilitator of this meeting

Community Questions:

Resident question: Area is used by wildlife, what will the mitigation process be?

Answer: The City (Environmental Planning) will decide what kinds of mitigation will be needed and produce a report for this site. The developer will be responsible for making sure all items from the report are completed. The report will be public and be due with the initial application.

Resident question: How will the area connect to the existing wildlife corridors?

Answer: The plan is to start a dialogue with the community and then start the process of site plan approval. There will be a split rail fence so that deer can pass through. The developer will

work with the neighborhood to make sure the site works with the existing neighborhoods and with wildlife.

Resident question: There is concern with medium density use rezoning because of the potential for additional traffic. The current lights are not long enough. With the proposed 500 extra cars on the road, how will this be addressed?

Answer: A traffic engineer will have a scoping meeting with the city and a traffic study will be implemented. The developer will have to mitigate any traffic impacts by the city with adequate and additional public facilities. There's currently a minimum parking requirement, additionally, all city codes will be met. There will be new timing on the signals as changes happen in the area.

Resident question: Does the developer have any examples of more uses for building types-like townhomes and rowhomes? Have they looked into any of these building types instead of apartments?

Answer: Yes, the developer has more product types in their portfolio.

Resident concern: There is a concern that there aren't other housing types in the area and there will be more traffic. They want to see a more vibrant streetscape with walkability. Maybe some retail and restaurant options that they can walk to.

Answer: This is not a retail site, but they could investigate doing something unique with the club house area. An example of this is a coffee area. The idea is to activate the trails and the space with a focus on street life and developing the old Town feel that we love.

Resident Comment: We currently love being close to Home Depot and the industrial use in the area is not that noisy. We would like to see more land uses to diversify the area.

Business owner question: Since opening the street up there has been more vandalism and "bad traffic" and crime. Can we expect more crime in the area with this development?

Answer: Not likely. This will not be a student housing development and there will be discounted rates for cops to live there. Public streets would be created to connect to street network. This area is part of an enclave, and the city is planning to annex the area. That will include the transition to City law enforcement.

Resident question: When would they start breaking ground?

Resident Question: What is the timing of the development?

Answer: Project approval is anticipated to be about 18 months away- then around 22 months, less than 2 years to become fully operational (2023).

Resident concern: There is a concern about the height of the new buildings. Residents won't have the same view. They liked the idea of diversity in construction.

Answer: The developer tried to mitigate massing by turning the units east to west so that current residents would only see the narrow part of the new buildings. The developer will look more into it. They have some flexibility.

Resident question: The new Lemay bypass has an extreme height difference; they wonder if the heavy density tall buildings would be better closer to Vine. Why aren't we considering developing the north side of site instead?

Answer: The City felt the industrial site would be better farther from the existing residential zoning.

Resident concern: Wants comment to be noted

Answer: It is correct that the heights get taller closer to Vine. But it doesn't start ramping up until Buckingham. Applicants will be looking at additional documents to include a market analysis to why the site should be where it is proposed. The city will review that market analysis and supporting documents.

Resident question: Water usage is a big deal. How does that get factored into the approval process?

Answer: The developer has met with the city and utility and will be working with ELCO to get water. The developer needs to find their own water for ELCO.

Anonymous question: If this property gets rezoned- multifamily, could this happen to other existing neighborhoods?

Staff Response: Not very likely. This is vacant land; the existing neighborhoods are well established for low density, so we don't see those changing designation. The whole neighborhood would have to get on board for something like that, the city would not initiate a rezoning of established neighborhoods. We are trying to keep the current neighborhood and businesses intact.

Any more questions can be directed to devreviewcomments@fcgov.com

Process/Next Steps

Staff: Thanks for attending tonight. The conversation will be summarized and available as public record. If you received notice for the neighborhood meeting, you would also get notice for the hearings.



David Katz, Chair
 Ted Shepard, Vice Chair
 Michelle Haefele
 Per Hogestad
 Adam Sass
 Jeff Schneider
 Julie Stackhouse

City Council Chambers
 City Hall West
 300 Laporte Avenue
 Fort Collins, Colorado

Cablecast on FCTV, Channel 14 on Connexion &
 Channels 14 & 881 on Comcast

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**Regular Hearing
 December 15, 2022**

Chair Katz called the meeting to order at 6:00 p.m.

Roll Call: Hogestad, Katz, Sass, Schneider, Shepard, Stackhouse

Absent: Haefele

Staff Present: Everette, Yatabe, Sizemore, Myler, Claypool, Mounce, Kleer, Lindsey, Dinger, Stamey, and Manno

Chair Katz provided background on the Commission's role and what the audience could expect as to the order of business. He described the following procedures:

- While the City staff provides comprehensive information about each project under consideration, citizen input is valued and appreciated.
- The Commission is here to listen to citizen comments. Each citizen may address the Commission once for each item.
- Decisions on development projects are based on judgment of compliance or non-compliance with city Land Use Code.
- Should a citizen wish to address the Commission on items other than what is on the agenda, time will be allowed for that as well.
- This is a legal hearing, and the Chair will moderate for the usual civility and fairness to ensure that everyone who wishes to speak can be heard.

4. The Landings at Lemay Rezone & Structure Plan Map Amendment

Project Description: This is a request to amend the Structure Plan Map and rezone 17.1 acres from the Industrial (I) zone district to the Medium Density Mixed-Use Neighborhood (MMN) zone district. If approved, the rezoning is likely to facilitate a future proposal for a multifamily development project.

Recommendation: Approval with Conditions

Staff and Applicant Presentations

Ryan Mounce, City Planner, provided a brief overview of the project. He stated it is a proposal to rezone approximately 17 acres east of the intersection of Lemay Avenue and Duff Drive from industrial (I) zoning to medium-density mixed-use neighborhood (MMN) zoning. He noted City Council is the ultimate decision-maker in rezonings; therefore, staff is requesting a recommendation from the Commission.

Mounce discussed the site and surrounding zoning. He noted the site is well defined with the railroad tracks to the north, the new realigned Lemay Avenue and overpass, and the future extension of Cordova Road on the east. He stated the realignment of Lemay has not impacted the floodplain mapping in the area and noted no critical facilities would be allowed on the site given it is within the 500-year floodplain.

Russ Lee, Ripley Design, stated many of the neighborhood meeting attendees were in favor of this rezoning. He outlined the Land Use Code criteria for rezoning, two of which are mandatory and three of which offer additional considerations. He stated the first mandatory criterion is that the proposed zoning is consistent with the City's Comprehensive Plan, or City Plan, and that the proposed rezoning meets several of the City Plan principles and policies, including adequate public facilities, compatibility of adjacent development, and providing a variety of housing types and densities, among others. The second mandatory criterion for rezonings is that the new zoning is warranted by changing conditions within the neighborhood. He commented on the number of changes to the area and its zoning in the past few years and noted there has been a decreased demand for industrial zoning in Fort Collins with an increased demand for housing.

Mr. Lee commented on two additional considerations: that the zoning map be compatible with existing and proposed uses surrounding the subject land and is an appropriate zone for the land, and that the zoning map amendment will result in a logical and orderly development pattern. He noted the subject property is ideally located between single-family to the west and existing industrial to the east. Additionally, it complements the existing multi-family to the south. The site is also located near several desirable amenities.

Mr. Lee stated the applicant is willing and able to accept the three conditions presented by staff. He concluded by stating the proposal meets the two mandatory zoning amendment justifications and the three additional zoning amendment considerations. Additionally, the zoning is consistent with the City's Comprehensive Plan and meets several of its principles and policies. The zoning is warranted by changed conditions within the surrounding neighborhood, including the subject property, and multi-family would be a desirable zoning designation for this property. He stated there will be no adverse impacts to the natural environment and the zoning results in a logical and orderly development pattern.

Mounce provided a detailed analysis of the proposed rezoning. He detailed the criteria for rezoning in the Land Use Code. Regarding compliance with City Plan, Mounce stated staff considered the land use guidance provided in City Plan and the East Mulberry Corridor Plan, both of which necessitate a Structure Plan Map amendment to change the place type from industrial to multi-family housing. Additionally, staff considered policy guidance from both City Plan and the East Mulberry Corridor Plan.

Mounce stated staff is recommending several conditions which are organized around the City's residential metro district policy evaluation system which asks developments to go above and beyond current code standards. He clarified this proposal is not seeking a residential metro district. The first condition being recommended as part of the rezoning is that the future residential development within its boundaries would achieve fifteen points within the energy renewables and water subcategories. The second recommended condition is that the residential development would achieve five combined points from the livability categories of the residential metro district point system. He outlined the different livability categories from which the applicant could choose.

Mounce stated staff found the most support for the rezoning given changing conditions in the area. He stated infrastructure as well as land uses and zoning have changed in the area. He commented on the property's lack of proximity to major highway corridors and stated the location is not the best suitable site for much of what is being seen now in terms of industrial development. Additionally, the site has transitioned from being in the middle of a broader industrial area to more of an edge, making it more appropriate for a broader range of uses.

Mounce discussed staff's analysis of the quality and quantity of industrial and employment land in the city. He stated the existing vacant industrial land is well suited to support the community into the future.

Mounce commented on the trade-offs between industrial and multi-family zoning, including the potential for overall more traffic with multi-family, noisier traffic with industrial, and taller building heights with multi-family. He noted there are no identified sensitive natural habitat features on the site and stated staff's finding is that the rezoning would result in a logical and orderly development pattern.

Mounce stated the Cordova Road extension would help with buffering between industrial and residential zoning; therefore, staff's third recommended condition is that the residential buildings be set back 30 feet from the Cordova right-of-way, which would achieve the full buffering standard from the Code. He stated staff finds the rezoning petition complies with the applicable standards with the three recommended conditions.

Commission Questions

Vice Chair Shepard noted the parcel shape is not a square, but includes a notch that is not owned by this applicant and is not in city limits; however, that is where Cordova Road is slated to run. He questioned whether the subject parcel has the capability of dedicating the right-of-way for Cordova Road. Mounce replied that has come up during staff's review, and the feedback to the applicant team in thinking about a future development project is that the extension of Cordova Road will be necessary to meet certain standards, including emergency access. Mr. Lee replied the applicant does have a letter of intent on the notched out property and is working through the process to purchase it to build Cordova Road.

Vice Chair Shepard questioned why there is not a joint, two-ownership rezoning application. He suggested this rezoning may be premature and questioned whether the project can proceed under this uncertainty. Mr. Lee replied the applicant is confident in their ability to purchase the additional property and they would not be moving forward with this process without that confidence.

Development Review Manager Everette noted the zoning is less pertinent on the other parcel because it is not developable for anything other than a roadway.

Jessica Tuttle from the applicant team stated they were aware the parcel would need to be acquired for Cordova Road to extend and the site plan only shows the roadway on that parcel.

Vice Chair Shepard noted the parcel is 150 feet wide and the roadway will not be that wide; therefore, there will be some outparcel awkwardness that may cause issues for surveyors, appraisers, and lenders. However, he stated he can see the City is comfortable with proceeding.

Chair Katz asked if the City could involuntarily annex the parcel. Development Review Manager Everette replied it is already annexed. Mounce confirmed that information and noted it carries City zoning.

Vice Chair Shepard expressed support for the third condition and asked if it would also apply to the north property line, which also abuts industrial zoning. Mounce replied the condition is currently not set up that way as the burden of the buffering would fall on the industrial land to the north if it is developed.

Chair Katz stated it appears the applicant is willing to comply with the conditions, but questioned if they would be more appropriate at the PDP stage. Mounce replied the conditions would be recorded on the rezoning map to be part of the project development plan, and if they are not met, certificates of occupancy could be delayed.

Member Hogestad asked why the entire parcel that is currently owned by the applicant is not being sought for rezoning. Mr. Lee replied this project was originally brought before staff when the Mulberry Corridor Plan was moving toward being redone, and staff wanted to focus on the 17 acres that Thompson Thrift really needed then wait to see what the Corridor Plan was going to say for the northern parcel. He stated the owners do want to have the entire property ultimately rezoned.

Public Input (3 minutes per person)

Sarah King expressed concern about the amount of traffic and taller buildings that would result from a multi-family development on the site.

Staff Response

Mounce stated a change in the zoning to MMN would increase the likelihood of taller buildings, though both zoning designations have similar height limits. He noted there are buffering and compatibility standards that work to address some of those concerns and issues at the time of a project development plan.

Commission Questions / Deliberation

Member Hogestad stated he is still struggling with the remaining small sliver of industrial zoning.

Member Stackhouse questioned whether it is within the purview of the Commission to have an opinion as to whether the boundaries are too limited for the rezoning request. Mr. Yatabe stated the Commission should focus on the standards for the rezoning and Structure Plan Map amendment.

Member Schneider stated the Commission has changed several properties with split zoning over the years and questioned why it should artificially create that situation which would normally not be desirable. He cited an example of a daycare parcel in Old Town that the Commission decided to change from two zone districts to one.

Mounce stated the East Mulberry Corridor Plan update was just beginning when this rezoning was proposed, and there was a desire to look holistically at the entire corridor for zoning or land use changes rather than having this particular rezoning occur in front of that process. He noted the update has been delayed, which has pushed this issue to the forefront. He noted staff may still want to look at these pieces of this property during the update and there may be some recommended changes to the land use guidance. He stated the boundary of this proposed rezoning lines up with the future extension of Link Lane; therefore, if the rezoning is approved, there is not necessarily going to be a situation wherein industrial zoning would be adjacent to residential.

Member Schneider asked for examples of other properties on which split zoning has been created by a Commission decision. Mounce replied it is not common and he is unsure of the circumstances, though he is aware of some properties with split zoning. Vice Chair Shepard stated the existing Bucking Horse property was annexed with three or four different zone districts and the Bucking Horse development therefore required eight additions of permitted use.

Vice Chair Shepard stated he appreciates staff's attempt to address the industrial sections with the third condition that speaks to how a forthcoming project development plan would have to address that incongruity. He suggested the possibility of expanding on the condition to address these issues in more detail and with Code citations. He noted detention ponds are not considered buffers in the Code. He also stated it is incumbent upon the less intense land use, residential in this case, to provide the buffering between it and the industrial zoning. He stated he has a proposed condition that would expand on staff's third condition.

Member Sass questioned whether such a condition would be burdensome to the property owner. Vice Chair Shepard stated the parcel in question could potentially be placed into MMN zoning with the Mulberry Corridor Plan update. Mounce confirmed that is a possibility and noted the rezone boundaries were already in place when he took over this item as staff.

Vice Chair Shepard expressed concern about the statement from the applicant team that the whole east side of the project could be a detention pond. He proposed to amend condition three as follows: residential buildings shall be set back a minimum of 30 feet from the Cordova Road right-of-way, *as well as along the north property line that abuts industrial zoning and the possible extension of Link Lane. These two buffer yards must exceed buffer yard C as defined in Section 3.8.26, and be enhanced with additional attributes consisting of undulating earth and berms and dense landscaping comprised of an equal mix of evergreen trees and deciduous trees along with multiple shrub beds, to establish an effective and high-performing buffer in relationship to the industrial areas to the east and north. Such buffer yards must extend for the entire length of the project property lines that face the industrial area whether developed or vacant.*

Chair Katz stated he would support that amendment based on the current conversation.

Member Schneider questioned why the development team cannot wait and come back with a proposal to rezone the entire property.

Chair Katz asked the applicant if the intent is to replat and only procure a section of the parcel in question. Ms. Tuttle replied in the affirmative and reiterated staff requested them to only seek rezoning of the parcel they are purchasing and platting, which is the area south of a Link Lane extension. She noted the seller of that outlying parcel would like it to be rezoned.

Vice Chair Shepard stated he is leaning toward approving this item, but only if there is a performance aspect that allows the Commission to be comfortable with MMN zoning on a direct edge with existing and future industrial zoning.

Chair Sass commended the idea of making the condition performance based.

Members discussed the definition of buffer yard and whether the amended condition would meet Land Use Code standards or provide an enhanced buffer situation over and above requirements.

Member Schneider expressed concern it is not yet known where Cordova Road will lie on the 150-foot-wide parcel and it is known there will be some buffer on the east side of Cordova that will not be developed; therefore, he is unsure about the amended condition.

Vice Chair Shepard stated the east side of Cordova will not include further enhancements because it is in the county and is fully developed. He expressed doubt the future sliver of property will ever be enhanced without an applicant doing a PDP with an associated landscape plan.

Member Schneider expressed concern the amended condition adds restrictions to the existing property owner even though a further buffer distance will exist. Vice Chair Shepard agreed with that thinking and suggested the applicant could do both stormwater detention and a buffer yard.

Member Schneider questioned whether this conversation would be better at a PDP level because dimensions and setbacks will be fully available at that time. He expressed concern about putting conditions on a rezone for unknown details.

Vice Chair Shepard expressed concern about creating a parcel that has the potential to be isolated. He stated the MMN parcel must perform as such or it will not work as a rezoned property.

Chair Katz asked Member Schneider if he believes even the staff proposed conditions are too extreme. Member Schneider replied that is his concern and stated the details should be sorted at the PDP level.

Vice Chair Shepard suggested the possibility that rezoning should not occur without a project development plan. Chair Katz stated that does not make sense given the amount of planning that goes into a PDP on the part of an applicant.

Chair Katz stated he is leaning with Member Schneider that the conditions should apply at a PDP level, not for this rezoning.

Member Stackhouse stated there is some appeal to having benefits shown via the metro district criteria in a rezoning. She also stated that what the Cottages project was required to do should be continued either now or later; however, she would not discount the possibility of doing more.

Member Schneider noted the Cottages project did not have to meet the residential metro district criteria. Member Stackhouse acknowledged that was true.

Member Schneider stated this action would be pushing city-wide policies and agendas down onto development projects without even knowing what the project looks like.

Chair Katz noted the metro district requirements add expense to projects which is then passed on to the renters or buyers. He stated he would prefer to see the conditions placed at the PDP level.

Vice Chair Shepard stated that while the exact site plan is unknown, there was testimony that there would be a detention pond along Cordova. He stated he will not support the rezoning to MMN in an existing industrial park that does not have performance standards such as those provided in the conditions with a more detailed third condition.

Member Stackhouse asked if there were any conditions on the Cottages rezoning. Mounce replied he was uncertain if there were any conditions on the rezoning, but noted that project has a slightly different context across Cordova because there are areas of MMN also on the east side of Cordova for part of that project and other areas where the MMN abuts industrial.

Member Sass asked Vice Chair Shepard to be more specific in terms of what he would like to see over and above the Code minimum. Vice Chair Shepard replied the Code minimum would require a 30-foot buffer because the existence of Cordova Road reduces the buffer from 80 to 30 feet; however, the definitions of buffer yard and landscaping in the Code require a separation and buffer between incompatible uses.

Chair Katz noted that would also be true at the PDP stage. Vice Chair Shepard argued that would not be so based on the testimony provided this evening.

Member Sass noted the applicants have heard the Commission, and until they have hired an engineer to develop the rezoned lot, they do not know how large the detention pond needs to be.

Vice Chair Shepard stated he would be uncomfortable allowing the rezoning to go through without the knowledge that there will be some performance aspect to the proposed land use, otherwise, this is not a good place for multi-family housing.

Chair Katz argued it is a good place for multi-family housing based on the context. Vice Chair Shepard stated only the three conditions make that so. Chair Katz again stated those would have the same effect at the PDP level.

Members Sass and Stackhouse agreed with the first two conditions and having those apply at this time.

Vice Chair Shepard stated this project cannot just meet bare minimum requirements because of its placement in the industrial zone. He stated the buffer cannot just be a detention pond and a setback but needs to be designed to a high level so it is effective and high-performing, otherwise the incompatible relationship between multi-family and industrial is not being addressed.

Chair Katz stated he believes other members agree with that sentiment; however, he is having a hard time over-restricting the project at this high level. Member Schneider concurred and noted the applicant team has stated the conditions are acceptable. He also stated he would be willing to apply the first two conditions, but stated the third pushes too far at this level of the process.

Vice Chair Shepard argued the first two conditions are philosophically similar to the third: energy conservation, water conservation, and buffering, which are all performance oriented. Member Schneider respectfully disagreed.

Chair Katz stated there are too many unknowns at this point to include the third condition.

Vice Chair Shepard stated he would like the applicant to make a statement at the podium that they will create a more enhanced, effective, and high-performing buffer than the 30 feet between Capstone Cottages and Cordova Road, which he stated was an unacceptable design.

Mr. Lee stated the purpose of Land Use Code Section 3.8.26 is to provide standards to separate residential land uses and high-occupancy building units from existing industrial uses in order to eliminate or minimize potential nuisances; therefore, the Code already requires a buffer yard at the PDP level.

Member Stackhouse suggested proceeding with motions.

Vice Chair Shepard asked the applicant to address whether it has an equal condition along Cordova and the north property line. Mr. Lee replied the project would absolutely have to apply with the applicable buffer yard section of the Land Use Code in both cases.

Member Hogestad expressed disappointment the third condition could not have gone a bit farther, as suggested by Vice Chair Shepard. Chair Katz stated that can be done at the PDP level.

Member Stackhouse made a motion, seconded by Member Sass, that the Fort Collins Planning and Zoning Commission recommend that the City Council approve the proposed amendment to the Structure Plan Map to change the place type designation for the property to the mixed neighborhood place type, finding that the change to the Structure Plan Map is needed for the property to rezone to the medium-density mixed-use neighborhood zone district. The proposed amendment will promote the public welfare and will be consistent with the vision, goals, principles, and policies of City Plan and the elements thereof. This decision is based upon the agenda materials, information and materials presented during the work session and this hearing, and the commission discussion on this item. The Commission hereby adopts the information and analysis, findings of fact, and conclusions regarding this item contained in the staff report included in the agenda materials for this hearing.

The vote on the motion was as follows: Yeas: Stackhouse, Hogestad, Schneider, Sass, and Katz. Nays: Shepard.

THE MOTION CARRIED.

Member Stackhouse made a motion, seconded by Member Schneider, that the Fort Collins Planning and Zoning Commission recommend City Council approve the rezoning of the property to the medium-density mixed-use neighborhood zone district with two staff recommended conditions: one, residential development within the boundaries of the Landing at Lemay rezoning shall achieve fifteen combined points from the energy renewables and water subcategories of the 2021 residential metro district point system, and two, residential development within the boundaries of the Landing at Lemay rezoning shall achieve five combined points from the neighborhood livability category of the 2021 residential metro district point system. In consideration of the conditions, the rezoning is consistent with the City's Comprehensive Plan, is warranted by changed conditions within the neighborhood surrounding and including the property, the rezoning would be compatible with existing and proposed uses surrounding the property and is the appropriate zone district for the property, the rezoning would not result in significant adverse impacts on the natural environment, and the rezoning would result in a logical and orderly development pattern. This decision is based upon the agenda materials, information and materials presented during the work session and this hearing, and the commission discussion on this item. The Commission hereby adopts the information and analysis, findings of fact, and conclusions regarding this item contained in the staff report included in the agenda materials for this hearing.

The vote on the motion was as follows: Yeas: Stackhouse, Hogestad, Schneider, Sass, and Katz. Nays: Shepard.

THE MOTION CARRIED.



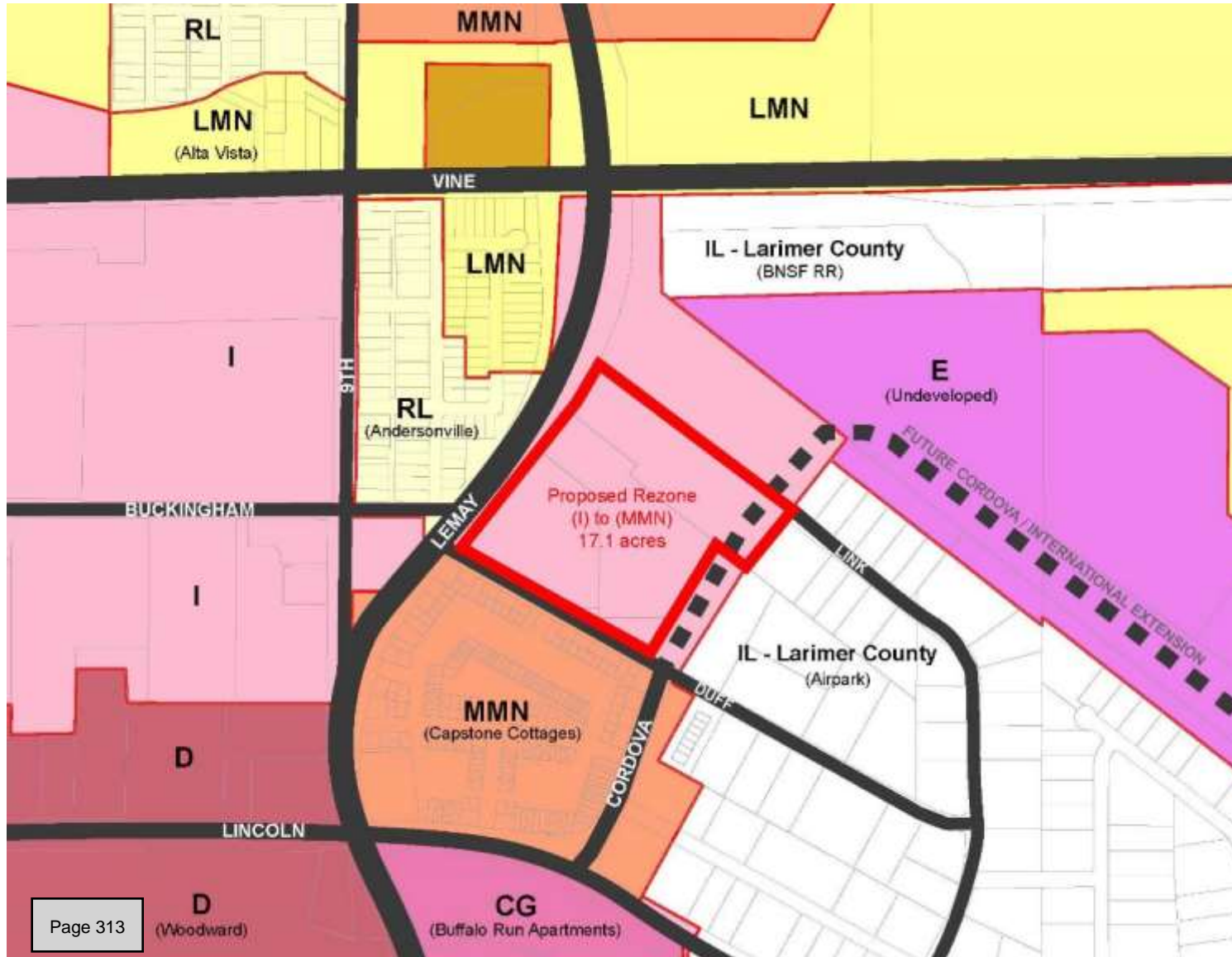
The Landing at Lemay Rezoning & Structure Plan Amendment,
REZ220001

Ryan Mounce
City Planner



Proposal

- Structure Plan Amendment from Industrial Place Type to Mixed-Neighborhood Place Type
- Rezone from Industrial to Medium Density Mixed Use Neighborhood District
- Size: ~17.1 acres



Land Uses

- Mixed zoning context
 - Residential – South, West, Northwest
 - Industrial/Employment – Northeast, East

- Edges & barriers
 - BNSF Railroad Yard
 - Realigned Lemay / overpass
 - Extension of Cordova Road

View from site looking north/northwest at Lemay Avenue overpass over Vine Drive



View west/northwest across Lemay Avenue to Andersonville neighborhood



View east/northeast towards the Airpark



View south across Duff Drive to the Capstone Cottages neighborhood



Rezonings criteria governed by Land Use Code Section 2.9.4(H)(2) and 2.9.4(H)(3)

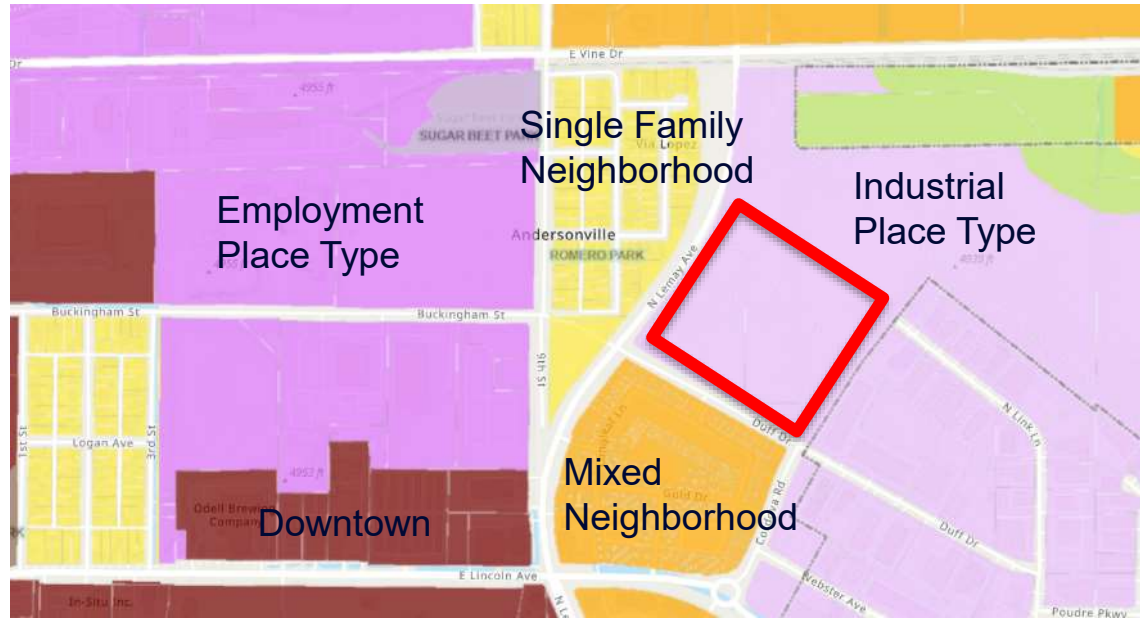
Mandatory requirements for quasi-judicial rezonings:

- 1) Consistent with the City's Comprehensive Plan; and/or
- 2) Warranted by changed conditions within the neighborhood surrounding and including the subject property.

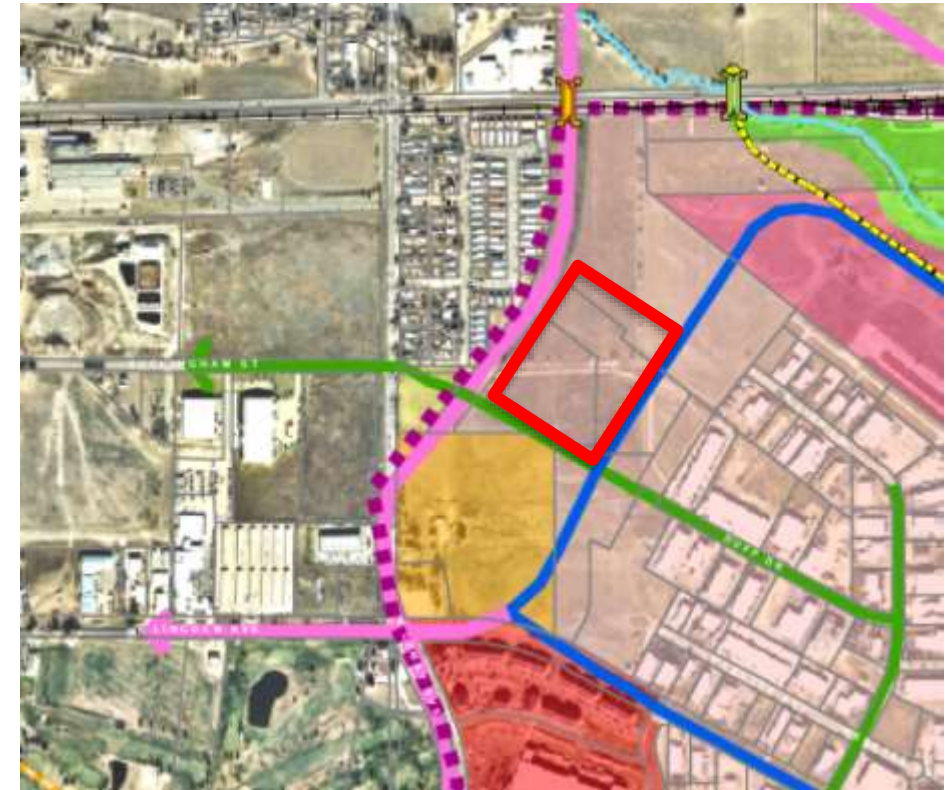
Additional considerations for quasi-judicial rezonings:

- 3) Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zone district for the land.
- 4) Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment.
- 5) Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.

Structure Plan Map



(2002) East Mulberry Corridor Plan



City Plan / East Mulberry Corridor Plan land use guidance matches existing Industrial zoning designation

- Structure Plan Map Amendment requested to align with proposed zoning
 - Industrial Place Type → Mixed Neighborhood Place Type

Tension between two sets of policy guidance:

CITY PLAN

- *Principle EH 4: Ensure that an adequate and competitive supply of space and/or land is available to support the needs of businesses and employers of all sizes.*
- *Policy LIV 5.1: To enhance community health and livability, encourage a variety of housing types and densities, including mixed-use developments that are well served by public transportation and close to employment centers, shopping, services, and amenities.*

EAST MULBERRY CORRIDOR PLAN

- *Principle EMC.LU-4: The East Mulberry Corridor study area supports the retention of existing industrial and agricultural business uses and their future expansion.*
- *Policy EMC.LU – 4.1: Existing and future industrial uses will be supported and focused along I-25 frontage and around the Fort Collins Downtown Airport area.*
- *Policy EMC.H-1.1: A variety of housing types will be developed within new neighborhoods and located close to neighborhood shopping, employment, and recreation.*

- Broaden proposed rezoning's policy support
- Provide amenities and utility/resource conservation support for residential development

Recommended Condition #1:

Residential development within the boundaries of The Landing at Lemay Rezoning shall achieve 15 combined points from the Energy, Renewables, and Water Sub-Categories of the 2021 Residential Metro District Points System.

Recommended Condition #2:

Residential development within the boundaries of The Landing at Lemay Rezoning shall achieve 5 combined points from the Neighborhood Livability Category of the 2021 Residential Metro District Points System.

Use Residential Metro District Policy Points System as a framework

- Approved in 2021 to align with City Plan / Our Climate Future conservation/sustainability policy goals
- Menu of prescriptive and flexible options designed to ensure development performs above Land Use, Building, Energy Codes
- Note: Future project proposal is not requesting a metro district

Examples of points options:

(ENERGY) - Install demand response connected thermostats; electric heat pumps/electric water heating

(WATER) - Install leak detection systems; use WaterSense fixtures that perform above Code

(LIVABILITY) - Publicly-accessible lvl 3 EV charging; integrate pollinator corridors in landscaping design

Infrastructure, Access, Visibility

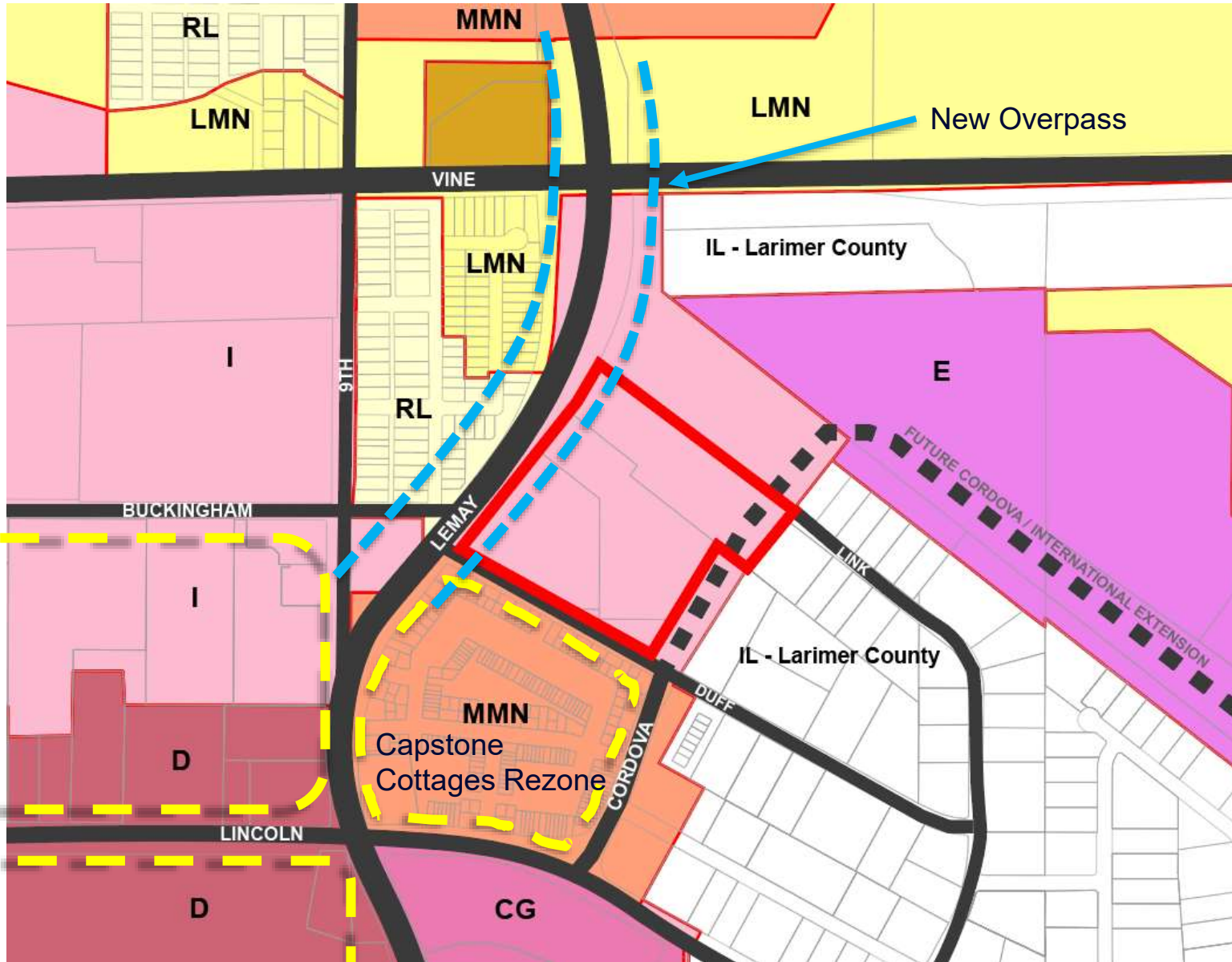
- Realigned Lemay Ave & overpass – limited access, reduced visibility
- Site not as suitable towards certain industrial uses (warehousing / logistics)
 - Lack of industrial suitability – discussed with EPS / Economic Health

Adjacent Zoning & Uses

- Rezones: Capstone Cottages (I → MMN), Woodward / Lincoln Ave (POL → CCR → D)
- Growth of breweries have changed composition of former (I) areas to the west

Industrial Development Demand

- Since 2000, average annual development of ~55,000 sf
- Demand flat / slightly falling even as community grows
- 850 undeveloped industrial acres remaining (City Plan); require approx. 7-8 acres per year
- Large undeveloped industrial sites along I-25 between Mulberry & Mtn. Vista
- Less demand for speculative custom small industry (ex: airpark) new construction



Lincoln Ave
Rezone &
Breweries

Page 324

Woodward
Rezone

Site Context

- Abutting zoning / uses split between residential (south / west) and industrial (north / east)
- Site buffered to the north and west by realigned Lemay / overpass; railroad yard

(MMN) vs (I) future development – potential tradeoffs

- MMN – likely more traffic; taller buildings
- I – potential for aesthetic / noise / nuisance impacts
 - Either development scenario: similar intensity to existing, abutting land-uses
 - Future development (regardless of zoning) need to address compatibility concerns

Cordova Road Extension

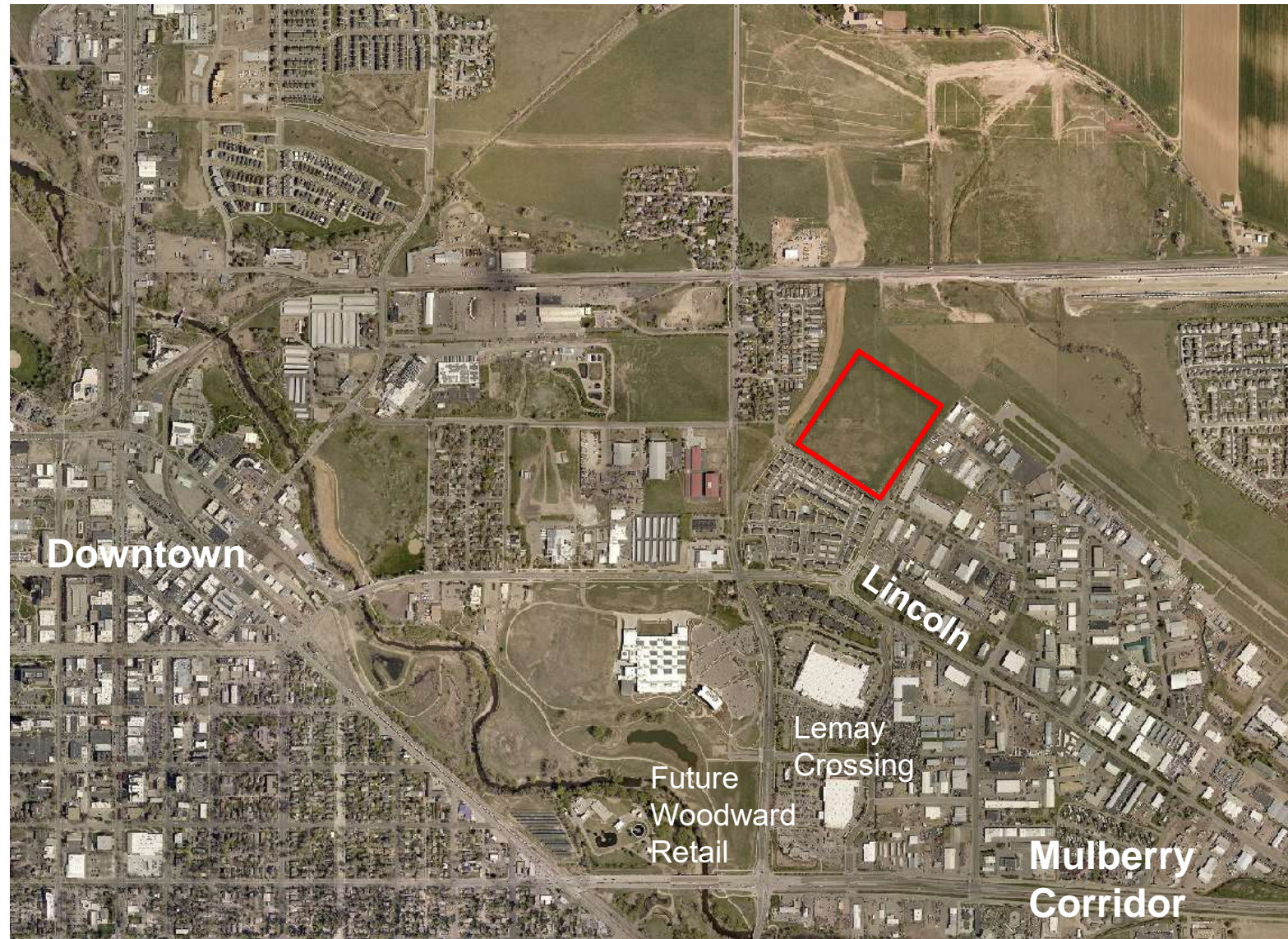
- Future eastern edge to site
- Opportunity to create an edge and additional distance between existing industrial uses and residential to the west


Considerations

- (I) or (MMN) development have similar development intensity & impacts
 - Ex: (MMN) more human activity; (I) more impervious area
- Site contains no identified Natural Habitats and Features according to inventory mapping
- Aerial imagery indicates possible presence or past presence of prairie dogs
- Ecological Characterization Study required prior to any future development
 - LUC 3.4.3 standards and requirements shall apply
 - Requirements apply to both (I) or (MMN) zoning

Broader Vicinity

- MMN serves as buffer between lower intensity residential zones and non-residential uses
- Future residential well-served by:
 - Transit – Lincoln Avenue
 - Employment – Mulberry Corridor, Downtown
 - Services – Downtown, Lemay Crossing Shopping Center, Future Woodward Retail
- Cordova Rd extension as boundary between Industrial & Residential



Rezoning Criteria	Staff Evaluation	Conditions Recommended
Consistent with the City's Comprehensive Plan	Neutral / Complies	
Warranted by changed conditions within the neighborhood surrounding and including the subject property	Complies	
Proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zone district for the land	Complies	
Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment	Complies	
Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern	Complies	

Recommendation

- Voted 5-1 to recommend rezoning & structure plan amendment with two conditions of approval
- Did not recommend a third staff condition of approval

Discussion

- Whether to include a condition of approval for LUC Section 3.8.26 related to buffering between residential & industrial development.
 - Condition was not advanced; LUC Section 3.8.26 to be required during a future project development plan review
- Should the remaining industrial property north of the site also be rezoned to MMN?
 - Features the same characteristics and justification for the current rezoning and leaves a small sliver of industrial land
 - Petitioners planning to submit an additional rezoning application for this property following P&Z discussion
 - Staff opportunity to update guidance with forthcoming Mulberry Corridor Plan update

Neighborhood Meeting

- October 2021 to discuss rezoning & early multifamily project concepts
- Key discussion topics:
 - Building height & traffic generation concerns
 - Impacts of development on water resources and wildlife
 - Desire for more mixed-use land uses in area; particularly more walkable retail/restaurants
- One comment at P&Z Hearing regarding concerns about multifamily building heights and traffic

In evaluating the petition for The Landing at Lemay Rezoning and Structure Plan Amendment staff finds that the petition complies with the standards in Division 2.9 with two recommended conditions.

Recommended Conditions:

1. Residential development within the boundaries of The Landing at Lemay Rezoning shall achieve 15 combined points from the Energy, Renewables, and Water Sub-Categories of the 2021 Residential Metro District Points System.
2. Residential development within the boundaries of The Landing at Lemay Rezoning shall achieve 5 combined points from the Neighborhood Livability Category of the 2021 Residential Metro District Points System.

RESOURCES

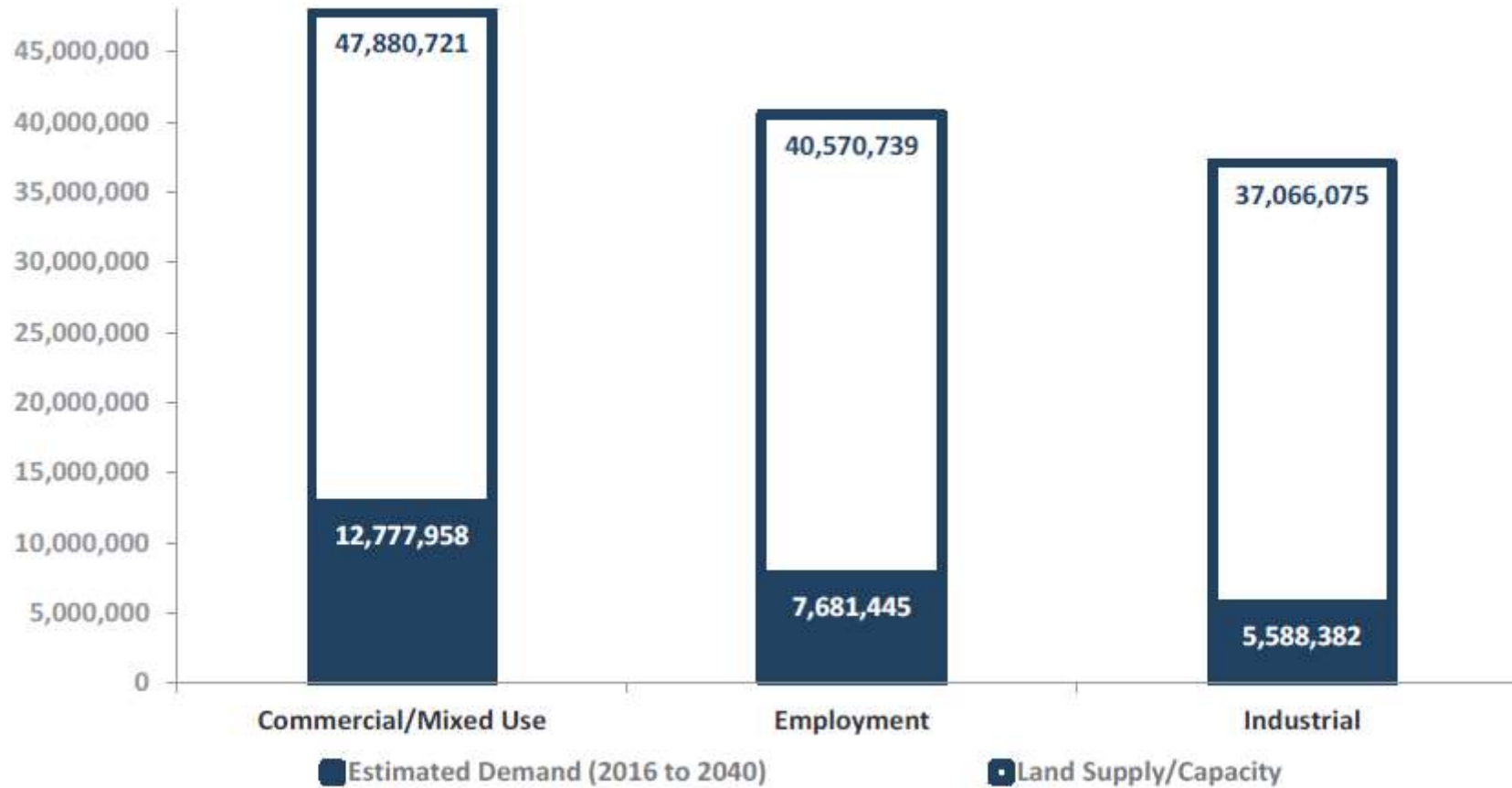
Growth of Logistics

As e-commerce has driven down demand for retail space, it has at the same time driven up demand for industrial development supporting its growth. Logistics and distribution oriented employment sectors (transportation and warehousing, wholesale trade) and industrial development are the largest drivers of new industrial development. As e-commerce retailers and traditional retailers are pushing for more convenience and more online shopping, demands for local distribution are growing. Industrial buildings and developments related to logistics want to locate centrally to their service market, and along major transportation routes. Industrial spaces

Small Urban Manufacturers (SUMs)

Urban manufacturing today is largely occupied by small, specialized firms in collaborative and interdependent networks. In Fort Collins, 80 percent of manufacturing firms have fewer than 20 employees. The average size of a manufacturing firm is 28 employees but the median size is six employees. Manufacturers nationally have also been trending towards smaller footprints and fewer employees. Research has shown that small urban manufacturers (SUMs) are more productive when located in denser urban areas. These firms desire the centrality within their market, which helps with employee attraction and also proximity to goods and services needed to support their businesses. SUMs also tend to pay higher median wages with higher wage growth and skill development opportunities. However, these smaller manufacturers are typically looking for existing, lower cost spaces at least initially. As they grow, finding locations with a large building and/or the ability to build to suit their own facility is a need, which is increasingly difficult to find in central locations and at an affordable cost.

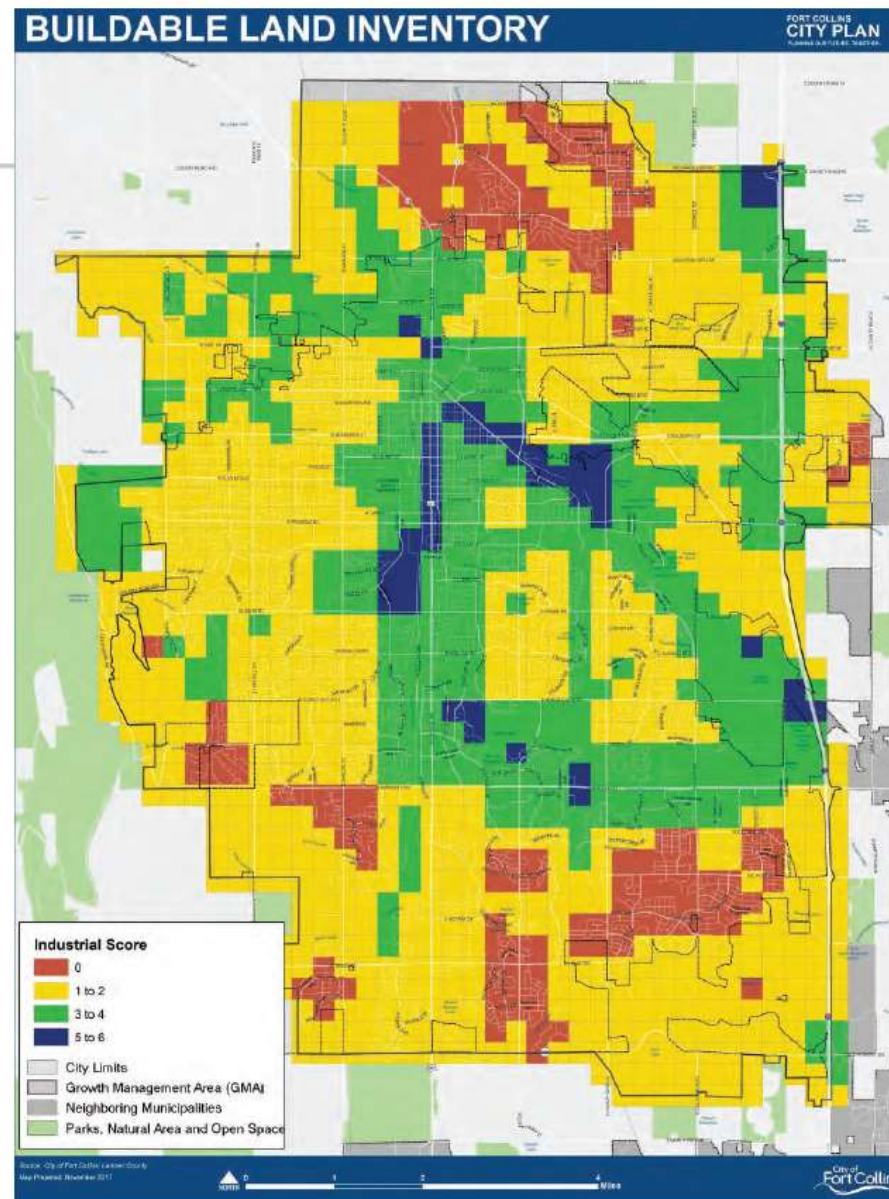
Figure 11
Estimated Land Demand versus Supply, 2016 to 2040



INDUSTRIAL

ATTRIBUTES MEASURED

- Access to highways/major arterials
 - Within ½ mile of Major Arterial or Highway
- Highway Interchange
 - Adjacent to interchange
- Access to freight transportation
 - Adjacent to rail
- Presence of Enterprise Zone
 - In an enterprise zone Y/N
- Served by City’s Water and Sewer
 - Water – Yes/No
 - Sewer – Yes/No
- Average parcel size
 - Average parcel size of greater than 2 acres



COMPARISON TO OPPORTUNITY AREAS

QUALITATIVE ASSESSMENT BASED ON SCORING

- Retail Focus Areas
 - Downtown, College and Harmony Corridors and select Highway interchanges
- Office Focus Areas
 - Greater downtown area, Midtown and Harmony Corridors, select opportunities near interchanges
- Industrial Focus Areas
 - Interstate/interchanges, Mulberry Corridor, North College

	Regional/Community Retail	Office/Employment	Industrial
Downtown	Good	Good	Limited
Mountain Vista Area (north of Vine, excluding interchange areas)	Limited	Limited	Limited
North College Corridor	Adequate	Adequate	Good
East Mulberry Corridor (except interchange area)	Adequate	Adequate	Good
Midtown Corridor	Good	Good	Adequate
Harmony Corridor	Good	Good	Adequate
Timberline Corridor (Horsetooth to Harmony)	Adequate	Adequate	Limited
W. Elizabeth Corridor	Adequate	Adequate	Limited
Mountain Visa Interchange	Adequate	Limited	Good
Vine Interchange	Adequate	Limited	Good
Mulberry Interchange	Good	Adequate	Good
Prospect Interchange	Adequate	Adequate	Good
Harmony Interchange	Good	Adequate	Adequate
Hwy 392 Interchange	Good	Adequate	Adequate

LEGEND

	Limited	Adequate	Good
Desirability	Limited	Adequate	Good

	NOTES	Points
HOUSING		
1. Housing Supply, Diversity, and Choice		
A. 10% Home Ownership at <120% AMI	10% deed restricted, for-sale, single family units not to exceed 120% AMI *Point multiplier: If all housing units meet DOE Zero Energy Ready (ZER) standard, 1 additional point received	4/5*
B. Limit Unit Size for 20% single family homes	A combination of Attached or detached, single family units based on at least 2 of the following breakpoints: 5% less than 800 SF 5% between 800 to 1,100 SF 5% between 1,100 to 1,300 SF 5% between 1,300 to 1,600 SF 5% between 1,600 and 2,200 SF **Option for Point multiplier: If 3 of the following breakpoints are selected, 1 additional point OR If all housing units meet DOE Zero Energy Ready (ZER) standard, 1 additional point received	2/3**
C. Accessory Dwelling Units (ADU's)	Detached or attached Accessory Dwelling Units between 300 and 800 SF in size for a minimum of 10% of the units within the development plan.	2
2. Affordable Rental Housing		
A. 10% Affordable Rental Housing	10% rental units serving an income average not to exceed 60% AMI	2
B. 10% Affordable Rental Housing that does not utilize competitive funding sources	10% rental units serving an income average not to exceed 60% AMI that does not utilize competitive funding sources, i.e.- local limited Private Private Activity Bonds, Low Income Housing Tax Credits (LIHTC) and City competitive grant process funding (CDBG/HOME/Affordable Housing Fund), or a development that otherwise demonstrates it contributes net-new units of affordable housing into the Fort Collins community.	3
Required number of Housing Points		5

	NOTES	Points
ENERGY, RENEWABLES & WATER		
1. Enhanced Energy Performance		
<p>A. DOE Zero Energy Ready (ZER) Home Performance Path Certified with balanced mechanical whole dwelling ventilation</p>	<p>Very similar to current code, but with more rigorous 3rd party inspection. Studies show incremental cost of building to ZER ranges from only 0.9-2.5%, with Fort Collins likely be on lower end with existing stricter building code. ZE and ZER levels of efficiency could be achieved without aggressive or cutting-edge envelope and HVAC solutions.¹</p> <p>Local example - REVIVE: Total Marginal Cost for Zero Ready (4.8%) - Increase monthly mortgage payment=\$84, Monthly savings=\$138. Projected monthly utility energy bill=\$20.²</p> <p>1. Peterson, Gartman, Cordivae, The Economics of Zero Energy Homes, Rocky Mountain Institute, 2019 https://rmi.org/wp-content/uploads/2018/10/RMI_Economics_of_Zero_Energy_Homes_2018.pdf 2. McFaddin, Economics of Energy Performance – REVIVE Properties, 2019 https://www.fcgov.com/greenbuilding/files/mcfaddin_green-finance-2019.pdf?1584398326</p>	4
<p>B. OR HERS index of 47 or less without solar and single family detached and attached dwellings must achieve 2.0 or less ACH50 and provide balanced mechanical whole dwelling ventilation</p>	<p>Building records confirm new homes in Fort Collins built to code are delivering scores of 58-62. Proficient builders are capable of achieving a HERS in the mid 40's resulting in an average annual energy cost savings of \$350-400 over a code built home.³ For Multifamily development, the HERS score shall be in accordance with RESNET Guidelines for Multifamily Energy Ratings</p> <p>3. https://www.hersindex.com/</p>	4
<p>C. OR Energy Rating Index (ERI) path single family detached and attached dwellings must achieve 2.0 or less ACH50 with balanced mechanical whole dwelling ventilation</p>	<p>Energy Rating Index (ERI) of 40 or lower. ERI as a metric has a backstop to prevent builders from a reduced envelope performance. Must also achieve 2.0 or less ACH50 and</p>	3
<p>D. OR Net Zero Energy Home Performance Path - HERS of 0 or less with balanced mechanical whole dwelling ventilation</p>	<p>Optional compliance paths that would replace all of the above requirements.</p>	7

2021 Residential Metro District Points System Evaluation Table

	NOTES	Points
ENERGY, RENEWABLES & WATER		
2. Energy Components		
A. Heat homes with efficient electric heat	Efficient electric heat is defined as a Geothermal Heat Pump or Cold Climate Air Source Heat Pump (ccASHP) with a COP of 1.9 or greater at a heating design temp of 5° F. Product list of qualifying ccASHP's: https://neep.org/high-performance-air-source-heat-pumps/ccashp-specification-product-list	2
B. Build to Passive House Standard	5% of homes built to either International Passive House Association (IPHA) or Passive House Institute US (PHIUS) standard.	3
C. Build air tight homes with balanced whole dwelling ventilation with heat or energy recovery	Build homes to ≤ 1.5 ACH50 air tightness. Balanced mechanical whole dwelling ventilation via Heat Recovery Ventilator (HRV) or Energy Recovery Ventilator (ERV).	1
D. District Heating and Cooling for Neighborhood	Utilize electric-based centralized heating and cooling systems such as a neighborhood scale ground source heat pump. Usually more cost effective for commercial and mixed use and not residential SF.	3
E. Install qualifying connected thermostat	Install qualifying connected thermostat from Fort Collins Utilities Peak Partners demand response (DR) program. This bolsters the utilities DR effort by increasing the number of homes that can opt-in to the program. https://peakpartnersfortcollins.com/	1
F. Install air source heat pump electric water heater	Fort Collins Utilities Peak Partners connected air source heat pump water heaters get the additional point (up to 3 pts). https://peakpartnersfortcollins.com/	2-3
G. Provide EV-Installed charging for buildings containing R-1 or R-2 occupancies.	Provide EV-Installed charging for 7% of the total parking spaces for buildings containing R-1 or R-2 occupancies. Single family detached and single family attached are excluded as current code requires all new single family homes have EV ready conduit installed from the panel to a junction box located in a garage or carport. https://www.swenergy.org/transportation/electric-vehicles/building-codes#who	1
3. Renewable		
A. Install % of total energy need in solar (50/75/100%)	Installations may be on individual rooftops or in shared as in "solar gardens" and will be virtually net metered. These additional points cannot be used toward total if Enhanced Energy Performance item D - Net Zero Energy Home above is utilized.	1 - 3
B. Smart storage and grid interactivity	Install interactive grid storage system that allows owners to optimize renewable energy storage and energy utilization through smart grid technologies. Points are differentiated by size of battery, and capability of export to the grid (3 pts)	1 - 3
Required number of Energy Saving & Renewable Points		10

NOTES	Points	
ENERGY, RENEWABLES & WATER		
4. Indoor Water *		
A. WaterSense fixtures performing above code	New construction provides fixture efficiencies surpassing code standards and must all be WaterSense Certified. <ul style="list-style-type: none"> • 1.0 GPF/600 gram MaP score toilets (dual flush code def) & • 1.5 gpm showerheads 	2
B. Install leak detection and notification system	Each home or unit must be water shutoff valve enabled and installed by a licensed plumber. Flo by Moen and Phyn Plus Smart Water Assistant are two examples.	1
C. Sub-metering	Privately owned and maintained sub-metering is provided for individual units within multi-family development to help with water management and leak detection.	1.5
D. Efficient plumbing design	Meet Section 3.3 of the WaterSense New Home Specification, which requires that hot water distribution systems store no more than 0.5 gallons of water between the source of hot water and the furthest existing fixtures and provides inspection and compliance methods and details. This is also the standard used in DOE's Zero Energy Ready program.	0.5
E. Indoor Water Use Innovation	The project demonstrates indoor water use innovation and pursuit of building certifications. Points are achieved when applied to all applicable buildings within the development.	1
Required number of Indoor Water Points		3

	NOTES	Points
ENERGY, RENEWABLES & WATER		
5. Outdoor Water *		
A. Efficient Residential irrigation systems **	Install efficient irrigation systems for all residential sprinkler systems, WaterSense Certified (WS), where available: <ul style="list-style-type: none"> ☑ Pressure reducing heads (WS) and high efficiency nozzles ☑ Weather-based irrigation controller (WS) ☑ Flow sensor ☑ Master valve 	2
B. Water efficient landscaping for residential front yards	Front yard - Create waterwise, plant friendly landscapes, including a water budget on a 10 gallon or less per SF basis within residential front yards. Consider plant selection, tree protection/selection, mirroring water budget table requirements on the commercial side, but less than 10 gpsf	2
C. Separate drip system for trees within parkways and medians	Establish separate drip systems for trees in common areas to support urban forest health and resiliency, especially during water shortages.	2
D. Common area water use performing above code	12 gallons per sq. ft. max or sliding scale (e.g. – 3 pt for 8 gpsf or less, 2pts for 9-11gpsf, 1pt for 12-14 gpsf or something similar). Align metrics to ELCO water budget table	1 - 3
E. Stormwater Innovation	Uses innovative stormwater techniques such as Low Impact Development (LID) or Green Infrastructure to capture and treat runoff at the source as defined and illustrated in the City's LID Implementation Manual. https://www.fcgov.com/utilities/img/site_specific/uploads/fcscm-appendix-c.pdf?1549566344	1 - 2
F. Rain barrels	0.5 pt for every two, 100-gallon barrels. 1 pt maximum (CO State Law - 2 x100 gallons per residential unit on units 4 or fewer)	0.5 - 1
G. Outdoor Water Use Innovation	The project demonstrates outdoor water use innovation and pursuit of building certifications. Points are achieved when applied to all applicable buildings within the development: <p>For single family and duplex homes: HERS H20 (No minimum score, but certification required)</p> <p>WERS (No minimum score, but certification required)</p> <p>Net Blue – offset 25% or more water use from new developments with water efficiency upgrades/retrofits to existing and/or the new development(s), per the Net Blue program</p>	1 1 2
Required number of Outdoor Water Points		7

*Compliance with these indoor and outdoor water standards do not alter a project's responsibility to satisfy water supply requirements of ELCO, FCLWD, Fort Collins Utilities or other governing water service district. To receive listed points, measures must be applied to all applicable areas, properties and buildings within the development.

**For water sources other than potable, additional requirements shall be included, such as water filtration, purple pipe and valve box, no cross contamination with potable supplies, and no drip irrigation on non-potable systems.

	NOTES	Points
NEIGHBORHOOD LIVABILITY		
1. Transportation		
A. Off-site Trail Connection	Direct connections to off-site bicycle and pedestrian facilities, including but not limited to the regional paved trail system, the low-stress bicycle network and other local paved trail systems.	1
B. Exemplary Bicycle and Pedestrian Improvements	Provide pedestrian and bicycle circulation improvements exceeding Larimer County Urban Areas Street Standards (LCUASS) requirements. e.g. - buffered bicycle lanes, concrete crosswalks, enhanced intersection paving design, enhanced streetscape design, and pedestrian-oriented lighting.	1
C. Level 3 EV Charging Stations	Publicly-accessible Level 3 EV charging stations provided in convenient locations.	1
D. Trail Connection provided to a School	An off-site and off-street trail connection is provided to a neighboring public or private school.	1
E. Transportation Innovation	The project provides innovative transportation improvements.	1
2. Neighborhood Amenities		
A. Access to Essential Neighborhood Services	Includes at least two neighborhood-serving retail or service uses, e.g.- recreation facilities, childcare, daycare, and healthcare facilities in the project (1 point) , or three or more uses (2 points), and 3 points for a grocery store or supermarket.	1 - 3
B. Vertical Mixed-Use Buildings	A mixture of uses are provided in the same building. Lower floors typically include more public uses with private uses on the upper floors. Examples include ground floor retail or services, with remaining floors including residential units.	2
C. Community Gathering Spaces	Provides a plaza, public square, park or other similar public open space within the project that exceeds requirements of Section 4.5.	1
D. Community Workspace	Provide common neighborhood workspaces; (e.g., workshops, maker spaces, over/under live workspaces).	1
E. Common Areas Food Production	Provisions for community gardens, edible landscapes, and/or on-site urban agriculture.	1
F. Innovative Neighborhood Amenities	The project provides innovative neighborhood amenities.	1

NOTES		Points
NEIGHBORHOOD LIVABILITY		
3. Natural Environment		
A. Access to Parks & Open Spaces	Each resident is within 1,320 feet of a park and/or open space, including areas of respite (i.e., places that are quiet, beautiful, naturalistic).	1
B. Enhanced Habitat	Integrate pollinator corridors in design, create and/or enhance wildlife habitat/corridors, ecological restoration of degraded systems using native and adaptive landscaping in common areas.	1
C. Expansion of Adjacent Natural Habitat	If the site is contiguous or adjacent a natural area or natural habitat or feature, creates internally contiguous habitat opportunities a minimum of ten (10) percent greater than the requirements specified in 3.4.1.	1
D. Innovation in Natural Environment Protection	The project provides innovative measures to protect or enhance the Natural Environment.	1
4. Health, Culture & Education		
A. Universal Design	Create interior spaces that are accessible to people with diverse ability levels and that support lifelong living (1 point), e.g.- doorways that provide 32 inches of clearance and a ground floor bathroom accommodating future installation of grab bars . Provide zero step entryways (2 points)	1 - 2
B. 0.5% for Arts & Culture	The amount equal to one half (0.5) percent of the total capital infrastructure construction costs of the Metro District for the planning, design and construction of public art, including “functional art” in community spaces, parks, plazas, playgrounds, or other areas viewable to the public.	1
C. Sustained Educational Programing	Provide long-term funding in infrastructure for ongoing community engagement and educational programming that support learners of all ages (e.g. High Plains Environmental Center, library branch, community college branch).	1
D. Excellence in Community Engagement	Community engagement process follows the National Charrette Institute (NCI) standards that engage diverse constituents in participatory design processes designed to understand and accommodate community aspirations and priorities for the specific site.	1
E. Health, Culture or Education Innovation	The project provides innovative techniques to promote health, culture or education.	1
Required Number of Neighborhood Livability Points		5

Floodplain Mapping



Site located in the 500-yr Poudre River Floodplain

- Primary impact: No critical facilities

AGENDA ITEM SUMMARY

City Council



STAFF

Melissa Funk, Victim Services Supervisor
Zack Mozer, Financial Analyst
Dawn Downs, Legal

SUBJECT

Items Relating to Victim Services Grants.

EXECUTIVE SUMMARY

A. First Reading of Ordinance No. 020, 2023, Making Supplemental Appropriation from the Eighth Judicial District Victim Assistance and Law Enforcement Board for the Fort Collins Police Services Victim Services Unit.

B. First Reading of Ordinance No. 021, 2023, Making Supplemental Appropriation from the Colorado Division of Criminal Justice under the Federal Victim of Crime Act for the Fort Collins Police Services Victim Services Unit.

The purpose of these items is to help fund the Victim Services Unit of Fort Collins Police Services for victim advocacy services which are required under the Colorado Victim Rights Amendment for victims of crime and their family members.

The Victim Services Unit has been awarded a \$70,000 VALE grant for the period from January 1, 2023, to December 31, 2023. The VALE grant is awarded through the Eighth Judicial District Victim Assistance and Law Enforcement (VALE) Board to help fund services provided by the Victim Services team. This grant will fund one part-time victim advocate, as well as 65% of the salary of a contractual 40-hour per week victim advocate.

The Victim Services Unit has also been awarded a 24-month grant in the amount of \$47,959 for the period from January 1, 2023, to December 31, 2024, by the Colorado Division of Criminal Justice under the Federal Victim of Crime Act (VOCA). The amount to be received in 2023 is \$23,979 with the remaining amount to be received in 2024. This grant will help fund services provided by the Victim Services Unit. These funds will be used to pay 35% of the salary for the victim advocate who provides crisis intervention services for sexual assault victims between the school ages of kindergarten through 12th grade.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinances on First Reading.

BACKGROUND / DISCUSSION

The Victim Services Unit has received funding from the VALE grant since the inception of the program in 1996. Colorado state statutes mandate law enforcement agencies follow the Victim Rights Amendment to the Colorado Constitution. Many of the stages in the mandated statutes are fulfilled by the Victim Services Unit. Services have been provided to thousands of victims and their family members who have become victims of violent crime in the community. Council has approved appropriations of the VALE grant revenue every year. Services to the community would be drastically cut without this grant award.

Funds from the VALE grant will be used for 26 hours a week toward the salary for the full-time contractual victim advocate who provides crisis intervention services during weekday hours and is housed in the Victim Services office. The VALE grant will also fund a part-time, 20 hour a week victim advocate who will cover mandated weekend defendant bond hearings and work with victims of these crimes. Funds will also pay for a portion of the operational expenses needed to provide 24-hour, 7-days/week services to victims of crime in the community.

The VOCA grant will be used to fund 14 hours a week toward the salary of the full-time contractual victim advocate who provides crisis intervention services for sexual assault victims between the school ages of kindergarten through 12th grade.

Victim Services has received VOCA grant funding since 2020. VOCA funds will help fulfill the legal mandates under the Colorado Constitution as well by ensuring Fort Collins Police Services provides services to victims under the Colorado Victim Rights Amendment.

CITY FINANCIAL IMPACTS

The City has received a grant in the amount of \$70,000 from the Eighth Judicial District Victim Assistance and Law Enforcement (VALE) Board to help fund victim services activities. There is no match required.

The City has also been awarded a grant in the amount of \$47,959 from the Federal Victim of Crime Act (VOCA). The amount to be received in 2023 is \$23,979 with the remaining amount to be received in 2024. The grant from VOCA required a 25% match which will be filled by an in-kind match from volunteer hours worked. Both grants will be used to benefit victim services activities.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Ordinance A for Consideration
2. Ordinance B for Consideration

ORDINANCE NO. 020, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING SUPPLEMENTAL APPROPRIATION FROM THE
EIGHTH JUDICIAL DISTRICT VICTIM ASSISTANCE AND LAW
ENFORCEMENT BOARD FOR THE FORT COLLINS POLICE SERVICES
VICTIM SERVICES UNIT

WHEREAS, Fort Collins Police Services has been awarded a grant in the amount of \$70,000 (the “Grant”) for the period from January 1, 2023, to December 31, 2023, by the Eighth Judicial District Victim Assistance and Law Enforcement (“VALE”) Board to support the Fort Collins Police Services Victim Services Unit (“Victim Services”); and

WHEREAS, Victim Services provides crisis intervention, resources and referral services to victims of violent crime and other traumatic situations; and

WHEREAS, the Grant will be used to fund a part of the salary for the victim advocate who provides crisis intervention services, a part-time victim advocate, and to partially pay for operational expenses needed to provide 24-hour a day, 7-day a week services to victims of crime in the community; and

WHEREAS, appropriation of the Grant serves a public purpose by assisting crime victims in the Fort Collins community; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year; and

WHEREAS, Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a federal, state or private grant, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the earlier of the expiration of the federal, state or private grant or the City’s expenditure of all funds received from such grant or donation; and

WHEREAS, the City Council wishes to designate the appropriation herein from the Eighth Judicial District Victim Assistance and Law Enforcement Board as an appropriation that shall not lapse until the earlier of the expiration of the grant or the City’s expenditure of all funds received from such grant.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from new revenue or other funds in the General Fund the sum of SEVENTY THOUSAND DOLLARS (\$70,000) to be expended in the General Fund for the Fort Collins Police Services Victim Services Unit.

Section 3. That the appropriation herein from the Eighth Judicial District Victim Assistance and Law Enforcement Board is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the earlier of the expiration of the grant or the City’s expenditure of all funds received from such grant.

Introduced, considered favorably on first reading and ordered published this 7th day of February, 2023, and to be presented for final passage on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 021, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING SUPPLEMENTAL APPROPRIATION FROM
THE COLORADO DIVISION OF CRIMINAL JUSTICE UNDER THE
FEDERAL VICTIM OF CRIME ACT FOR THE FORT COLLINS POLICE
SERVICES VICTIM SERVICES UNIT

WHEREAS, Fort Collins Police Services has been awarded a grant by the Colorado Division of Criminal Justice in the amount of \$47,959 (the “Grant”) under the Federal Victim of Crime Act (“VOCA”) to support the Fort Collins Police Services Victim Services Unit (“Victim Services”) for the period from January 1, 2023, to December 31, 2024; and

WHEREAS, the amount to be received and appropriated in 2023 is \$23,979; and

WHEREAS, Victim Services provides crisis intervention, resources and referral services to victims of violent crime and other traumatic situations; and

WHEREAS, the Grant will be used to fund a part of the salary for the victim advocate who provides crisis intervention services for sexual assault victims between school ages of kindergarten through 12th grade; and

WHEREAS, appropriation of the Grant serves a public purpose by assisting crime victims in the Fort Collins community; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year; and

WHEREAS, Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a federal, state or private grant, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the earlier of the expiration of the federal, state or private grant or the City’s expenditure of all funds received from such grant or donation; and

WHEREAS, the City Council wishes to designate the appropriation herein from the Colorado Division of Criminal Justice under the Federal Victim of Crime Act as an appropriation

that shall not lapse until the earlier of the expiration of the grant or the City’s expenditure of all funds received from such grant.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from new revenue or other funds in the General Fund the sum of TWENTY-THREE THOUSAND NINE HUNDRED SEVENTY-NINE DOLLARS (\$23,979) to be expended in the General Fund for the Fort Collins Police Services Victim Services Unit.

Section 3. That the appropriation herein from the Colorado Division of Criminal Justice under the Federal Victim of Crime Act is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the earlier of the expiration of the grant or the City’s expenditure of all funds received from such grant.

Introduced, considered favorably on first reading and ordered published this 7th day of February, 2023, and to be presented for final passage on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

AGENDA ITEM SUMMARY

City Council



STAFF

Selina Lujan Albers, Lead Specialist
Cassie Archuleta, Manager
Ted Hewitt, Legal

SUBJECT

First Reading of Ordinance No. 022, 2023, Making Supplemental Appropriations and Authorizing Transfers for the Environmental Services Radon Program.

EXECUTIVE SUMMARY

The purpose of this item is to appropriate unanticipated grant revenue in the General Fund for the Environmental Services Radon Program. This appropriation includes \$9,000 of grant revenues provided by the Colorado Department of Public Health and Environment (CDPHE) to support radon testing and mitigation programs. The grant directly supports radon activities identified in the Environmental Services Department's core budget offer and requires a local match of \$6,000. Matching funds are appropriated and unexpended in the 2023 Environmental Services operating budget and will be transferred to the Environmental Services Radon Program.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Radon is a priority indoor air quality pollutant in Fort Collins, as it is the leading cause of lung cancer in non-smokers, and second leading cause for smokers (after smoking). Radon tests show that sixty-five percent of homes in Fort Collins test higher than the Environmental Protection Agency's (EPA) defined "action levels" for mitigating radon gas. The Environmental Services Department will use these grant funds to augment existing programs for education and outreach to raise awareness of the health risks, provision of low-cost radon test kits to residents, and information to help mitigate high radon levels.

CITY FINANCIAL IMPACTS

City resources would increase by \$9,000. Required matching funds, in the amount of \$6,000, have already been appropriated in the 2023 General Fund in the Environmental Services operating budget.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Radon is a priority pollutant identified by the Air Quality Advisory Board, but no formal recommendation was sought for appropriation of the grant funds to augment existing radon program efforts.

PUBLIC OUTREACH

Public outreach regarding radon will be conducted throughout the year with radon presentations, provision of outreach materials and radon test kit sales.

ATTACHMENTS

1. Ordinance for Consideration

ORDINANCE NO. 022, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING SUPPLEMENTAL APPROPRIATIONS AND AUTHORIZING
TRANSFERS FOR THE ENVIRONMENTAL SERVICES RADON PROGRAM

WHEREAS, the City has been awarded a Colorado Department of Public Health and Environment grant in the amount of \$9,000 for the Environmental Services Radon Program (the “Program”); and

WHEREAS, the grant will be used to support radon testing and mitigation programs; and

WHEREAS, the grant requires \$6,000 in matching funds from the City, which have been appropriated and are available in the General Fund for this purpose; and

WHEREAS, radon is a priority indoor air quality pollutant in Fort Collins and is the leading cause of lung cancer in non-smokers; and

WHEREAS, radon tests show that sixty-five percent of homes in Fort Collins test higher than the Environmental Protection Agency’s defined “action levels” for mitigating radon gas; and

WHEREAS, the Program provides education and outreach to raise awareness of the health risks and provides low cost radon test kits to residents; and

WHEREAS, this appropriation benefits public health, safety, and welfare of the citizens of Fort Collins and serves a public purpose by helping to alleviate effects of radon in the homes of the Residents of Fort Collins; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make a supplemental appropriation by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriation, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues and all other funds to be received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in this Fund during this fiscal year; and

WHEREAS, Article V, Section 10 of the City Charter authorizes the City Council, upon recommendation by the City Manager, to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project to another fund or capital project, provided that the purpose for which the transferred funds are to be expended remains unchanged, the purpose for which the funds were initially appropriated no longer exists, or the proposed transfer is from a fund or capital project in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance; and

WHEREAS, the City Manager has recommended the transfer of \$6,000 from the Environmental Services operating budget in the General Fund to the Environmental Services Radon Program in the General Fund and determined that the purpose for which the transferred funds are to be expended remains unchanged; and

WHEREAS, Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a federal, state or private grant, that such appropriation shall not lapse at the end of the fiscal year in which the appropriation is made, but continue until the earlier of the expiration of the federal, state or private grant or donation or the City's expenditure of all funds received from such grant or donation; and

WHEREAS, the City Council wishes to designate the appropriation herein for the Colorado Department of Public Health and Environment grant as an appropriation that shall not lapse until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from new revenue or other funds in the General Fund the sum of NINE THOUSAND DOLLARS (\$9,000) to be expended in the General Fund for the Environmental Services Radon Program.

Section 3. That the unexpended and unencumbered appropriated amount of SIX THOUSAND DOLLARS (\$6,000) is authorized for transfer from the Environmental Services operating budget in the General Fund to the Environmental Services Radon Program in the General Fund and appropriated therein to be expended for radon test kits.

Section 4. That the appropriation herein for the Colorado Department of Public Health and Environment grant is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

Introduced, considered favorably on first reading, and ordered published this 7th day of February, 2023, and to be presented for final passage on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk



AGENDA ITEM SUMMARY

City Council

STAFF

Anissa N. Hollingshead, City Clerk
Carrie M. Daggett, Legal

SUBJECT

Resolution 2023-015 Making an Appointment to the Youth Advisory Board.

EXECUTIVE SUMMARY

The purpose of this item is to fill a vacancy on the Youth Advisory Board.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

This Resolution appoints an individual to fill a vacancy due to turnover of board members. This appointment will begin and expire as noted next to the recommended name shown below.

Youth Advisory Board

Appointment	Term Effective Date	Expiration of Term
Riya Sajjan (Seat D)	March 1, 2023	December 31, 2023

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

Public outreach to seek applicants for boards and commissions included paid advertising in print publications, media releases for earned coverage in local media sources, and social media promotion of opportunities.

ATTACHMENTS

1. Resolution for Consideration
2. Application

RESOLUTION 2023-015
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING AN APPOINTMENT TO THE YOUTH ADVISORY BOARD

WHEREAS, the Youth Advisory Board has a vacancy that has been open for an extended time; and

WHEREAS Councilmember Francis interviewed a candidate for this appointment on January 18, 2023; and

WHEREAS, the City Council desires to make an appointment to fill a vacancy on the Youth Advisory Board.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the following named person is hereby appointed to fill the open vacancy on the Youth Advisory Board with a term to begin and expire as noted below next to the appointee’s name:

Youth Advisory Board		
Appointments	Term Effective Date	Expiration of Term
Riya Sajjan (Seat D)	March 1, 2023	December 31, 2023

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

Youth Advisory Board Application Questions

1. Which Council District do you live in? Please refer to the map at:
<https://gisweb.fcgov.com/HTML5View>
2
2. What school do you attend? If not attending traditional school, please list alternative method of school.
Fossil Ridge High School
3. I acknowledge that I am willing to make the time commitment to attend monthly board meetings. (Yes/No)
Yes
4. How many hours per month are you willing to put in (including research, work, and meeting time) as a board member?
Up to 8 hours per month.
5. What is your expected date of graduation?
2025
6. Volunteer experience (please include dates):
LPGA girls golf e leader (2021 - now), IANC (2020 - now), Math National Honors Society (2021 - now), Science National Honors Society (2022 - now)
7. Have you applied for this board before? If yes, please explain.
Yes, I have applied to the Youth Advisory Board before. I believe I applied around August or September of 2021.
8. Why do you want to become a member of this particular board and what do you hope to gain from this experience?
I am applying again because I have an interest in learning more about our community while discussing topics of interest concerning our community with other members who are of similar age to me. I am also interested in learning more about political science through this board.
9. If applicable, please list any other clubs, groups, or other organizational bodies that you are a member.
I play a lot of golf apart from participating in the leadership programs listed in my question 6 response
10. I acknowledge that, as a board member, I must check my email communications regularly and respond to staff members in a timely manner. (Yes/No)
Yes

[Redacted]
Fort Collins, CO 80528
[Redacted]
[Redacted]

Riya Sajjan

SKILLS

Leadership Experience, Problem Solving Abilities, Collaboration Talent, Critical Thinking, Organizational Skills, Teamwork, Creativity

EXPERIENCE and PREVIOUS LEADERSHIP POSITIONS

LPGA, Southridge Golf Course Fort Collins, CO – LPGA Golf E-Leader

June 2021 – PRESENT

- Leading and empowering young girls to pursue their interests in golf through educating them on the rules of the game, improving their swing mechanics, setting up fun games for them to play, etc.
- Shadowing a local golf instructor, Kathy Knadler, to grow my individual leadership and coaching interests, as well as assisting her in leading young girl golfer’s in the overall growth of golf interest within the community

IANC, Fort Collins, CO – Youth Coordinator

June 2020 – PRESENT

- Leading and spreading the appreciation of Indian culture within the local community through participating in cultural functions and conversing with other members about various cultural customs or events.
- Volunteering with other members at city community events such as local food drives, etc.

Math National Honors Society Fossil Ridge High School – Member

August 2021 – May 2025

- Assisting students who need help with their math homework and understanding math concepts through math tutoring.
- Giving recommendations to board members and helping in setting up for school wide events and opportunities such as the Trivia Night Fundraiser, etc.
- Overall spreading my common love of math with other members in the society through my participation in math related events such as Calc Bowl, etc.

Science National Honors Society Fossil Ridge High School – Member

August 2021 – May 2025

- Tutoring my peers on difficult science topics they need help with and encouraging them to feel comfortable when learning more about science.
- Assisting in the set up of events that bring members together to support each other and discuss scientifically related topics with each other

Youth Advisory Board – Member

August 2021 – Present

- Cooperating with other members of the youth community on finding solutions and discussing how to better improve the overall city community and environment in which we are surrounded by professionally set meetings.

EDUCATION

Fossil Ridge High School, Fort Collins, CO – Sophomore

Aug. 2021 – May 2025 (Graduation Year), Fort Collins, CO

AWARDS

- Currently have a 4.0 GPA
- Received a Varsity Golf Certificate (2021 - 2022)
- Have been on the Mu Alpha Theta Honors Society (2021 - present)
- Have been on the Science National Honors Society (2022 - present)
- Have been on the Fossil Ridge High School Honor Roll since 2021
- Have finished high level math courses such as Calculus 1,2,3 and am currently taking Calculus 4 (DiffEq) as a sophomore at Fossil Ridge High School
- Earned the COPGA Academic Certificate (2021,2022)



AGENDA ITEM SUMMARY

City Council

STAFF

Kelly DiMartino, City Manager
Dawn Downs, Legal

SUBJECT

Resolution 2023-016 Authorizing the Initiation of Exclusion Proceedings of Annexed Properties Within the Territory of the Poudre Valley Fire Protection District and Authorizing an Intergovernmental Agreement with Said District.

EXECUTIVE SUMMARY

The purpose of this item is to authorize the City Attorney to file a petition in Larimer County District Court to exclude properties annexed into the City in 2022 from the Poudre Valley Fire Protection District (the "District") in accordance with state law. The properties affected by this Resolution are the Peakview Annexation Number One and the Timber Lark Annexation. Colorado Revised Statutes Section 32-1-502 requires an order of exclusion from the District Court to remove these annexed properties from special district territories. The properties have been receiving fire protection services from the Poudre Fire Authority and will continue to do so. The City Attorney's Office files the petition in Larimer County District Court each year seeking exclusion for all properties annexed in the previous year that should be removed from the District to avoid double taxation.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

Property that is within a fire protection district continues to be subject to the District's property tax assessment even after annexation to the City until the property is officially excluded from the District. Exclusion must occur pursuant to state law (C.R.S. Section 32-1-502). The law allows the City to seek exclusion of annexed property from the District so that the property is not subject to property tax assessment by both the District and the City.

In 2022, the City annexed two areas within the territory of the District, the legal descriptions of which are set forth in Exhibit "A" to the proposed Resolution.

Consistent with the state law, this proposed Resolution authorizes:

1. the City Attorney to file a petition on behalf of the City to exclude the annexed properties from the District; and

Item 18.

2. the City Manager to enter into an agreement with the District for the continuation of fire protection services within the annexed properties.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

- 1. Resolution for Consideration
- 2. Resolution Exhibit A
- 3. Resolution Exhibit B

RESOLUTION 2023-016
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE INITIATION OF EXCLUSION PROCEEDINGS OF
ANNEXED PROPERTIES WITHIN THE TERRITORY OF THE POUFRE
VALLEY FIRE PROTECTION DISTRICT AND AUTHORIZING AN
INTERGOVERNMENTAL AGREEMENT WITH SAID DISTRICT

WHEREAS, in 2022, the City annexed two properties within the territory of the Poudre Valley Fire Protection District (the “District”); and

WHEREAS, Colorado Revised Statutes (“C.R.S.”) Section 32-1-502 requires an order of exclusion from the district court to remove annexed properties from special district territories; and

WHEREAS, under the provisions of C.R.S. Section 32-1-502(2)(a), an order excluding property from the boundaries of a special district requires the governing body of the annexing municipality to agree, by resolution, to provide the services previously provided by the special district to the area described in the petition for exclusion from and after the effective date of the exclusion order; and

WHEREAS, from the date of such annexations, the City has provided municipal services to said properties, including fire services; and

WHEREAS, the residents within the properties described on Exhibit “A” attached hereto and incorporated herein by this reference (the “Annexed Properties”) have paid ad valorem property taxes to the District for fire protection services prior to exclusion, and subsequent to exclusion, will instead pay ad valorem property taxes to the City for City services, including fire protection; and

WHEREAS, it is the desire and intent of the City Council to reflect by this Resolution its willingness to provide fire protection services to the Annexed Properties and to exclude the Annexed Properties from the District; and

WHEREAS, the City Council wishes to properly exclude the Annexed Properties from the District in accordance with law and to allow for the provision of fire protection services to such properties by the Poudre Fire Authority, which is an independent entity providing fire protection services to both the District and the City pursuant to an intergovernmental agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS, as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby agrees that the Annexed Properties should be excluded from the District.

Section 3. That the City Council hereby authorizes the City Attorney to file a petition in the Larimer County District Court pursuant to C.R.S. Section 32-1-502 for an order to exclude the Annexed Properties, the boundaries of which are described on Exhibit "A".

Section 4. That the City Council hereby agrees to provide fire protection service, through the Poudre Fire Authority, to the Annexed Properties.

Section 5. That the City Council hereby finds that a plan for the disposition of assets or continuation of service is unnecessary as the Poudre Fire Authority has in the past served, and continues to serve, both the District and the City.

Section 6. That the City Manager is authorized to enter into an agreement with the District for the continuation of services for the Annexed Properties, which agreement shall be substantially in the form of Exhibit "B" attached hereto, subject to such modifications as the City Manager may, in consultation with the City Attorney, deem necessary or appropriate to protect the interests of the City.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 7th day of February, 2022.

Mayor

ATTEST:

City Clerk

PEAKVIEW ANNEXATION NUMBER ONE

A PARCEL OF LAND LOCATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTH LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH P.M. BEING MONUMENTED BY A 2-1/2" ALUMINUM CAP STAMPED "LS 23503" AT THE WEST END AND A 2-1/2" ALUMINUM CAP STAMPED "LS 22573" AT THE EAST END, SAID LINE BEING ASSUMED TO BEAR S89°11'21"E.

BEGINNING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 9;

THENCE ON THE NORTH LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 9, S88°55'11"E A DISTANCE OF 42.00 FEET;

THENCE DEPARTING SAID NORTH LINE, THE FOLLOWING THIRTY-EIGHT (38) COURSES:

1. S00°14'19"W A DISTANCE OF 827.07 FEET, TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 84.00 FEET, A CENTRAL ANGLE OF 11°15'25" AND AN ARC LENGTH OF 16.50 FEET, TO A POINT OF TANGENT;
3. S11°01'07"E A DISTANCE OF 41.76 FEET, TO A POINT OF CURVE;
4. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 116.00 FEET, A CENTRAL ANGLE OF 11°15'25" AND AN ARC LENGTH OF 22.79 FEET, TO A POINT OF TANGENT;
5. S00°14'19"W A DISTANCE OF 75.11 FEET, TO A POINT OF CURVE;
6. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 166.00 FEET, A CENTRAL ANGLE OF 06°41'42" AND AN ARC LENGTH OF 19.40 FEET, TO A POINT OF TANGENT;
7. S06°56'01"W A DISTANCE OF 85.38 FEET, TO A POINT OF CURVE;
8. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 134.00 FEET, A CENTRAL ANGLE OF 06°41'42" AND AN ARC LENGTH OF 15.66 FEET, TO A POINT OF TANGENT;
9. S00°14'19"W A DISTANCE OF 182.11 FEET, TO A POINT OF CURVE;
10. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 84.00 FEET, A CENTRAL ANGLE OF 09°54'53" AND AN ARC LENGTH OF 14.54 FEET, TO A POINT OF TANGENT;
11. S09°40'35"E A DISTANCE OF 52.35 FEET, TO A POINT OF CURVE;
12. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 116.00 FEET, A CENTRAL ANGLE OF 09°54'53" AND AN ARC LENGTH OF 20.07 FEET, TO A POINT OF TANGENT;
13. S00°14'19"W A DISTANCE OF 102.11 FEET, TO A POINT OF CURVE;

14. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 166.00 FEET, A CENTRAL ANGLE OF $06^{\circ}23'15''$ AND AN ARC LENGTH OF 18.51 FEET, TO A POINT OF TANGENT;
15. $S06^{\circ}37'34''W$ A DISTANCE OF 78.77 FEET, TO A POINT OF CURVE;
16. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 134.00 FEET, A CENTRAL ANGLE OF $09^{\circ}33'20''$ AND AN ARC LENGTH OF 22.35 FEET, TO A POINT OF REVERSE CURVE;
17. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 1,033.00 FEET, A CENTRAL ANGLE OF $09^{\circ}59'32''$ AND AN ARC LENGTH OF 180.15 FEET, TO A POINT OF COMPOUND CURVE;
18. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 84.00 FEET, A CENTRAL ANGLE OF $11^{\circ}47'15''$ AND AN ARC LENGTH OF 17.28 FEET, TO A POINT OF TANGENT;
19. $S24^{\circ}42'34''E$ A DISTANCE OF 43.84 FEET, TO A POINT OF NON-TANGENT CURVE;
20. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS $S64^{\circ}54'15''W$, HAVING A RADIUS OF 108.19 FEET, A CENTRAL ANGLE OF $10^{\circ}37'19''$ AND AN ARC LENGTH OF 20.06 FEET, TO A POINT OF NON-TANGENT;
21. $S14^{\circ}51'36''E$ A DISTANCE OF 50.10 FEET;
22. $S13^{\circ}42'52''E$ A DISTANCE OF 50.01 FEET;
23. $S14^{\circ}51'36''E$ A DISTANCE OF 36.74 FEET;
24. $S14^{\circ}51'36''E$ A DISTANCE OF 47.62 FEET, TO A POINT OF CURVE;
25. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF $03^{\circ}07'00''$ AND AN ARC LENGTH OF 1.09 FEET, TO A POINT OF REVERSE CURVE;
26. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 129.00 FEET, A CENTRAL ANGLE OF $08^{\circ}04'32''$ AND AN ARC LENGTH OF 18.18 FEET, TO A POINT OF TANGENT;
27. $S19^{\circ}49'08''E$ A DISTANCE OF 108.53 FEET, TO A POINT OF CURVE;
28. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 179.00 FEET, A CENTRAL ANGLE OF $01^{\circ}22'20''$ AND AN ARC LENGTH OF 4.29 FEET, TO A POINT OF TANGENT;
29. $S21^{\circ}11'28''E$ A DISTANCE OF 91.99 FEET, TO A POINT OF CURVE;
30. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 49.00 FEET, A CENTRAL ANGLE OF $62^{\circ}31'40''$ AND AN ARC LENGTH OF 53.47 FEET, TO A POINT OF REVERSE CURVE;
31. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 541.00 FEET, A CENTRAL ANGLE OF $05^{\circ}46'51''$ AND AN ARC LENGTH OF 54.58 FEET, TO A POINT OF COMPOUND CURVE;
32. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 291.00 FEET, A CENTRAL ANGLE OF $09^{\circ}27'22''$ AND AN ARC LENGTH OF 48.03 FEET, TO A POINT OF COMPOUND CURVE;
33. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 29.00 FEET, A CENTRAL ANGLE OF $17^{\circ}32'15''$ AND AN ARC LENGTH OF 8.88 FEET, TO A POINT OF TANGENT;
34. $S50^{\circ}56'41''E$ A DISTANCE OF 28.81 FEET, TO A POINT OF CURVE;

35. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 09°31'31" AND AN ARC LENGTH OF 3.32 FEET, TO A POINT OF REVERSE CURVE;

36. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 283.00 FEET, A CENTRAL ANGLE OF 25°29'51" AND AN ARC LENGTH OF 125.94 FEET, TO A POINT OF TANGENT;

37. S34°58'22"E A DISTANCE OF 155.19 FEET, TO A POINT OF CURVE;

38. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 217.00 FEET, A CENTRAL ANGLE OF 48°41'45" AND AN ARC LENGTH OF 184.43 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF EAST MULBERRY STREET AND A POINT OF NON-TANGENT;

THENCE ON SAID NORTHERLY RIGHT-OF-WAY LINE, N89°11'21"W A DISTANCE OF 161.98 FEET, TO A POINT OF NON-TANGENT CURVE;

THENCE DEPARTING SAID NORTHERLY RIGHT-OF-WAY LINE, THE FOLLOWING SIXTEEN (16) COURSES:

1. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N41°03'41"E, HAVING A RADIUS OF 283.00 FEET, A CENTRAL ANGLE OF 13°57'58" AND AN ARC LENGTH OF 68.98 FEET, TO A POINT OF TANGENT;

2. N34°58'22"W A DISTANCE OF 155.19 FEET, TO A POINT OF CURVE;

3. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 217.00 FEET, A CENTRAL ANGLE OF 12°12'50" AND AN ARC LENGTH OF 46.26 FEET, TO A POINT OF COMPOUND CURVE;

4. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 19°54'23" AND AN ARC LENGTH OF 6.95 FEET, TO A POINT OF TANGENT;

5. N67°05'34"W A DISTANCE OF 29.69 FEET, TO A POINT OF CURVE;

6. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 29.00 FEET, A CENTRAL ANGLE OF 07°34'05" AND AN ARC LENGTH OF 3.83 FEET, TO A POINT OF REVERSE CURVE;

7. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 189.00 FEET, A CENTRAL ANGLE OF 15°18'19" AND AN ARC LENGTH OF 50.49 FEET, TO A POINT OF COMPOUND CURVE;

8. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 409.00 FEET, A CENTRAL ANGLE OF 17°14'40" AND AN ARC LENGTH OF 123.10 FEET, TO A POINT OF COMPOUND CURVE;

9. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 54.00 FEET, A CENTRAL ANGLE OF 43°02'58" AND AN ARC LENGTH OF 40.57 FEET, TO A POINT OF COMPOUND CURVE;

10. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 79.00 FEET, A CENTRAL ANGLE OF 50°07'19" AND AN ARC LENGTH OF 69.11 FEET, TO A POINT OF TANGENT;

11. S05°14'45"E A DISTANCE OF 94.32 FEET, TO A POINT OF CURVE;

12. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 10.00 FEET, A CENTRAL ANGLE OF 35°00'00" AND AN ARC LENGTH OF 6.11 FEET, TO A POINT OF NON-TANGENT REVERSE CURVE;

13. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS S56°47'06"E, HAVING A RADIUS OF 10.12 FEET, A CENTRAL ANGLE OF 38°04'04" AND AN ARC LENGTH OF 6.73 FEET, TO A POINT OF NON-TANGENT REVERSE CURVE;

14. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS S85°00'07"W, HAVING A RADIUS OF 517.00 FEET, A CENTRAL ANGLE OF 05°14'12" AND AN ARC LENGTH OF 47.25 FEET, TO A POINT OF TANGENT;

15. S00°14'19"W A DISTANCE OF 11.14 FEET, TO A POINT OF NON-TANGENT CURVE;

16. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N89°37'29"E, HAVING A RADIUS OF 30.51 FEET, A CENTRAL ANGLE OF 28°12'43" AND AN ARC LENGTH OF 15.02 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID EAST MULBERRY STREET AND A POINT OF NON-TANGENT;

THENCE ON SAID NORTHERLY RIGHT-OF-WAY LINE, N89°11'21"W A DISTANCE OF 154.79 FEET, TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 9;

THENCE ON SAID WEST LINE, N00°14'19"E A DISTANCE OF 2,604.37 FEET, TO THE POINT OF BEGINNING.

TIMBER LARK ANNEXATION

A tract of land situate in the SE $\frac{1}{4}$ of Section 7, Township 6 North, Range 68 West of the 6th P.M., Larimer County, Colorado, which considering the East line of the said SE $\frac{1}{4}$ as bearing North and South and with all bearings contained herein relative thereto is contained within the boundary lines which begin at a point which bears N 624.80 feet, and again West 473.48 feet from the SE corner of said Section 7 and run thence West 2059.56 feet to a point on the East line of the Union Pacific Railroad; thence along said East line N $0^{\circ}25'$ W 695.01 feet; thence East 2538.16 feet to a point on the East line of the said SE $\frac{1}{4}$; thence S 235.00 feet along the said East line; thence West 473.48 feet; thence South 460.00 feet to the Point of Beginning, County of Larimer, State of Colorado

EXCEPT that portion dedicated as a public highway in Deed of Dedication recorded May 27, 1981 in Book 2117 at Page 226, Larimer County records.

The above-described tract of land contains 1,532,128 square feet or 35.173 acres, more or less.

**MEMORANDUM OF AGREEMENT FOR
CONTINUATION OF SERVICE
(POUDRE VALLEY FIRE PROTECTION DISTRICT/CITY OF FORT COLLINS)**

THIS AGREEMENT, is made and entered into on _____, by and between the CITY OF FORT COLLINS, COLORADO, a municipal home-rule corporation (the “City”), and the POUDRE VALLEY FIRE PROTECTION DISTRICT, a special statutory district within the State of Colorado (the “District”);

WHEREAS, the City has recently filed pursuant to Section 32-1-502(1)(a), C.R.S., a Petition with the District Court in and for Larimer County, Colorado for an Order excluding certain properties from the territory of the District, which properties are shown on Exhibit “A” (the “Properties”) hereto attached, the contents of which are incorporated by reference herein; and

WHEREAS, said Petition is premised upon the prior annexation and inclusion of the Properties within the municipal boundaries of the City; and

WHEREAS, it is the mutual desire of the City and the District to set forth their understanding and agreement with regard to the continuation of fire protection services to the Properties, as well as remaining properties within the boundaries of the District and Poudre Fire Authority, as defined below.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and obligations herein contained, the parties agree:

1. From and after the effective date of any Order of Exclusion issued by the District Court in response to the City’s Petition, filed pursuant to Section 32-1-502(1)(a), which effective date is anticipated to be January 1, 2024, the City will continue to assume full and complete responsibility for fire protection services to the Properties. Such fire protection services shall be provided by Poudre Fire Authority (“PFA”) pursuant to that certain Amended and Restated Intergovernmental Agreement effective July 15, 2014, by and between the City and the District.

2. From and after the effective date of the Exclusion Order entered by the District Court in and for Larimer County, Colorado, the District shall have no further liability or responsibility with regard to the provision of fire protection services for the Properties or any improvements thereon, other than the obligations existing under the aforementioned intergovernmental agreement creating PFA for the provision of regional fire services.

3. From and after the effective date of any Exclusion Order entered by the District Court in and for Larimer County, Colorado, the District agrees that the Properties shall be free from taxation by the District, other than mill levies assessed for purposes of paying outstanding bonded indebtedness and interest thereon, owed by the District effective immediately prior to the effective date of such Exclusion Order. Exclusion of the Properties from the District and entry of an Exclusion Order by the District Court shall not affect any claim the District may have or the

District's ability to make such claim for taxes which were certified by the District prior to the effective date of the Exclusion Order.

4. The District will retain ownership of all equipment and facilities now owned by the District, including such facilities as may be located within the Properties, if any.

5. The District will, through its agreement with PFA, continue to provide fire protection services to those properties located within the boundaries of the District, as modified by the exclusion of territory pursuant to the anticipated Exclusion Order requested from the District Court.

6. In the event that any bonded indebtedness exists as of the effective date of the anticipated Exclusion Order, the Board of Directors of the District shall continue to assess a proportional mill levy against the Properties, together with other properties within the boundaries of the District, sufficient to repay the principal and accrued interest on any such bonded indebtedness in accordance with the terms and provisions of the instruments pursuant to which said obligations have been created and incurred.

7. Nothing within this Agreement shall modify or terminate any obligations of the City or the District with respect to existing obligations under the intergovernmental agreement forming the PFA, including any future amendments or modifications thereto as the parties may hereafter agree.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

ATTEST:

CITY OF FORT COLLINS, COLORADO,
a municipal home-rule corporation

Anissa Hollingshead, City Clerk

Kelly DiMartino, City Manager

Approved as to form:

Dawn Downs, Senior Assistant City Attorney

POUDRE VALLEY FIRE PROTECTION
DISTRICT,
a special statutory district within the State of
Colorado

By: _____
Chairman, Board of Directors

Approved as to form:

By: Robert G. Cole
Attorney for Poudre Valley Fire Protection
District

EXHIBIT B
EXHIBIT A TO MEMORANDUM OF AGREEMENT

PEAKVIEW ANNEXATION NUMBER ONE

A PARCEL OF LAND LOCATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTH LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH P.M. BEING MONUMENTED BY A 2-1/2" ALUMINUM CAP STAMPED "LS 23503" AT THE WEST END AND A 2-1/2" ALUMINUM CAP STAMPED "LS 22573" AT THE EAST END, SAID LINE BEING ASSUMED TO BEAR S89°11'21"E.

BEGINNING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 9;

THENCE ON THE NORTH LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 9, S88°55'11"E A DISTANCE OF 42.00 FEET;

THENCE DEPARTING SAID NORTH LINE, THE FOLLOWING THIRTY-EIGHT (38) COURSES:

1. S00°14'19"W A DISTANCE OF 827.07 FEET, TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 84.00 FEET, A CENTRAL ANGLE OF 11°15'25" AND AN ARC LENGTH OF 16.50 FEET, TO A POINT OF TANGENT;
3. S11°01'07"E A DISTANCE OF 41.76 FEET, TO A POINT OF CURVE;
4. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 116.00 FEET, A CENTRAL ANGLE OF 11°15'25" AND AN ARC LENGTH OF 22.79 FEET, TO A POINT OF TANGENT;
5. S00°14'19"W A DISTANCE OF 75.11 FEET, TO A POINT OF CURVE;
6. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 166.00 FEET, A CENTRAL ANGLE OF 06°41'42" AND AN ARC LENGTH OF 19.40 FEET, TO A POINT OF TANGENT;
7. S06°56'01"W A DISTANCE OF 85.38 FEET, TO A POINT OF CURVE;
8. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 134.00 FEET, A CENTRAL ANGLE OF 06°41'42" AND AN ARC LENGTH OF 15.66 FEET, TO A POINT OF TANGENT;
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11. S09°40'35"E A DISTANCE OF 52.35 FEET, TO A POINT OF CURVE;
12. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 116.00 FEET, A CENTRAL ANGLE OF 09°54'53" AND AN ARC LENGTH OF 20.07 FEET, TO A POINT OF TANGENT;
13. S00°14'19"W A DISTANCE OF 102.11 FEET, TO A POINT OF CURVE;

EXHIBIT B
EXHIBIT A TO MEMORANDUM OF AGREEMENT

14. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 166.00 FEET, A CENTRAL ANGLE OF $06^{\circ}23'15''$ AND AN ARC LENGTH OF 18.51 FEET, TO A POINT OF TANGENT;
15. $S06^{\circ}37'34''W$ A DISTANCE OF 78.77 FEET, TO A POINT OF CURVE;
16. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 134.00 FEET, A CENTRAL ANGLE OF $09^{\circ}33'20''$ AND AN ARC LENGTH OF 22.35 FEET, TO A POINT OF REVERSE CURVE;
17. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 1,033.00 FEET, A CENTRAL ANGLE OF $09^{\circ}59'32''$ AND AN ARC LENGTH OF 180.15 FEET, TO A POINT OF COMPOUND CURVE;
18. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 84.00 FEET, A CENTRAL ANGLE OF $11^{\circ}47'15''$ AND AN ARC LENGTH OF 17.28 FEET, TO A POINT OF TANGENT;
19. $S24^{\circ}42'34''E$ A DISTANCE OF 43.84 FEET, TO A POINT OF NON-TANGENT CURVE;
20. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS $S64^{\circ}54'15''W$, HAVING A RADIUS OF 108.19 FEET, A CENTRAL ANGLE OF $10^{\circ}37'19''$ AND AN ARC LENGTH OF 20.06 FEET, TO A POINT OF NON-TANGENT;
21. $S14^{\circ}51'36''E$ A DISTANCE OF 50.10 FEET;
22. $S13^{\circ}42'52''E$ A DISTANCE OF 50.01 FEET;
23. $S14^{\circ}51'36''E$ A DISTANCE OF 36.74 FEET;
24. $S14^{\circ}51'36''E$ A DISTANCE OF 47.62 FEET, TO A POINT OF CURVE;
25. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF $03^{\circ}07'00''$ AND AN ARC LENGTH OF 1.09 FEET, TO A POINT OF REVERSE CURVE;
26. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 129.00 FEET, A CENTRAL ANGLE OF $08^{\circ}04'32''$ AND AN ARC LENGTH OF 18.18 FEET, TO A POINT OF TANGENT;
27. $S19^{\circ}49'08''E$ A DISTANCE OF 108.53 FEET, TO A POINT OF CURVE;
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29. $S21^{\circ}11'28''E$ A DISTANCE OF 91.99 FEET, TO A POINT OF CURVE;
30. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 49.00 FEET, A CENTRAL ANGLE OF $62^{\circ}31'40''$ AND AN ARC LENGTH OF 53.47 FEET, TO A POINT OF REVERSE CURVE;
31. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 541.00 FEET, A CENTRAL ANGLE OF $05^{\circ}46'51''$ AND AN ARC LENGTH OF 54.58 FEET, TO A POINT OF COMPOUND CURVE;
32. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 291.00 FEET, A CENTRAL ANGLE OF $09^{\circ}27'22''$ AND AN ARC LENGTH OF 48.03 FEET, TO A POINT OF COMPOUND CURVE;
33. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 29.00 FEET, A CENTRAL ANGLE OF $17^{\circ}32'15''$ AND AN ARC LENGTH OF 8.88 FEET, TO A POINT OF TANGENT;
34. $S50^{\circ}56'41''E$ A DISTANCE OF 28.81 FEET, TO A POINT OF CURVE;

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36. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 283.00 FEET, A CENTRAL ANGLE OF 25°29'51" AND AN ARC LENGTH OF 125.94 FEET, TO A POINT OF TANGENT;
37. S34°58'22"E A DISTANCE OF 155.19 FEET, TO A POINT OF CURVE;
38. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 217.00 FEET, A CENTRAL ANGLE OF 48°41'45" AND AN ARC LENGTH OF 184.43 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF EAST MULBERRY STREET AND A POINT OF NON-TANGENT;

THENCE ON SAID NORTHERLY RIGHT-OF-WAY LINE, N89°11'21"W A DISTANCE OF 161.98 FEET, TO A POINT OF NON-TANGENT CURVE;

THENCE DEPARTING SAID NORTHERLY RIGHT-OF-WAY LINE, THE FOLLOWING SIXTEEN (16) COURSES:

1. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N41°03'41"E, HAVING A RADIUS OF 283.00 FEET, A CENTRAL ANGLE OF 13°57'58" AND AN ARC LENGTH OF 68.98 FEET, TO A POINT OF TANGENT;
2. N34°58'22"W A DISTANCE OF 155.19 FEET, TO A POINT OF CURVE;
3. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 217.00 FEET, A CENTRAL ANGLE OF 12°12'50" AND AN ARC LENGTH OF 46.26 FEET, TO A POINT OF COMPOUND CURVE;
4. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 19°54'23" AND AN ARC LENGTH OF 6.95 FEET, TO A POINT OF TANGENT;
5. N67°05'34"W A DISTANCE OF 29.69 FEET, TO A POINT OF CURVE;
6. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 29.00 FEET, A CENTRAL ANGLE OF 07°34'05" AND AN ARC LENGTH OF 3.83 FEET, TO A POINT OF REVERSE CURVE;
7. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 189.00 FEET, A CENTRAL ANGLE OF 15°18'19" AND AN ARC LENGTH OF 50.49 FEET, TO A POINT OF COMPOUND CURVE;
8. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 409.00 FEET, A CENTRAL ANGLE OF 17°14'40" AND AN ARC LENGTH OF 123.10 FEET, TO A POINT OF COMPOUND CURVE;
9. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 54.00 FEET, A CENTRAL ANGLE OF 43°02'58" AND AN ARC LENGTH OF 40.57 FEET, TO A POINT OF COMPOUND CURVE;
10. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 79.00 FEET, A CENTRAL ANGLE OF 50°07'19" AND AN ARC LENGTH OF 69.11 FEET, TO A POINT OF TANGENT;
11. S05°14'45"E A DISTANCE OF 94.32 FEET, TO A POINT OF CURVE;

EXHIBIT B
EXHIBIT A TO MEMORANDUM OF AGREEMENT

12. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 10.00 FEET, A CENTRAL ANGLE OF 35°00'00" AND AN ARC LENGTH OF 6.11 FEET, TO A POINT OF NON-TANGENT REVERSE CURVE;
13. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS S56°47'06"E, HAVING A RADIUS OF 10.12 FEET, A CENTRAL ANGLE OF 38°04'04" AND AN ARC LENGTH OF 6.73 FEET, TO A POINT OF NON-TANGENT REVERSE CURVE;
14. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS S85°00'07"W, HAVING A RADIUS OF 517.00 FEET, A CENTRAL ANGLE OF 05°14'12" AND AN ARC LENGTH OF 47.25 FEET, TO A POINT OF TANGENT;
15. S00°14'19"W A DISTANCE OF 11.14 FEET, TO A POINT OF NON-TANGENT CURVE;
16. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N89°37'29"E, HAVING A RADIUS OF 30.51 FEET, A CENTRAL ANGLE OF 28°12'43" AND AN ARC LENGTH OF 15.02 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID EAST MULBERRY STREET AND A POINT OF NON-TANGENT;

THENCE ON SAID NORTHERLY RIGHT-OF-WAY LINE, N89°11'21"W A DISTANCE OF 154.79 FEET, TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 9;

THENCE ON SAID WEST LINE, N00°14'19"E A DISTANCE OF 2,604.37 FEET, TO THE POINT OF BEGINNING.

EXHIBIT B
EXHIBIT A TO MEMORANDUM OF AGREEMENT

TIMBER LARK ANNEXATION

A tract of land situate in the SE $\frac{1}{4}$ of Section 7, Township 6 North, Range 68 West of the 6th P.M., Larimer County, Colorado, which considering the East line of the said SE $\frac{1}{4}$ as bearing North and South and with all bearings contained herein relative thereto is contained within the boundary lines which begin at a point which bears N 624.80 feet, and again West 473.48 feet from the SE corner of said Section 7 and run thence West 2059.56 feet to a point on the East line of the Union Pacific Railroad; thence along said East line N 0°25' W 695.01 feet; thence East 2538.16 feet to a point on the East line of the said SE $\frac{1}{4}$; thence S 235.00 feet along the said East line; thence West 473.48 feet; thence South 460.00 feet to the Point of Beginning, County of Larimer, State of Colorado

EXCEPT that portion dedicated as a public highway in Deed of Dedication recorded May 27, 1981 in Book 2117 at Page 226, Larimer County records.

The above-described tract of land contains 1,532,128 square feet or 35.173 acres, more or less.

AGENDA ITEM SUMMARY

City Council



STAFF

Blaine Dunn, Accounting Director
John Duval, Legal

SUBJECT

Resolution 2023-017 Adopting Amendments to the City's Financial Management Policies.

EXECUTIVE SUMMARY

The purpose of this item is to update three of the internal Financial Management Policies:

- Policy 5 – Fund Balance
- Policy 7 – Debt
- Policy 8 – Investment

The policies are reviewed on a three-year rolling schedule. The recommended changes have been presented to the Council Finance Committee which supported the changes recommended.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

Financial policies of certain significance are approved by Council. Others are approved by the City Manager and Chief Financial Officer. Staff and the Council Finance Committee have agreed to review and update Council-approved policies every three years. This year three policies were reviewed by staff and the Council Finance Committee: Fund Balance Minimums, Debt, and Investments.

Recommended changes for each policy are summarized as follows:

Financial Management Policy 5 – Fund Balance Minimums: This policy has one change:

- Section 5.3 *Minimum Balances*
 - Change Benefits Fund minimum balance from 30% to 25%

Financial Management Policy 7 – Debt: This policy has four sections with recommended changes:

- Section 7.3 *Types of Debt and Financing Agreements*
 - Clarify when equipment leases can be used
 - Clarify parameters for conduit debt

- Section 7.4 *Debt Structure and Terms*
 - Remove language of capitalizing interest per new accounting standards
- Section 7.8 *Inter-agency Loan Program*
 - Section is being moved from Policy 8 – Investment (Section 8.8), with no additional changes
- Section 7.9 *Other*
 - Clarify additional items to be included in future Debt Administration Policy

Financial Management Policy 8 – Investment: Throughout the Policy the Poudre River Library District is added for whom this policy also applies. This policy has four sections with recommended changes:

- Section 8.1 *Policy*
 - Clean up language
- Section 8.6 *Suitable and Authorized Investments*
 - Clarify there are no split ratings allowed on purchased investments
- Section 8.7 *Diversification and Liquidity*
 - Renaming section to remove duplication with Section 8.6 heading
 - Increase amount allowed in Local Government investment pools to be changed from 20% to 60%
- Section 8.8 *Inter-agency Loan Program*
 - Removed from this Policy section and added to Policy 7 – Debt

CITY FINANCIAL IMPACTS

While these policies help the City and staff to administer the City finances, there are no direct financial impacts to the City.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Council Finance Committee recommended adoption by Council at its December 2022 meeting.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Resolution for Consideration
2. Resolution Exhibit A
3. Resolution Exhibit B
4. Resolution Exhibit C
5. Policy 5 – Fund Balance Minimums DRAFT (redline)
6. Policy 7 – Debt DRAFT (redline)
7. Policy 8 – Investments DRAFT (redline)

RESOLUTION 2023-017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ADOPTING AMENDMENTS TO THE CITY’S FINANCIAL MANAGEMENT POLICIES

WHEREAS, City Council has adopted Financial Management Policies for the City pursuant to Resolution 94-174, which contemplates that City Council may adopt amendments to them, which the Council has done several times over the years (collectively, the “Financial Policies”); and

WHEREAS, the City’s Chief Financial Officer and City Manager are recommending amendments to three of the current Financial Policies; and

WHEREAS, the City is committed to sound and efficient financial planning and management consistent with the best practices as established by the Government Financial Officers Association (“GFOA”); and

WHEREAS, “Financial Management Policy 5 – Fund Balance Policy,” with its recommended amendments, is attached and incorporated by reference as Exhibit “A” (the “Fund Balance Policy”); and

WHEREAS, the Fund Balance Policy is being recommended for amendment to change the minimum fund balance for the City’s Benefits Fund from 30% to 25%; and

WHEREAS, “Financial Management Policy 7 – Debt,” with its recommended amendments, is attached and incorporated herein by reference as Exhibit “B” (the “Debt Policy”); and

WHEREAS, the Debt Policy is being recommended for amendment to clarify in Section 7.3 when equipment leases can be used and to clarify parameters for conduit debt, to remove from Section 7.4 language regarding capitalization of interest to comply with new accounting standard, to include in Section 7.8 the Inter-Agency Loan Program provisions now found in Section 8.8 of Financial Management Policy 8- Investments, and to designate in Section 7.9 additional items to be included in future Debt Administration Policy; and

WHEREAS, “Financial Management Policy 8 – Investment” with its recommended amendments, is attached and incorporated by reference as Exhibit “C” (the “Investment Policy”); and

WHEREAS, the Investment Policy is being recommended for amendment to clean up language in Section 8.1, to clarify in Section 8.6 that no split ratings will be allowed on purchased investments, to rename the heading of Section 8.7 to eliminate duplicative heading with Section 8.6, to increase in Section 8.7 the amount allowed in local government investment pools from 20% to 60%, and to remove the provisions for the Inter-Agency Loan Program from Section 8.8 that are being moved to Section 7.8 of the Debt Policy; and

WHEREAS, the Council Finance Committee has reviewed the Fund Balance Policy, the Debt Policy, and the Investment Policy, as they have been amended, and recommends that City Council approve each of them; and

WHEREAS, the City Council wishes to amend the Financial Policies, as most recently updated by Council on January 19, 2021, in Resolution 2021-010, by adopting the Fund Balance Policy, the Debt Policy, and the Investment Policy, to now read as shown in Exhibits “A,” “B,” and “C,” respectively, in pursuit of the City’s objectives of sound and efficient financial planning and management consistent with GFOA’s best practices.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS, as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby approves and adopts the Fund Balance Policy, the Debt Policy, and the Investment Policy, as amended by this Resolution, to now read as shown in Exhibits “A,” “B,” and “C,” respectively.

Section 3. That except for the amendments of the three Financial Policies as provided in this Resolution, all other Financial Policies shall remain unchanged and in full force and effect until the same are amended or repealed by subsequent action of the City Council.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 7th day of February 7, 2023.

Mayor

ATTEST:

City Clerk

Fund Balance Minimums

Objective:

To set minimum fund balances as to mitigate risk, maintain good standing with rating agencies, and ensure cash is available when revenue is unavailable. The policy sets minimum fund balances, not targets or maximum balances. Each fund should be evaluated by staff to determine the appropriateness of maintaining fund balances above the minimums set in this policy. Contingencies for severe weather, prolonged drought, and anticipated capital spending should be considered independently from this policy.

Applicability:

Funds—This policy applies to all City funds. It does not apply to URA, DDA, PFA and Library.

Authorized by:

City Council Resolutions 1994-174, 2008-038, 2014-058, 2017-101, 2021-010, 2023-xxx

5.1 Governmental Funds and Fund Balances

To set minimum fund balances so as to mitigate risks, maintain good standing with rating agencies, and ensure cash is available when revenue is unavailable. The policy sets minimum fund balances, not targets or maximum balances. Each fund should be evaluated by staff to determine the appropriateness of maintaining fund balances above the minimums set in this policy. Contingencies for severe weather, prolonged drought, and anticipated capital spending should be considered independently from this policy.

The Equity on balance sheet of a governmental fund is called Fund Balance. The current classifications of Fund Balance in governmental funds are primarily based on the origin of the constraints. The following categories are in decreasing order of constraints.

Non-Spendable	Permanent endowments or assets in a non-liquid form
Restricted	Involve a third party: State Legislation or Contractual Agreements
Committed	Set by formal action of the City Council
Assigned	By staff, and/or residual balances in a Special Revenue Fund
Unassigned	Remaining balances in governmental funds

Minimums outlined in section 5.3 relate only to **Assigned and Unassigned** balances.

5.2 Proprietary Fund and Working Capital

Internal Service Funds and Enterprise Funds are accounted for nearly identical to the private sector. The balance sheets include long term assets and long-term liabilities. The resulting Equity section on their balance sheet, called Net Position, is not always a good measure of spendable financial resources. To get to spendable financial resources, a common calculation is to take Current Assets and subtract Current Liabilities, with the net result called Working Capital.

To further refine, for purposes of this policy, certain required restrictions are further subtracted and result in **Available Working Capital**. Some examples of required restrictions are unspent monies for Art in Public Places, Water Rights, and existing appropriations for capital projects. The minimums outlined in section 5.3 relate to Available Working Capital.

5.3 Minimum Balances

The following Minimum Balances refers to Assigned and Unassigned Fund Balances in governmental funds and Available Working Capital in the Internal Service Funds and Enterprise Funds.

A. General Fund

60 Day Liquidity Goal - The Commitment for Contingency should be at least 60 days (17%) of the subsequent year's originally adopted budgeted expenditures and transfers out. The calculation for the minimum level shall exclude expenditures and transfers out for large and unusual one-time items.

Important note – the 60 Day Liquidity Goal is in addition to the Emergency Reserves required by Article X, Section 20(5) of the State Constitution. This reserve must equal 3% of non-exempt revenue and can only be used for declared emergencies. Fiscal emergencies are specifically excluded by the State Constitution as qualifying use of this reserve.

B. Special Revenue Funds

No minimum balance is required.

C. Debt Service Funds

No minimum balance is required.

D. Capital Project Funds

No minimum balance is required.

E. Enterprise Funds

Enterprise funds focus on working capital rather than fund balance.

Enterprise Funds shall maintain a minimum Available Working Capital equal to 25% of Operating Expenses, less Depreciation. Exception 1: In the case of L&P, operating expenses will include purchased renewable energy for resale but will not include regular purchased power for resale (i.e. Platte River Power Authority). Exception 2: In the case of Golf, the minimum fund balance will be 12.5%.

Important note – The Water Fund holds a balance for Restricted Water Rights. The balance equals the amount of cash in-lieu-of water rights payments and raw water surcharges less any expenses for acquiring water rights and water storage;

The enterprises funds should also be accumulating available working capital above these minimums for the purposes of funding future capital projects.

F. Internal Service Funds

Each fund is a unique operation and will maintain a minimum Available Working Capital as follows:

601	Equipment Fund	8.3%	Of annual operating expenses, excluding depreciation
602	Self-Insurance Fund *	25.0%	Of annual operating expenses
603	Data & Communications Fund	0.0%	N/A
604	Benefits Fund	25.0%	Of annual medical and dental expenses
605	Utility Customer Service Fund	0.0%	N/A

* Self Insurance Fund will be measured against Available Unrestricted Net Position instead of Available Working Capital.

5.4 Below Minimum

When circumstances result in balances below the minimum, staff should develop a plan to restore minimums fund balances and present it to Council Finance Committee.

Definitions

Non-Spendable Fund Balances: *Applicable to governmental funds. Permanent endowments or assets in a non-liquid form such as long-term inter-agency loans.*

Restricted Fund Balances: *Applicable to governmental funds. Involve a third party such as State Legislative requirements, voter ballot language, or the Contractual Agreements with parties external to the City.*

Committed Fund Balances: *Applicable to governmental funds. Involve a of formal action by the City Council. An example is traffic calming revenues are required to be spent on traffic calming activities. Any unspent monies at end of year are classified as Committed to traffic calming in the General Fund.*

Assigned Fund Balances: *Are applicable to governmental funds. Assignments can be made by senior management. They represent the intent to use the monies for a specific purpose. An example of this it this the one-time Harmony Road monies transferred by the State to the City. Although required to be used on Harmony Road, staff intends to use the monies only on Harmony Road improvements. These monies are considered when measuring compliance with minimum fund balances.*

Unassigned Fund Balances: *Are applicable only to the governmental funds. These monies are considered when measuring compliance with minimum fund balances.*

Working Capital: *Is a term applicable to Internal Service and Enterprise Funds. It is the difference between Current Assets and Current Liabilities. Not all Working Capital is available. Available Working Capital does not include Restrictions for debt, Art in Public Places, approved capital appropriations, and other restrictions.*

Unrestricted Net Position: *Is a term applicable to Internal Service and Enterprise Funds. Not all Unrestricted Net Position is available. Available Unrestricted Net Position does not include unused Art in Public Places monies, approved capital appropriations, and other commitments.*

Liquidity: *Assets range from cash to land. The more easily and quickly an asset can be converted to cash determines its relative liquidity.*

Reserves: *A legacy term that previously referred to fund balances, or fund balances set aside for a specific purpose. It is no longer used on financial statements.*

Fund Balance: *Is a term applicable to governmental funds. Fund balance or Equity is the difference between assets ,liabilities, deferred outflows of resources and deferred inflows of resources. Since governmental funds do not have long term assets and long-term debt on their balance sheet, fund balance is similar and approximates working capital in the private sector and enterprise funds.*

Getting Help

Please contact the Controller with any questions at 970.221.6772.

Debt

Objective:

The purpose of this policy is to establish parameters and provide guidance governing the issuance of all debt obligations issued by the City of Fort Collins (City).

Applicability:

This debt policy applies to all funds and Service Areas of the City and closely related agencies such as the Downtown Development Authority (DDA), Fort Collins Leasing Corporation and the Fort Collins Urban Renewal Authority (URA).

Authorized by:

City Council Resolutions, 1994-174, 2013-093, 2023-xxx

7.1 Authorization for Municipal Borrowing

The City Charter (Article V. Part II) authorizes the borrowing of money and the issuance of long-term debt. The Charter and State Constitution determine which securities may be issued and when a vote of the electors of the City and approved by a majority of those voting on the issue.

7.2 Purpose and Uses of Debt

Long term obligations should only be used to finance larger capital acquisitions and/or construction costs that are for high priority projects. Debt will not be used for operating purposes. Debt financing of capital improvements and equipment will be done only when the following conditions exist:

- a) When non-continuous projects (those not requiring continuous annual appropriations) are desired;
- b) When it can be determined that future users will receive a significant benefit from the improvement;
- c) When it is necessary to provide critical basic services to residents and taxpayers (for example, purchase of water rights);
- d) When total debt, including that issued by overlapping governmental entities, does not constitute an unreasonable burden to the residents and taxpayers.

7.3 Types of Debt and Financing Agreements

The types of debt permitted are outlined in State statute. The City will avoid derivative type instruments. In general the following debt types are used by the City:

- a) General obligation bonds—backed by the credit and taxing power of the City and not from revenues of any specific project. Colorado law limits general obligation debt to 10% of the City’s assessed valuation. Under TABOR this type of debt must be approved by voters.
- b) Revenue Bonds—issued and backed by the revenues of a specific project, tax increment district (TIF), enterprise fund, etc. The holders of these bonds can only consider this revenue source for repayment. TABOR does not require that voters approve these types of debt.
- c) Lease Purchase – issued whereby the asset acquired is used as collateral. Examples include Certificates of Participation (COP), Assignment of Lease Payments (ALP) and equipment leases. Equipment leases shall be limited to financing within Internal Service Funds. TABOR does not require that voters approve these types of agreements.
- d) Moral Obligation Pledge—a pledge to consider replenishing a debt reserve fund of another government agency if the reserve was used to make debt payments. This type of commitment will only be used to support the highest priority projects, or when the financial risk to the City does not increase significantly, or when the City’s overall credit rating is not expected to be negatively impacted. Because it is a pledge to consider replenishing, it is not a pledge of the City’s credit, and as such is not a violation of State statutes and City Charter. However, decision makers should keep in mind that not honoring a Moral Obligation Pledge will almost certainly negatively impact the City’s overall credit rating. TABOR does not require that voters approve these types of agreements.
- e) Interagency Borrowing—issued when the credit of an agency (DDA, URA) of the City does not permit financing at affordable terms. Usually used to facilitate a project until the revenue stream is established and investors can offer better terms to the agency. Program parameters are outlined in section 7.8 of this policy. TABOR does not require that voters approve these types of agreements.
- f) Conduit Debt—Typically limited to Qualified Private Activity Bonds (PAB) defined by the IRS and limited to the annual allocation received from the State. Low income housing is one example of a qualified use of PAB. Program parameters are outlined the General Financial Policy 3.6. There is no pledge or guarantee to pay by the City.
- g) Any other securities not in contravention with City Charter or State statute.

7.4 Debt Structure and Terms

The following are guidelines, and may be modified by the City to meet the particulars of the financial markets at the time of the issuance of a debt obligation:

- a) Term of the Debt: The length of the financing will not exceed the useful life of the asset or average life of a group of assets, or 30 years, whichever is less. Terms longer than 20 years should be limited to the highest priority projects.
- b) Structure of Debt: Level debt service will be used unless otherwise dictated by the useful life of the asset(s) and/or upon the advice of the City's financial advisor.
- c) Credit Enhancements: The City will not use credit enhancements unless the cost of the enhancement is less than the differential between the net present value of the debt service without enhancement and the net present value of the debt service with the enhancement.
- d) Variable Rate Debt: The City will normally not issue variable rate debt, meaning debt at rates that may adjust depending upon changed market conditions. However, it is recognized that certain circumstances may warrant the issuance of variable rate debt, but the City will attempt to stabilize the debt service payments through the use of an appropriate stabilization arrangement.
- e) Derivative type instruments and terms will be avoided.

7.5 Refinancing Debt

Refunding of outstanding debt will only be done if there is a resultant economic gain regardless of whether there is an accounting gain or loss, or a subsequent reduction or increase in cash flows. The net present value savings shall be at least 3%, preferably 5% or more. In an advanced refunding (before the call date), the ratio of present value savings to the negative arbitrage costs should be at least 2.

7.6 Debt Limitations and Capacity

Debt capacity will be evaluated by the annual dollar amount paid and the total amount outstanding with the goal to maintain the City's overall issuer rating at the very highest rating, AAA. Parameters are different for Governmental Funds, Enterprise Funds, and Related Agencies.

- a. Governmental Funds—Annual debt service (principal and interest) will not exceed 5% of annual revenues. For calculation, revenues will not include internal charges, transfers and large one-time grants. Outstanding debt in relation to population and assessed value will be monitored.
- b. Enterprise Funds—Each fund is unique and will be evaluated independently. Each fund's debt will be managed to maintain a credit score of at least an A rating. These funds typically issue revenue bonds and investors closely watch revenue coverage ratio. Coverage ratios are usually published in the Statistical Section of the City's Comprehensive Annual Financial Statement.
- c. Related Agencies—Each agency will be evaluated independently, taking into account City Charter, State statutes, market conditions and financial feasibility.

7.7 Debt Issuance Process

When the City utilizes debt financing, it will ensure that the debt is soundly financed by:

- a) Selecting an independent financial advisor to assist with determining the method of sale and the selection of other financing team members
- b) Conservatively projecting the revenue sources that will be used to pay the debt;
- c) Maintaining a debt service coverage ratio which ensures that combined debt service requirements will not exceed revenues pledged for the payment of debt.
- d) Evaluating proposed debt against the target debt indicators.

7.8 Inter-agency Loan Program

1. *Purpose:* The purpose of the Inter-agency loan program is to support City services, missions, and values by making loans to outside entities such as the Urban Renewal Authority and the Downtown Development Authority while maintaining an adequate rate of return for the City.
2. *Eligible Applicants:* The following are examples of situations in which City loans to outside agencies may be appropriate:
 - A. An entity that was created wholly or in part by the City and is in a fledgling stage and does not yet have an established credit history to access the capital markets. Examples include the Urban Renewal Authority, etc.
 - B. An entity related to the City desires to issue debt that will be repaid over a timeframe that would be unrealistic for a private lender. Examples include bonds issued by the Downtown Development Authority for less than 10 years.
 - C. Any other situation in which the Council deems it appropriate to meet the financing needs of an entity that is engaged in services that support the mission and values of the City.
3. *Program Guidelines:*
 - A. The borrowing entity must have approval from its governing body.
 - B. The loan must be evidenced by a promissory note.
 - C. There must be a reasonable probability of repayment of the loan from an identifiable source such as TIF revenues.

- D. The interest rate assigned to the loan must be the higher of the Treasury Note or Municipal Bond of similar duration (3 year, 5 year, etc.), plus 0.5%, subject to the following minimum (floor).

FLOOR - Minimum Loan Rates

Term	Rate
0 – 5 years	2.75%
6 – 10 years	3.25%
11 – 15 years	3.75%
16 – 25 years	4.00%

- E. The loans must be limited to 25 years.
- F. City Council must review the request and approve the amount and terms and conditions of the loan.
- G. Loans of Utility reserves must be reviewed by either the Energy Board or Water Board, as applicable, in advance of City Council or Council committee consideration, and must meet the following additional criteria:
- a. the City Council must make a formal finding that the funds will not be needed for utility purposes during the term of the loan, and that the terms and conditions of the loan represent a reasonable rate of return to the Utility; and
 - b. utility rates must not be increased for the purposes of funding the loan.

4. *Limit on Funds available for Loan Program*

- A. Governmental Funds: Total loans shall not exceed 25% of the aggregate cash and investments balance of the governmental funds (i.e., General Fund and Special Revenue Funds).
- B. Enterprise Funds: Total loans shall not exceed 5% of the aggregate cash and investments balance in the enterprise funds (i.e. Utility Funds and Golf Fund).
- C. Operating and capital needs of the loaning funds shall not be significantly impaired by these loans.

- D. Loans should not impact the loaning funds compliance with minimum fund balance policies, timing of intended uses, etc

7.9 Other

Debt Management - The City will also have an administratively approved Debt Administration Policy and Procedure 53 that includes guidance on:

- a) Investment of bond proceeds
- b) Market disclosure practices to primary and secondary markets, including annual certifications, continuing disclosures agreements and material event disclosures
- c) Arbitrage rebate monitoring and filing
- d) Federal and State law compliance practices
- e) Ongoing Market and investor relations efforts
- f) Identify a Chief Compliance Officer
- g) System of actions and deadlines
- h) Records to be maintained

Getting Help

Please contact the Director of Accounting with any questions at 970.221.6784.

Related Policies/References

- *The City of Fort Collins Charter (Article V., Part II)*
- *Investment Policy*
- *Debt Administration Policy and Procedures 53*

Definitions

Conduit Debt: 1- An organization, usually a government agency, that issues municipal securities to raise capital for revenue-generating projects where the funds generated are used by a third party (known as the "conduit borrower") to make payments to investors. The conduit financing is typically backed by either the conduit borrower's credit or funds pledged toward the project by outside investors. If a project fails and the security goes into default, it falls to the conduit borrower's financial obligation, not the conduit issuer (City). 2- Common types of conduit financing include industrial development revenue bonds (IDRBs), private activity bonds and housing revenue bonds (both for single-family and multifamily projects). Most conduit-issued securities are for projects to benefit the public at large (i.e. airports, docks, sewage facilities) or specific population segments (i.e. students, low-income home buyers, veterans). 3- In some cases, a governmental entity issues municipal bonds for the purpose of making proceeds available to a private entity in furtherance of a public purpose, such as in connection with not-for-profit hospitals, affordable housing, and many other cases. These types of municipal bonds are sometimes referred to as "conduit bonds." One common structure is for the governmental issuer to enter into an arrangement with the private conduit borrower in which the bond proceeds are loaned to the conduit borrower and the conduit borrower repays the loan to the issuer. For most conduit bonds, although the governmental issuer of the bonds is legally obligated for repayment, that obligation usually is limited to the amounts of the loan repayments from the conduit borrower. If the conduit borrower fails to make loan repayments, the governmental issuer typically is not required to make up such shortfalls. Thus, unless the bond documents explicitly state otherwise, investors in conduit bonds should not view the governmental issuer as a guarantor on conduit bonds.

Credit Enhancements: the requirement that a certain percentage or amount of non-federal dollars or in-kind services be provided in addition to the grant funds.

Interagency: the individual responsible for fiscally managing the grant award and the person who maintains the records in the City's financial system.

Debt Service Coverage Ratio: is a common measure of the ability to make debt service payments. The formula is net operating income (operating revenue – operating expense) divided by debt service (annual principal and interest)

Investment Policy

Objective:

This policy is to establish guidelines for the efficient management of City funds and for the purchase and sale of investments. The City's principal investment objectives, in priority order are: legal conformance, safety, liquidity and return on investment. All investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.

Applicability:

This investment policy applies to the investment of all general and specific funds over which the City exercises financial control, including operating funds, Poudre Fire Authority, the Downtown Development Authority, Poudre River Public Library District, Fort Collins Leasing Corporation and the Fort Collins Urban Renewal Authority.

Authorized by:

City Council, Resolutions 90-44, 2008-121, 2009-109, 2010-065, 2012-119. 2023-xxx.

8.1 Policy

The City of Fort Collins, Colorado (the "City") is a home rule municipality operating under the City Charter. Article V, Part III of the City Charter assigns to the Financial Officer the responsibility of investing City funds. Funds must be placed in investments authorized by the City Council ("Council"). The Financial Officer will administer the investment program to ensure effective and sound fiscal management.

It is the policy of the City to invest public funds in a manner which will protect capital and meet liquidity needs while providing the highest investment return.

8.2 Scope

This policy is to establish guidelines for the efficient management of City funds and for the purchase and sale of investments. This investment policy applies to the investment of all general and special funds over which the City exercises financial control, including operating funds, Poudre Fire Authority, the Downtown Development Authority, Poudre

River Public Library District, Fort Collins Leasing Corporation and the Fort Collins Urban Renewal Authority. For purposes of this policy, operating funds include:

General Fund;
 Special Revenue Funds;
 Debt Services Funds (unless prohibited by bond ordinance);
 Capital Projects Funds;
 Enterprise Funds;
 Internal Service Funds;
 Trust and Agency Funds; and
 Any newly created Fund, unless exempted by Council.

Unless specifically provided for in the bond ordinance, all bond proceeds, bond reserve funds and pledged revenues must be invested in accordance with the operating funds guidelines set forth in this Investment Policy. Guidelines for investing the funds of the City's defined benefit plan shall be included in the Investment Policy for the General Employees' Retirement Plan, which is monitored and approved by the General Employees' Retirement Committee.

8.3 Investment Objectives

The City's principal investment objectives, in priority order, are: legal conformance, safety, liquidity, and return on investment. All investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.

1. *Legal conformance:* The investment portfolio will conform to all legal and contractual requirements.
2. *Safety:* Safety of investment principal and the preservation of capital are primary objectives of the investment program. When making investment decisions, the Financial Officer will seek to ensure the preservation of capital in the overall portfolio by mitigating credit risk and interest rate risk.
 - A. *Credit Risk:* The Financial Officer will minimize the risk of loss of principal and/or interest due to the failure of the security issuer or backer by:
 - a. Limiting investments to the safest types of securities.
 - b. Pre-qualifying financial institutions, securities brokers and dealers, and advisors.
 - c. Diversifying the investment portfolio to reduce exposure to any one security type or issuer.

Interest Rate Risk: The Financial Officer will minimize the risk that the market value of securities in the portfolio will fall due to changes in market interest rates by:

- a. Whenever possible, holding investments to their stated maturity dates.
 - b. Investing a portion of the operating funds in shorter-term securities, money market mutual funds, or local government investment pools.
3. *Liquidity:* The investment portfolio must be sufficiently liquid so as to meet all reasonably anticipated operating cash flow needs. This is accomplished by structuring the portfolio so that securities mature to meet cash requirements for ongoing operations. Investments shall be managed to avoid, but not prohibit, sale of securities before their maturities to meet foreseeable cash flow requirements. Since all possible cash needs cannot be anticipated, the portfolio must consist largely of securities with active secondary or resale markets.
4. *Return on Investment:* The investment portfolio will be designed with the objective of maximizing the rate of return on investment while maintaining acceptable risk levels and ensuring adequate liquidity. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. Investment pooling may be used to maximize the City's investment income. Interest income, from pooling, will be distributed to the participating funds in proportion to each fund's level of contribution.

The Financial Officer will determine whether a security will be sold prior to maturity. The following are examples of when a security might be sold:

- a. A security with a declining credit rating may be sold early to minimize loss of principal;
- b. A security swap would improve the quality, yield, return, or maturity distribution of the portfolio;
- c. Liquidity needs of the portfolio require that the security be sold; or
- d. The Financial Officer will obtain the best rate of return on investments by taking advantage of market volatility and recognizing gains on a portion of the portfolio.

8.4 Standards of Care

1. *Prudence:* The City has a fiduciary responsibility to protect the assets of the City and to invest funds appropriately. The standard of care to be used by City officials is the "prudent person" rule as specified by CRS 15-1-304, which reads:

"Standard for investments: In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the benefit of

others, fiduciaries shall be required to have in mind the responsibilities which are attached to such offices and the size, nature, and needs of the estates entrusted to their care and shall exercise the judgment and care, under the circumstances then prevailing, which men of prudence, discretion, and intelligence exercise in the management of the property of another, not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income as well as the probable safety of capital. Within the limitations of the foregoing standard, fiduciaries are authorized to acquire and retain every kind of property, real, personal, and mixed, and every kind of investment, specifically including, but not by way of limitation, bonds, debentures, other corporate obligations, stocks, preferred or common, securities of any open-end or closed-end management type investment company or investment trust, and participations in common trust funds, which men of prudence, discretion, and intelligence would acquire or retain for the account of another.”

The Financial Officer and designees, acting within the guidelines of this investment policy and written procedures, the City Charter and Code, all applicable state and federal laws and after exercising due diligence, will not be held personally liable and will be relieved of personal responsibility for an individual security’s credit risk or market price changes, or for losses incurred as a result of specific investment transactions or strategies. (CRS 24-75-601.4, et seq.)

2. *Ethics and Conflicts of Interest:* City officers and employees involved in the investment process will refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials must disclose any material interests in financial institutions with which they conduct business. They must further disclose any personal financial and investment positions that could be related to the performance of the City’s investment portfolio. In addition they must adhere to the rules of conflicts of interest as stated in Art. IV, Section 9(b) of the Charter of the City of Fort Collins, Colorado.

3. *Delegation of Authority:* The City Charter assigns the responsibility for the collection and investment of all city funds to the Financial Officer, subject to direction from Council by ordinance or resolution. The Financial Officer, subject to City Manager approval, may appoint other members of the Finance Department to assist in the investment function.

Administrative Procedures

- a. The Financial Officer is responsible for all investment decisions and activities, and must regulate the activities of subordinate employees for the operation of the City's investment program consistent with this investment policy.
- b. No person may engage in an investment transaction except as provided under the terms of this Investment Policy and the procedures established by the Financial Officer.

A. Authorized Designees

- a. The Financial Officer will maintain a list of individuals and institutions that are authorized to transfer, purchase, sell and wire securities or funds on behalf of the City.
- b. This list will be provided to the securities broker or dealer or financial institution prior to the City conducting any investment transactions with the institution.

B. Investment Advisors

- a. The Financial Officer has the discretion to appoint one or more investment advisors, registered with the Securities and Exchange Commission under the Investment Advisors Act of 1940, to assist in the management of all or a portion of the City's investment portfolio.
- b. All investments made through such investment advisors shall be within the guidelines of this Investment Policy.

4. *Investment Committee:* The Investment Committee consists of the Financial Officer and at least 2 other employees of the City that are knowledgeable in the area of governmental investments. The Investment Committee, at the discretion of the Financial Officer, may also include up to 2 private sector investment or banking professionals. The purpose of the Investment Committee shall be to provide advice to the Financial Officer regarding the operation of the investment program.

8.5 Safekeeping and Custody

1. *Authorized Securities Brokers and Dealers and Financial institutions*

- A. The Financial Officer will maintain a list of financial institutions authorized to provide investment services. The Financial Officer will also maintain a list of approved securities brokers and dealers. This list may include "primary" dealers or regional dealers that qualify under Securities and Exchange Commission (SEC) Rule 15C3-1.

- B. All financial institutions and securities brokers and dealers who wish to provide investment services to the City must supply the following (as appropriate):
- a. Current audited financial statements;
 - b. Completed securities broker and dealer questionnaire;
 - c. Proof of National Association of Securities Dealers certification and registration in the State of Colorado; and
 - d. Certification of their review, understanding and agreement to comply with the City's Investment Policy.
- C. If a financial institution or securities broker or dealer wishes to enter into a repurchase agreement with the city, the institution must sign a Master Repurchase Agreement approved as to form and content by the City Attorney's Office.
- D. The Financial Officer must conduct an annual review of the financial condition of authorized financial institutions and securities brokers and dealers.
- E. Investment transactions must be executed with an authorized financial institution or securities broker or dealer except in the following circumstances:
- a. Commercial paper, banker acceptances and guaranteed investment contracts may be purchased and sold directly from the issuer;
 - b. Mutual funds and money market funds may be purchased, sold and held directly with the funds;
 - c. Investments in local government investment pools may be transacted directly with the pool; and
 - d. Bond refunding and lease escrow agreements will be executed as provided in the bond and lease documents.
- F. The Financial Officer will establish a safekeeping agreement with an approved financial institution to act as a third party custodian. Investment securities will be held for the City by the custodian. When applicable, the Financial Officer shall establish a separate securities lending agreement with the custodian bank. The selection of the City's primary depository and primary custodian will be made through the City's competitive Request for Proposals process.
2. *Delivery versus Payment*: All trades will be executed by delivery versus payment to ensure that securities are deposited in an eligible financial institution prior to the release of funds. Securities will be held by the City's third-party custodian as evidenced by safekeeping receipts.

3. *Internal Controls:* The Financial Officer is responsible for establishing and maintaining an internal control structure designed to provide reasonable assurance that the assets of the city are protected from loss, theft or misuse.

8.6 Suitable and Authorized Investments

As a home rule city, the City may adopt a list of acceptable investment instruments differing from those outlined in CRS 24-75-601.1. Pursuant to Article V of the City's Charter the Council has adopted the following Ordinances and Resolutions establishing the framework under which the Financial Officer must conduct his duties: Ordinance 90, 1993; Ordinance 108, 1988, Resolution 85-134; and Resolution 82-70. Council may adopt additional Ordinances or Resolutions that require modification of these investment tools.

1. *Eligible Investments:* City funds may be invested in the following:
 - A. Any securities now or hereafter designed as legal investment for municipalities in any applicable statute of the State of Colorado;
 - B. Interest-bearing accounts or time certificates of deposit, including collateralized certificates of deposit and certificates of deposit through the Account Registry Service, of financial institutions designated as depositories for public moneys by the State of Colorado;
 - C. United States Treasury obligations for which the full faith and credit of the United States are pledged for payment of principal and interest. Such securities will include but not be limited to: Treasury bills, Treasury notes, Treasury bond and Treasury strips with maturities not exceeding five years from the date of purchase;
 - D. Obligations issued by any United States government-sponsored agency or instrumentality. Maturities may not exceed five years from the date of purchase;
 - E. Obligations issued by or on behalf of the City;
 - F. Obligations issued by or on behalf of any state of the United States, political subdivision, agency, or instrumentality thereof. At the time of purchase the obligation shall have an investment grade rating of not less than AA- from Standard & Poor's, Aa3 from Moody's Investors Service or AA- from Fitch Ratings Service. The ratings must be not less than above for all agencies rating the debt, no split ratings are allowed;
 - G. Prime-rated bankers acceptances with a maturity not exceeding six months from the date of purchase, issued by a state or national bank which has a combined capital and surplus of at least 250 million dollars, whose deposits are insured by the FDIC and whose senior long-term debt

is rated at the time of purchase at least AA- by Standard and Poor's, Aa3 by Moody's Investors Service, or AA- by Fitch Ratings Service. The ratings must be not less than above for all agencies rating the debt, no split ratings are allowed;

- H. U.S. dollar denominated corporate notes or bank debentures. Authorized corporate bonds shall be U.S. dollar denominated, and limited to corporations organized and operated within the United States with a net worth in excess of 250 million dollars. At the time of purchase the debenture or corporate note shall have an investment grade rating of not less than AA- from Standard & Poor's, Aa3 from Moody's Investors Service or AA- from Fitch Ratings Service. The ratings must be not less than above for all agencies rating the debt, no split ratings are allowed;
- I. Prime-rated commercial paper with a maturity not exceeding six months issued by U.S. corporations. At the time of purchase the paper shall be rated A1 by Standard and Poor's and P1 by Moody's Investors Service. If the commercial paper issuer has senior debt outstanding, the senior debt must be rated at the time of purchase at least AA- by Standard and Poor's or Aa3 by Moody's Investors Service;
- J. Guaranteed investment contracts of domestically-regulated insurance companies having a claims-paying ability rating of AA- or better from Standard & Poor's at the time of purchase;
- K. Repurchase and reverse repurchase agreements. The structure of the agreements (including margin ratios and collateralization) shall be contained in the Master Repurchase Agreements. Repurchase agreements shall include but are not limited to delivery-versus-payment, tri-party and flexible repurchase agreements;
- L. Local government investment pools authorized under the laws of the State of Colorado with a rating of AAAm; and
- M. Money market mutual funds regulated by the Securities and Exchange Commission and whose portfolios consist only of dollar denominated securities.

2. *Repurchase Agreements*

- A. Before any repurchase agreements shall be executed with an authorized securities broker or dealer or financial institution, a Master Repurchase Agreement approved as to form and content by the City Attorney's Office must be signed between the City and the securities broker or dealer or financial institution.
- B. The Financial Officer will maintain a file of all Master Repurchase Agreements.

- C. In addition to the straight forward repurchase agreement, wherein the financial institution or securities broker or dealer delivers the collateral versus payment to the City’s custodian for a fixed term at a fixed rate, the City may enter into other types of repurchase agreements which may include but not be limited to flexible repurchase agreements, tri-party agreements and reverse repurchase agreements.
- D. Repurchase agreements must be collateralized as provided in individually executed Master Repurchase Agreements at a minimum of 102 percent.
- E. Zero coupon instruments will not be accepted as collateral.
- F. The collateralized securities of the repurchase agreement can include but are not limited to: U.S Treasuries, Collateralized Mortgage Obligations or Agency securities.

8.7 Diversification and Liquidity

1. *Diversification and Asset Allocation:* It is the intent of the City to diversify its investment portfolio. Investments shall be diversified to eliminate the risk of loss resulting from over-concentration of assets in a specific maturity, issuer or class of securities. Diversification strategies and guidelines shall be determined and revised periodically by the Financial Officer. The investments may be diversified by:
 - A. Limiting investments to avoid over-concentration in securities from a specific issuer or business sector (excluding U.S. Treasury securities);
 - B. Limiting investment in securities that have higher credit risks;
 - C. Investing in securities with varying maturities; and
 - D. Maintaining a portion of the portfolio in readily available funds such as local government investment pools, money market funds or short term repurchase agreements to ensure that City liquidity needs are met.

The maximum investment allowable for each investment category as a percentage of the entire portfolio is as follows (excluding collateral for repurchase agreements):

CASH AND CASH EQUIVALENTS	100%
TREASURY SECURITIES	90%
GOVERNMENT-SPONSORED AGENCY SECURITIES	90%
REPURCHASE AGREEMENTS	70%
LOCAL GOVERNMENT INVESTMENT POOLS	60%

CORPORATE NOTES OR BONDS*	40%
BANK DEBENTURES*	25%
COMMERCIAL PAPER*	25%
BANKER'S ACCEPTANCES*	25%
MONEY MARKET FUNDS AND MUTUAL FUNDS	15%
CD ACCOUNT REGISTRY SERVICE (MAXIMUM 50 MILLION)	15%
CERTIFICATES OF DEPOSIT	15%
GUARANTEED INVESTMENT CONTRACTS	5%

* A maximum of 10 percent of the portfolio may be invested in any one provider or issuer.

2. *Investment Maturity and Liquidity*

- A. A portion of the portfolio should be continuously invested in readily available funds such as local government investment pools, money market funds, or short-term repurchase agreements to ensure that appropriate liquidity is maintained to meet ongoing obligations. The City must at all times maintain 5 percent of its operating investment portfolio in instruments maturing in 120 days or less.
- B. Reserved funds may be invested in securities exceeding 5 years if the maturities of such investments are made to coincide as closely as possible with the expected use of funds.
- C. The weighted average final maturity limitation of the total portfolio, excluding pension funds and long-term reserve funds, **will not exceed 3 years**.
- D. The City may collateralize repurchase agreements with longer-dated investments, final maturity not to exceed 30 years.

8.8 Reporting

- 1. *Methods:* The Financial Officer will prepare an investment report on a quarterly basis. In addition, a comprehensive investment report may be published on the City's website on an annual basis. All investment reports will be submitted in a timely manner to the City Manager.
- 2. *Performance Standards:* The investment portfolio will be managed in accordance with the parameters specified within this Investment Policy. The Financial Officer will establish a benchmark yield for the City's investments

equal to the average yield on the U.S. Treasury security which most closely corresponds to the portfolio's actual weighted average maturity. In order to determine the actual rate of return on any portion of the portfolio managed by an investment advisor, the Financial Officer must include all of the advisor's expenses and fees in the computation of the rate of return.

3. *Marking to Market:* The market value of the portfolio will be calculated at least quarterly and a statement of the market value will be included in the quarterly investment report.

8.9 Policy Adoption

This Investment Policy will be reviewed at least every three years by the Investment Committee, City Manager and the Financial Officer and may be amended by Council as conditions warrant. The Investment Policy may be adopted by Resolution of the Council.

Definitions

Agency: *A bond, issued by a U.S. government-sponsored agency. The offerings of these agencies are backed by the U.S. government, but not guaranteed by the government since the agencies are private entities. Such agencies have been set up in order to allow certain groups of people to access low cost financing, especially students and first-time home buyers. Some prominent issuers of agency bonds are Student Loan Marketing Association (Sallie Mae), Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac). Agency bonds are usually exempt from state and local taxes, but not federal tax.*

Average Life: *The length of time that will pass before one-half of a debt obligation has been retired.*

Bankers' Acceptance: *A short-term credit investment which is created by a non-financial firm and whose payment is guaranteed by a bank. Often used in importing and exporting, and as a money market fund investment.*

Benchmark: *A comparative base for measuring the performance or risk tolerance of the investment portfolio. A benchmark should represent a close correlation to the level of risk and the average duration of the portfolio's investments.*

Book Value: *The value at which a security is carried on the inventory lists or other financial records of an investor. The book value may differ significantly from the security's current value in the market.*

Broker: *An individual who brings buyers and sellers together for a commission.*

Cash Sale/Purchase: *A transaction which calls for delivery and payment of securities on the same day that the transaction is initiated.*

Certificate of Deposit (CD): *A time deposit with a specific maturity evidenced by a certificate.*

Collateralization: *Process by which a borrower pledges securities, property, or other deposits for the purpose of securing the repayment of a loan and/or security.*

Commercial Paper: *An unsecured short-term promissory note issued by corporations, with maturities ranging from 2 to 270 days.*

Coupon Rate: *The annual rate of interest received by an investor from the issuer of certain types of fixed-income securities. Also known as the "interest rate".*

Credit Quality: *The measurement of the financial strength of a bond issuer. This measurement helps an investor to understand an issuer's ability to make timely interest payments and repay the loan principal upon maturity. Generally, the higher the credit quality of a bond issuer, the lower the interest rate paid by the issuer because the risk of default is lower. Credit quality ratings are provided by nationally recognized rating agencies.*

Credit Risk: *The risk to an investor that an issuer will default on the payment of interest and/or principal on a security.*

Current Yield (Current Return): *A yield calculation determined by dividing the annual interest received on a security by the current market price of that security.*

Debenture: *A bond secured only by the general credit of the issuer.*

Delivery versus Payment (DVP): *A type of securities transaction in which the purchaser pays for the securities when they are delivered either to the purchaser or to their custodian.*

Diversification: *A process of investing assets among a range of security types by sector, maturity, and quality rating.*

Duration: *A measure of the timing of the cash flows, such as the interest payments and the principal repayment, to be received from a given fixed-income security. This calculation is based on three variables: term to maturity, coupon rate and yield to maturity. The duration of a security is a useful indicator of its price volatility for given changes in interest rates.*

Federal Deposit Insurance Corporation (FDIC): *A federal agency that insures deposits in member banks and thrifts up to \$100,000 (\$250,000 through 12/31/2013).*

Federal Funds: *Funds placed in Federal Reserve banks by depository institutions in excess of current reserve requirements. These depository institutions may lend fed funds to each other overnight or on a longer basis. They may also transfer funds among each other on a same-day basis through the Federal Reserve banking system. Fed funds are considered to be immediately available funds.*

Federal Funds Rate: *The interest rate that banks charge each other for the use of Federal funds.*

Government Securities: *An obligation of the U.S. government, backed by the full faith and credit of the government. These securities are regarded as the highest quality of investment securities available in the U.S. securities market.*

Green Investments: *Mutual funds that are considered "ethical investments." These funds screen companies to ensure that they have sound environmental practices such as: maintaining or improving the environment, industrial relations, racial equality, community involvement, education, training, healthcare and various other environmental criteria. Negative screens include but are not limited to: alcohol, gambling, tobacco, irresponsible marketing, armaments, pornography, and animal rights.*

Interest Rate Risk: *The risk associated with declines or rises in interest rates which cause an investment in a fixed-income security to increase or decrease in value.*

Investment-grade Obligations: *An investment instrument suitable for purchase by institutional investors under the prudent person rule. Investment-grade is restricted to those obligations rated BBB or higher by a rating agency.*

Liquidity: *An asset that can be converted easily and quickly into cash without a substantial loss of value.*

Local Government Investment Pool (LGIP): *An investment by local governments in which their money is pooled as a method for managing local funds.*

Mark-to-Market: *The process whereby the book value or collateral value of a security is adjusted to reflect its current market value.*

Market Value: *Current market price of a security.*

Master Repurchase Agreement: *A written contract covering all future transactions between the parties to repurchase and reverse repurchase. Establishes each party's rights in the transaction.*

Maturity: *The date on which payment of a financial obligation is due. The final state maturity is the date on which the issuer must retire a bond and pay the face value to the bondholder.*

Money Market Mutual Fund: *Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers' acceptances, repurchase agreements, and federal funds).*

Mutual Fund: *An investment company that pools money and can invest in a variety of securities, including fixed-income securities and money market instruments. Mutual funds are regulated by the investment company Act of 1940 and must abide by the Securities and Exchange Commission (SEC) disclosure guidelines.*

National Association of Securities Dealers (NASD): *A self-regulatory organization of brokers and dealers in the over-the-counter securities business. Its regulatory mandate includes authority over firms that distribute mutual fund shares as well as other securities.*

Net Asset Value: *The market value of one share of an investment company, such as a mutual fund. This figure is calculated by totaling a fund's assets which includes securities, cash, and any accrued earnings, subtracting this from the fund's liabilities and dividing this total by the number of shares outstanding. This is calculated once a day based on the closing price for each security in the fund's portfolio.*

No Load Fund: *A mutual fund which does not levy a sales charge on the purchase of its shares.*

Portfolio: *Collection of securities held by an investor.*

Primary Dealer: *A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight.*

Real Estate Investment Trust (REIT): *A company that buys, develops, manages and sells real estate assets. Allows participants to invest in a professionally managed portfolio of real-estate properties. The main function is to pass profits on to investors; business activities are generally restricted to generation of property rental income.*

Repurchase Agreement (Repo): *An agreement of one party to sell securities at a specified price to a second party and a simultaneous agreement of the first party to repurchase the securities at a specified price or at a specified later date.*

Reverse Repurchase Agreement: *An agreement of one party to purchase securities at a specified price from a second party and a simultaneous agreement of the first party to resell the securities at a specified price to the second party on demand or at a specified date.*

Rule 2a-7 of the Investment Company Act: *Applies to all money market mutual funds and mandates such funds to maintain certain standards, including a 13-month maturity limit and a 90-day average maturity on investments, to help maintain a constant net asset value of one dollar (\$1.00).*

Securities and Exchange Commission (SEC): *Agency created by Congress to protect investors in securities transactions by administering securities legislation.*

Total Return: *The sum of all investment income plus changes in the capital value of the portfolio. For mutual funds, return on an investment is composed of share price appreciation plus any realized dividends or capital gains. This is calculated by taking the following components during a certain time period. (Price Appreciation) + (Dividends Paid) + (Capital Gains) = Total Return*

Treasury Bills: *Short-term U.S. government non-interest-bearing debt securities with maturities of no longer than one year.*

Treasury Bonds: *Long-term U.S. government debt securities with maturities of more than ten years. Currently, the longest outstanding maturity is 30 years.*

Treasury Notes: *Intermediate U.S. government debt securities with maturities of two to ten years.*

Tri-party Repurchase Agreement: *In a "normal repurchase" transaction there are two parties, the buyer and the seller. A tri-party repurchase agreement adds a custodian as the third party to act as an impartial entity to the repurchase transaction to administer the agreement and to relieve the buyer and seller of many administrative details.*

Weighted Average Maturity (WAM): *The average maturity of all the securities that comprise a portfolio.*

Yield: *The current rate of return on an investment security. Generally expressed as a percentage of the security's current price.*

Yield Curve: *A graphical representation that depicts the relationship at a given point in time between yields and maturity for bonds that are identical in every way except maturity. A normal yield curve may be alternatively referred to as a positive yield curve.*

Yield-to-Maturity: *The rate of return yielded by a debt security held to maturity when both interest payments and the investor's potential capital gain or loss are included in the calculation of return.*

Zero-Coupon Securities: *A security that is issued at a discount and makes no periodic interest payments. The rate of return consists of a gradual accretion of the principal of the security and is payable at par upon maturity.*

Fund Balance Minimums

Objective:

To set minimum fund balances as to mitigate risk, maintain good standing with rating agencies, and ensure cash is available when revenue is unavailable. The policy sets minimum fund balances, not targets or maximum balances. Each fund should be evaluated by staff to determine the appropriateness of maintaining fund balances above the minimums set in this policy. Contingencies for severe weather, prolonged drought, and anticipated capital spending should be considered independently from this policy.

Applicability:

Funds—This policy applies to all City funds. It does not apply to URA, DDA, PFA and Library.

Authorized by:

City Council Resolutions 1994-174, 2008-038, 2014-058, 2017-101, 2021-010, 2023-017

5.1 Governmental Funds and Fund Balances

To set minimum fund balances so as to mitigate risks, maintain good standing with rating agencies, and ensure cash is available when revenue is unavailable. The policy sets minimum fund balances, not targets or maximum balances. Each fund should be evaluated by staff to determine the appropriateness of maintaining fund balances above the minimums set in this policy. Contingencies for severe weather, prolonged drought, and anticipated capital spending should be considered independently from this policy.

The Equity on balance sheet of a governmental fund is called Fund Balance. The current classifications of Fund Balance in governmental funds are primarily based on the origin of the constraints. The following categories are in decreasing order of constraints.

Non-Spendable	Permanent endowments or assets in a non-liquid form
Restricted	Involve a third party: State Legislation or Contractual Agreements
Committed	Set by formal action of the City Council
Assigned	By staff, and/or residual balances in a Special Revenue Fund
Unassigned	Remaining balances in governmental funds

Minimums outlined in section 5.3 relate only to **Assigned and Unassigned** balances.

5.2 Proprietary Fund and Working Capital

Internal Service Funds and Enterprise Funds are accounted for nearly identical to the private sector. The balance sheets include long term assets and long-term liabilities. The resulting Equity section on their balance sheet, called Net Position, is not always a good measure of spendable financial resources. To get to spendable financial resources, a common calculation is to take Current Assets and subtract Current Liabilities, with the net result called Working Capital.

To further refine, for purposes of this policy, certain required restrictions are further subtracted and result in **Available Working Capital**. Some examples of required restrictions are unspent monies for Art in Public Places, Water Rights, and existing appropriations for capital projects. The minimums outlined in section 5.3 relate to Available Working Capital.

5.3 Minimum Balances

The following Minimum Balances refers to Assigned and Unassigned Fund Balances in governmental funds and Available Working Capital in the Internal Service Funds and Enterprise Funds.

A. General Fund

60 Day Liquidity Goal - The Commitment for Contingency should be at least 60 days (17%) of the subsequent year's originally adopted budgeted expenditures and transfers out. The calculation for the minimum level shall exclude expenditures and transfers out for large and unusual one-time items.

Important note – the 60 Day Liquidity Goal is in addition to the Emergency Reserves required by Article X, Section 20(5) of the State Constitution. This reserve must equal 3% of non-exempt revenue and can only be used for declared emergencies. Fiscal emergencies are specifically excluded by the State Constitution as qualifying use of this reserve.

B. Special Revenue Funds

No minimum balance is required.

C. Debt Service Funds

No minimum balance is required.

D. Capital Project Funds

No minimum balance is required.

E. Enterprise Funds

Enterprise funds focus on working capital rather than fund balance.

Enterprise Funds shall maintain a minimum Available Working Capital equal to 25% of Operating Expenses, less Depreciation. Exception1: In the case of L&P, operating expenses will include purchased renewable energy for resale but will not include regular purchased power for resale (i.e. Platte River Power Authority). Exception 2: In the case of Golf, the minimum fund balance will be 12.5%.

Important note – The Water Fund holds a balance for Restricted Water Rights. The balance equals the amount of cash in-lieu-of water rights payments and raw water surcharges less any expenses for acquiring water rights and water storage;

The enterprises funds should also be accumulating available working capital above these minimums for the purposes of funding future capital projects.

F. Internal Service Funds

Each fund is a unique operation and will maintain a minimum Available Working Capital as follows:

601	Equipment Fund	8.3%	Of annual operating expenses, excluding depreciation
602	Self-Insurance Fund *	25.0%	Of annual operating expenses
603	Data & Communications Fund	0.0%	N/A
604	Benefits Fund	25.0%	Of annual medical and dental expenses
605	Utility Customer Service Fund	0.0%	N/A

* Self Insurance Fund will be measured against Available Unrestricted Net Position instead of Available Working Capital.

5.4 Below Minimum

When circumstances result in balances below the minimum, staff should develop a plan to restore minimums fund balances and present it to Council Finance Committee.

Definitions

Non-Spendable Fund Balances: *Applicable to governmental funds. Permanent endowments or assets in a non-liquid form such as long-term inter-agency loans.*

Restricted Fund Balances: *Applicable to governmental funds. Involve a third party such as State Legislative requirements, voter ballot language, or the Contractual Agreements with parties external to the City.*

Committed Fund Balances: *Applicable to governmental funds. Involve a of formal action by the City Council. An example is traffic calming revenues are required to be spent on traffic calming activities. Any unspent monies at end of year are classified as Committed to traffic calming in the General Fund.*

Assigned Fund Balances: *Are applicable to governmental funds. Assignments can be made by senior management. They represent the intent to use the monies for a specific purpose. An example of this is the one-time Harmony Road monies transferred by the State to the City. Although required to be used on Harmony Road, staff intends to use the monies only on Harmony Road improvements. These monies are considered when measuring compliance with minimum fund balances.*

Unassigned Fund Balances: *Are applicable only to the governmental funds. These monies are considered when measuring compliance with minimum fund balances.*

Working Capital: *Is a term applicable to Internal Service and Enterprise Funds. It is the difference between Current Assets and Current Liabilities. Not all Working Capital is available. Available Working Capital does not include Restrictions for debt, Art in Public Places, approved capital appropriations, and other restrictions.*

Unrestricted Net Position: *Is a term applicable to Internal Service and Enterprise Funds. Not all Unrestricted Net Position is available. Available Unrestricted Net Position does not include unused Art in Public Places monies, approved capital appropriations, and other commitments.*

Liquidity: *Assets range from cash to land. The more easily and quickly an asset can be converted to cash determines its relative liquidity.*

Reserves: *A legacy term that previously referred to fund balances, or fund balances set aside for a specific purpose. It is no longer used on financial statements.*

Fund Balance: *Is a term applicable to governmental funds. Fund balance or Equity is the difference between assets, liabilities, deferred outflows of resources and deferred inflows of resources. Since governmental funds do not have long term assets and long-term debt on their balance sheet, fund balance is similar and approximates working capital in the private sector and enterprise funds.*

Getting Help

Please contact the Controller with any questions at 970.221.6772.

Debt

Issue Date: ~~11-19-~~
~~13~~XXXX
Version: 2
Issued by: City Council
~~Controller/~~
~~Assistant Financial~~
~~Officer~~

Objective:

The purpose of this policy is to establish parameters and provide guidance governing the issuance of all debt obligations issued by the City of Fort Collins (City).

Applicability:

This debt policy applies to all funds and Service Areas of the City and closely related agencies such as the Downtown Development Authority (DDA), Fort Collins Leasing Corporation and the Fort Collins Urban Renewal Authority (URA).

Authorized by:

City Council Resolutions, 1994-174, 2013-093, 2023-017

7.1 Authorization for Municipal Borrowing

The City Charter (Article V. Part II) authorizes the borrowing of money and the issuance of long-term debt. The Charter and State Constitution determine which securities may be issued and when a vote of the electors of the City and approved by a majority of those voting on the issue.

7.2 Purpose and Uses of Debt

Long term obligations should only be used to finance larger capital acquisitions and/or construction costs that are for high priority projects. Debt will not be used for operating purposes. Debt financing of capital improvements and equipment will be done only when the following conditions exist:

- a) When non-continuous projects (those not requiring continuous annual appropriations) are desired;
- b) When it can be determined that future users will receive a significant benefit from the improvement;
- c) When it is necessary to provide critical basic services to residents and taxpayers (for example, purchase of water rights);

- d) When total debt, including that issued by overlapping governmental entities, does not constitute an unreasonable burden to the residents and taxpayers.

7.3 Types of Debt and Financing Agreements

The types of debt permitted are outlined in State statute. The City will avoid derivative type instruments. In general the following debt types are used by the City:

- a) General obligation bonds—backed by the credit and taxing power of the City and not from revenues of any specific project. Colorado law limits general obligation debt to 10% of the City’s assessed valuation. Under TABOR this type of debt must be approved by voters.
- b) Revenue Bonds—issued and backed by the revenues of a specific project, tax increment district (TIF), enterprise fund, etc. The holders of these bonds can only consider this revenue source for repayment. TABOR does not require that voters approve these types of debt.
- c) Lease Purchase – issued whereby the asset acquired is used as collateral. Examples include Certificates of Participation (COP), Assignment of Lease Payments (ALP) and equipment leases. **Equipment leases shall be limited to financing within Internal Service Funds.** TABOR does not require that voters approve these types of agreements.
- d) Moral Obligation Pledge—a pledge to consider replenishing a debt reserve fund of another government agency if the reserve was used to make debt payments. This type of commitment will only be used to support the highest priority projects, or when the financial risk to the City does not increase significantly, or when the City’s overall credit rating is not expected to be negatively impacted. Because it is a pledge to consider replenishing, it is not a pledge of the City’s credit, and as such is not a violation of State statutes and City Charter. However, decision makers should keep in mind that not honoring a Moral Obligation Pledge will almost certainly negatively impact the City’s overall credit rating. TABOR does not require that voters approve these types of agreements.
- e) Interagency Borrowing—issued when the credit of an agency (DDA, URA) of the City does not permit financing at affordable terms. Usually used to facilitate a project until the revenue stream is established and investors can offer better terms to the agency. Program parameters are outlined in **City’s Investment Policy 8.8 section 7.8 of this policy.** TABOR does not require that voters approve these types of agreements.
- f) Conduit Debt—Typically limited to Qualified Private Activity Bonds (PAB) defined by the IRS and limited to the annual allocation received from the State. Low income housing is one example of a qualified use of PAB. **Program parameters are outlined the General Financial Policy 3.6.** There is no pledge or guarantee to pay by the City.
- g) Any other securities not in contravention with City Charter or State statute.

7.4 Debt Structure and Terms

The following are guidelines, and may be modified by the City to meet the particulars of the financial markets at the time of the issuance of a debt obligation:

- a) **Term of the Debt:** The length of the financing will not exceed the useful life of the asset or average life of a group of assets, or 30 years, whichever is less. Terms longer than 20 years should be limited to the highest priority projects.
- b) **Structure of Debt:** Level debt service will be used unless otherwise dictated by the useful life of the asset(s) and/or upon the advice of the City's financial advisor.
- c) **Credit Enhancements:** The City will not use credit enhancements unless the cost of the enhancement is less than the differential between the net present value of the debt service without enhancement and the net present value of the debt service with the enhancement.
- d) **Variable Rate Debt:** The City will normally not issue variable rate debt, meaning debt at rates that may adjust depending upon changed market conditions. However, it is recognized that certain circumstances may warrant the issuance of variable rate debt, but the City will attempt to stabilize the debt service payments through the use of an appropriate stabilization arrangement.
- e) **Derivative type instruments and terms will be avoided.**
- ~~f) **Interest during construction will be capitalized when the debt is in an enterprise fund.**~~

7.5 Refinancing Debt

Refunding of outstanding debt will only be done if there is a resultant economic gain regardless of whether there is an accounting gain or loss, or a subsequent reduction or increase in cash flows. The net present value savings shall be at least 3%, preferably 5% or more. In an advanced refunding (before the call date), the ratio of present value savings to the negative arbitrage costs should be at least 2.

7.6 Debt Limitations and Capacity

Debt capacity will be evaluated by the annual dollar amount paid and the total amount outstanding with the goal to maintain the City's overall issuer rating at the very highest rating, AAA. Parameters are different for Governmental Funds, Enterprise Funds, and Related Agencies.

- a. **Governmental Funds**—Annual debt service (principal and interest) will not exceed 5% of annual revenues. For calculation, revenues will not include internal charges, transfers and large one-time grants. Outstanding debt in relation to population and assessed value will be monitored.
- b. **Enterprise Funds**—Each fund is unique and will be evaluated independently. Each fund's debt will be managed to maintain a credit score of at least an A rating. These funds typically issue revenue bonds and investors closely watch revenue coverage ratio. Coverage ratios are usually published in the Statistical Section of the City's Comprehensive Annual Financial Statement.

- c. Related Agencies—Each agency will be evaluated independently, taking into account City Charter, State statutes, market conditions and financial feasibility.

7.7 Debt Issuance Process

When the City utilizes debt financing, it will ensure that the debt is soundly financed by:

- a) Selecting an independent financial advisor to assist with determining the method of sale and the selection of other financing team members
- b) Conservatively projecting the revenue sources that will be used to pay the debt;
- c) Maintaining a debt service coverage ratio which ensures that combined debt service requirements will not exceed revenues pledged for the payment of debt.
- d) Evaluating proposed debt against the target debt indicators.

7.8 Inter-agency Loan Program

1. *Purpose:* The purpose of the Inter-agency loan program is to support City services, missions, and values by making loans to outside entities such as the Urban Renewal Authority and the Downtown Development Authority while maintaining an adequate rate of return for the City.
2. *Eligible Applicants:* The following are examples of situations in which City loans to outside agencies may be appropriate:
 - A. An entity that was created wholly or in part by the City and is in a fledgling stage and does not yet have an established credit history to access the capital markets. Examples include the Urban Renewal Authority, etc.
 - B. An entity related to the City desires to issue debt that will be repaid over a timeframe that would be unrealistic for a private lender. Examples include bonds issued by the Downtown Development Authority for less than 10 years.
 - C. Any other situation in which the Council deems it appropriate to meet the financing needs of an entity that is engaged in services that support the mission and values of the City.
3. *Program Guidelines:*
 - A. The borrowing entity must have approval from its governing body.
 - B. The loan must be evidenced by a promissory note.

- C. There must be a reasonable probability of repayment of the loan from an identifiable source such as TIF revenues.
- D. The interest rate assigned to the loan must be the higher of the Treasury Note or Municipal Bond of similar duration (3 year, 5 year, etc.), plus 0.5%, subject to the following minimum (floor).

FLOOR - Minimum Loan Rates

Term	Rate
0 - 5 years	2.75%
6 - 10 years	3.25%
11 - 15 years	3.75%
16 - 25 years	4.00%

- E. The loans must be limited to 25 years.
- F. City Council must review the request and approve the amount and terms and conditions of the loan.
- G. Loans of Utility reserves must be reviewed by either the Energy Board or Water Board, as applicable, in advance of City Council or Council committee consideration, and must meet the following additional criteria:
 - a. the City Council must make a formal finding that the funds will not be needed for utility purposes during the term of the loan, and that the terms and conditions of the loan represent a reasonable rate of return to the Utility; and
 - b. utility rates must not be increased for the purposes of funding the loan.

4. Limit on Funds available for Loan Program

- A. Governmental Funds: Total loans shall not exceed 25% of the aggregate cash and investments balance of the governmental funds (i.e., General Fund and Special Revenue Funds).
- B. Enterprise Funds: Total loans shall not exceed 5% of the aggregate cash and investments balance in the enterprise funds (i.e. Utility Funds and Golf Fund).

C. Operating and capital needs of the loaning funds shall not be significantly impaired by these loans.

D. Loans should not impact the loaning funds compliance with minimum fund balance policies, timing of intended uses, etc

7.9 Other

Debt Management - The City will also have an **Administratively approved Debt Administration Policy and Procedure 53** that includes guidance on:

- a) Investment of bond proceeds
- b) Market disclosure practices to primary and secondary markets, including annual certifications, **continuing disclosures agreements and material event disclosures**
- c) Arbitrage rebate monitoring and filing
- d) Federal and State law compliance practices
- e) Ongoing Market and investor relations efforts
- f) **Identify a Chief Compliance Officer**
- g) **System of actions and deadlines**
- h) **Records to be maintained**

Getting Help

Please contact the ~~Controller/Assistant Financial Officer~~ **Director of Accounting** with any questions at 970.221.6784.

Related Policies/References

- *The City of Fort Collins Charter (Article V., Part II)*
- **Investment Policy**
- **Debt Administration Policy and Procedures 53**

Definitions

Conduit Debt: 1- *An organization, usually a government agency, that issues municipal securities to raise capital for revenue-generating projects where the funds generated are used by a third party (known as the "conduit borrower") to make payments to investors. The conduit financing is typically backed by either the conduit borrower's credit or funds pledged toward the project by outside investors. If a project fails and the security goes into default, it falls to the conduit borrower's financial obligation, not the conduit issuer (City).* 2- *Common types of conduit financing include industrial development revenue bonds (IDRBs), private activity bonds and housing revenue bonds (both for single-family and multifamily projects). Most conduit-issued securities are for projects to benefit the public at large (i.e. airports, docks, sewage facilities) or specific population segments (i.e. students, low-income home buyers, veterans).* 3- *In some cases, a governmental entity issues municipal bonds for the purpose of making proceeds available to a private entity in furtherance of a public purpose, such as in connection with not-for-profit hospitals, affordable housing, and many other cases. These types of municipal bonds are sometimes referred to as "conduit bonds." One common structure is for the governmental issuer to enter into an arrangement with the private conduit borrower in which the bond proceeds are loaned to the conduit borrower and the conduit borrower repays the loan to the issuer. For most conduit bonds, although the governmental issuer of the bonds is legally obligated for repayment, that obligation usually is limited to the amounts of the loan repayments from the conduit borrower. If the conduit borrower fails to make loan repayments, the governmental issuer typically is not required to make up such shortfalls. Thus, unless the bond documents explicitly state otherwise, investors in conduit bonds should not view the governmental issuer as a guarantor on conduit bonds.*

Credit Enhancements: *the requirement that a certain percentage or amount of non-federal dollars or in-kind services be provided in addition to the grant funds.*

Interagency: *the individual responsible for fiscally managing the grant award and the person who maintains the records in the City's financial system.*

Debt Service Coverage Ratio: *is a common measure of the ability to make debt service payments. The formula is net operating income (operating revenue – operating expense) divided by debt service (annual principal and interest)*

Investment Policy

Issue Date:
12/18/2012
Version: 5
Issued by: Investment
Administrator
Council

Objective:

This policy is to establish guidelines for the efficient management of City funds and for the purchase and sale of investments. The City's principal investment objectives, in priority order are: legal conformance, safety, liquidity and return on investment. All investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.

Applicability:

This investment policy applies to the investment of all general and specific funds over which the City exercises financial control, including operating funds, Poudre Fire Authority, the Downtown Development Authority, Poudre River Public Library District, Fort Collins Leasing Corporation and the Fort Collins Urban Renewal Authority.

Authorized by:

City Council, Resolutions 90-44, 2008-121, 2009-109, 2010-065, & 2012-119, 2023-017.

8.1 Policy

The City of Fort Collins, Colorado (the "City") is a home rule municipality operating under the City Charter. Article V, Part III of the City Charter assigns to the Financial Officer the responsibility of investing City funds. Funds must be placed in investments authorized by the City Council ("Council"). The Financial Officer will administer the investment program to ensure effective and sound fiscal management.

It is the policy of the City to invest public funds in a manner which will protect capital and meet liquidity needs while providing the highest investment return provide the highest investment return while protecting capital and meeting liquidity needs.

8.2 Scope

This policy is to establish guidelines for the efficient management of City funds and for the purchase and sale of investments. This investment policy applies to the investment of all general and special funds over which the City exercises financial control, including operating funds, Poudre Fire Authority, the Downtown Development Authority, Poudre River Public Library District, Fort Collins Leasing Corporation and the Fort Collins Urban Renewal Authority. For purposes of this policy, operating funds include:

- General Fund;
- Special Revenue Funds;
- Debt Services Funds (unless prohibited by bond ordinance);
- Capital Projects Funds;
- Enterprise Funds;
- Internal Service Funds;
- Trust and Agency Funds; and
- Any newly created Fund, unless exempted by Council.

Unless specifically provided for in the bond ordinance, all bond proceeds, bond reserve funds and pledged revenues must be invested in accordance with the operating funds guidelines set forth in this Investment Policy. Guidelines for investing the funds of the City's defined benefit plan shall be included in the Investment Policy for the General Employees' Retirement Plan, which is monitored and approved by the General Employees' Retirement Committee.

8.3 Investment Objectives

The City's principal investment objectives, in priority order, are: legal conformance, safety, liquidity, and return on investment. All investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.

1. *Legal conformance:* The investment portfolio will conform to all legal and contractual requirements.
2. *Safety:* Safety of investment principal and the preservation of capital are primary objectives of the investment program. When making investment decisions, the Financial Officer will seek to ensure the preservation of capital in the overall portfolio by mitigating credit risk and interest rate risk.
 - A. *Credit Risk:* The Financial Officer will minimize the risk of loss of principal and/or interest due to the failure of the security issuer or backer by:
 - a. Limiting investments to the safest types of securities.
 - b. Pre-qualifying financial institutions, securities brokers and dealers, and advisors.

- c. Diversifying the investment portfolio to reduce exposure to any one security type or issuer.

Interest Rate Risk: The Financial Officer will minimize the risk that the market value of securities in the portfolio will fall due to changes in market interest rates by:

- a. Whenever possible, holding investments to their stated maturity dates.
 - b. Investing a portion of the operating funds in shorter-term securities, money market mutual funds, or local government investment pools.
3. *Liquidity:* The investment portfolio must be sufficiently liquid so as to meet all reasonably anticipated operating cash flow needs. This is accomplished by structuring the portfolio so that securities mature to meet cash requirements for ongoing operations. Investments shall be managed to avoid, but not prohibit, sale of securities before their maturities to meet foreseeable cash flow requirements. Since all possible cash needs cannot be anticipated, the portfolio must consist largely of securities with active secondary or resale markets.
4. *Return on Investment:* The investment portfolio will be designed with the objective of maximizing the rate of return on investment while maintaining acceptable risk levels and ensuring adequate liquidity. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. Investment pooling may be used to maximize the City's investment income. Interest income, from pooling, will be distributed to the participating funds in proportion to each fund's level of contribution.

The Financial Officer will determine whether a security will be sold prior to maturity. The following are examples of when a security might be sold:

- a. A security with a declining credit rating may be sold early to minimize loss of principal;
- b. A security swap would improve the quality, yield, return, or maturity distribution of the portfolio;
- c. Liquidity needs of the portfolio require that the security be sold; or
- d. The Financial Officer will obtain the best rate of return on investments by taking advantage of market volatility and recognizing gains on a portion of the portfolio.

8.4 Standards of Care

1. *Prudence:* The City has a fiduciary responsibility to protect the assets of the City and to invest funds appropriately. The standard of care to be used by City officials is the “prudent person” rule as specified by CRS 15-1-304, which reads:

“Standard for investments: In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the benefit of others, fiduciaries shall be required to have in mind the responsibilities which are attached to such offices and the size, nature, and needs of the estates entrusted to their care and shall exercise the judgment and care, under the circumstances then prevailing, which men of prudence, discretion, and intelligence exercise in the management of the property of another, not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income as well as the probable safety of capital. Within the limitations of the foregoing standard, fiduciaries are authorized to acquire and retain every kind of property, real, personal, and mixed, and every kind of investment, specifically including, but not by way of limitation, bonds, debentures, other corporate obligations, stocks, preferred or common, securities of any open-end or closed-end management type investment company or investment trust, and participations in common trust funds, which men of prudence, discretion, and intelligence would acquire or retain for the account of another.”

The Financial Officer and designees, acting within the guidelines of this investment policy and written procedures, the City Charter and Code, all applicable state and federal laws and after exercising due diligence, will not be held personally liable and will be relieved of personal responsibility for an individual security’s credit risk or market price changes, or for losses incurred as a result of specific investment transactions or strategies. (CRS 24-75-601.4, et seq.)

2. *Ethics and Conflicts of Interest:* City officers and employees involved in the investment process will refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials must disclose any material interests in financial institutions with which they conduct business. They must further disclose any personal financial and investment positions that could be related to the performance of the City’s investment portfolio. In addition they must adhere to the rules of conflicts of interest as stated in Art. IV, Section 9(b) of the Charter of the City of Fort Collins, Colorado.

3. *Delegation of Authority:* The City Charter assigns the responsibility for the collection and investment of all city funds to the Financial Officer, subject to direction from Council by ordinance or resolution. The Financial Officer, subject to City Manager approval, may appoint other members of the Finance Department to assist in the investment function.

Administrative Procedures

- a. The Financial Officer is responsible for all investment decisions and activities, and must regulate the activities of subordinate employees for the operation of the City's investment program consistent with this investment policy.
- b. No person may engage in an investment transaction except as provided under the terms of this Investment Policy and the procedures established by the Financial Officer.

A. Authorized Designees

- a. The Financial Officer will maintain a list of individuals and institutions that are authorized to transfer, purchase, sell and wire securities or funds on behalf of the City.
- b. This list will be provided to the securities broker or dealer or financial institution prior to the City conducting any investment transactions with the institution.

B. Investment Advisors

- a. The Financial Officer has the discretion to appoint one or more investment advisors, registered with the Securities and Exchange Commission under the Investment Advisors Act of 1940, to assist in the management of all or a portion of the City's investment portfolio.
- b. All investments made through such investment advisors shall be within the guidelines of this Investment Policy.

4. *Investment Committee:* The Investment Committee consists of the Financial Officer and at least 2 other employees of the City that are knowledgeable in the area of governmental investments. The Investment Committee, at the discretion of the Financial Officer, may also include up to 2 private sector investment or banking professionals. The purpose of the Investment Committee shall be to provide advice to the Financial Officer regarding the operation of the investment program.

8.5 Safekeeping and Custody

1. *Authorized Securities Brokers and Dealers and Financial institutions*

- A. The Financial Officer will maintain a list of financial institutions authorized to provide investment services. The Financial Officer will also maintain a list of approved securities brokers and dealers. This list may include “primary” dealers or regional dealers that qualify under Securities and Exchange Commission (SEC) Rule 15C3-1.
- B. All financial institutions and securities brokers and dealers who wish to provide investment services to the City must supply the following (as appropriate):
 - a. Current audited financial statements;
 - b. Completed securities broker and dealer questionnaire;
 - c. Proof of National Association of Securities Dealers certification and registration in the State of Colorado; and
 - d. Certification of their review, understanding and agreement to comply with the City’s Investment Policy.
- C. If a financial institution or securities broker or dealer wishes to enter into a repurchase agreement with the city, the institution must sign a Master Repurchase Agreement approved as to form and content by the City Attorney’s Office.
- D. The Financial Officer must conduct an annual review of the financial condition of authorized financial institutions and securities brokers and dealers.
- E. Investment transactions must be executed with an authorized financial institution or securities broker or dealer except in the following circumstances:
 - a. Commercial paper, banker acceptances and guaranteed investment contracts may be purchased and sold directly from the issuer;
 - b. Mutual funds and money market funds may be purchased, sold and held directly with the funds;
 - c. Investments in local government investment pools may be transacted directly with the pool; and
 - d. Bond refunding and lease escrow agreements will be executed as provided in the bond and lease documents.
- F. The Financial Officer will establish a safekeeping agreement with an approved financial institution to act as a third party custodian. Investment securities will be held for the City by the custodian. When applicable, the Financial Officer shall establish a separate securities lending agreement with the custodian bank. The selection of the City’s primary depository

and primary custodian will be made through the City's competitive Request for Proposals process.

2. *Delivery versus Payment:* All trades will be executed by delivery versus payment to ensure that securities are deposited in an eligible financial institution prior to the release of funds. Securities will be held by the City's third-party custodian as evidenced by safekeeping receipts.
3. *Internal Controls:* The Financial Officer is responsible for establishing and maintaining an internal control structure designed to provide reasonable assurance that the assets of the city are protected from loss, theft or misuse.

8-6 Suitable and Authorized Investments

As a home rule city, the City may adopt a list of acceptable investment instruments differing from those outlined in CRS 24-75-601.1. Pursuant to Article V of the City's Charter the Council has adopted the following Ordinances and Resolutions establishing the framework under which the Financial Officer must conduct his duties: Ordinance 90, 1993; Ordinance 108, 1988, Resolution 85-134; and Resolution 82-70. Council may adopt additional Ordinances or Resolutions that require modification of these investment tools.

1. *Eligible Investments:* City funds may be invested in the following:
 - A. Any securities now or hereafter designed as legal investment for municipalities in any applicable statute of the State of Colorado;
 - B. Interest-bearing accounts or time certificates of deposit, including collateralized certificates of deposit and certificates of deposit through the Account Registry Service, of financial institutions designated as depositories for public moneys by the State of Colorado;
 - C. United States Treasury obligations for which the full faith and credit of the United States are pledged for payment of principal and interest. Such securities will include but not be limited to: Treasury bills, Treasury notes, Treasury bond and Treasury strips with maturities not exceeding five years from the date of purchase;
 - D. Obligations issued by any United States government-sponsored agency or instrumentality. Maturities may not exceed five years from the date of purchase;
 - E. Obligations issued by or on behalf of the City;
 - F. Obligations issued by or on behalf of any state of the United States, political subdivision, agency, or instrumentality thereof. At the time of

purchase the obligation shall have an investment grade rating of not less than AA- from Standard & Poor's, Aa3 from Moody's Investors Service or AA- from Fitch Ratings Service. The ratings must be not less than above for all agencies rating the debt, no split ratings are allowed;

- G. Prime-rated bankers acceptances with a maturity not exceeding six months from the date of purchase, issued by a state or national bank which has a combined capital and surplus of at least 250 million dollars, whose deposits are insured by the FDIC and whose senior long-term debt is rated at the time of purchase at least AA- by Standard and Poor's, Aa3 by Moody's Investors Service, or AA- by Fitch Ratings Service. The ratings must be not less than above for all agencies rating the debt, no split ratings are allowed;
- H. U.S. dollar denominated corporate notes or bank debentures. Authorized corporate bonds shall be U.S. dollar denominated, and limited to corporations organized and operated within the United States with a net worth in excess of 250 million dollars. At the time of purchase the debenture or corporate note shall have an investment grade rating of not less than AA- from Standard & Poor's, Aa3 from Moody's Investors Service or AA- from Fitch Ratings Service. The ratings must be not less than above for all agencies rating the debt, no split ratings are allowed;
- I. Prime-rated commercial paper with a maturity not exceeding six months issued by U.S. corporations. At the time of purchase the paper shall be rated A1 by Standard and Poor's and P1 by Moody's Investors Service. If the commercial paper issuer has senior debt outstanding, the senior debt must be rated at the time of purchase at least AA- by Standard and Poor's or Aa3 by Moody's Investors Service;
- J. Guaranteed investment contracts of domestically-regulated insurance companies having a claims-paying ability rating of AA- or better from Standard & Poor's at the time of purchase;
- K. Repurchase and reverse repurchase agreements. The structure of the agreements (including margin ratios and collateralization) shall be contained in the Master Repurchase Agreements. Repurchase agreements shall include but are not limited to delivery-versus-payment, tri-party and flexible repurchase agreements;
- L. Local government investment pools authorized under the laws of the State of Colorado with a rating of AAAM; and
- M. Money market mutual funds regulated by the Securities and Exchange Commission and whose portfolios consist only of dollar denominated securities.

2. Repurchase Agreements

- A. Before any repurchase agreements shall be executed with an authorized securities broker or dealer or financial institution, a Master Repurchase Agreement approved as to form and content by the City Attorney's Office must be signed between the City and the securities broker or dealer or financial institution.
- B. The Financial Officer will maintain a file of all Master Repurchase Agreements.
- C. In addition to the straight forward repurchase agreement, wherein the financial institution or securities broker or dealer delivers the collateral versus payment to the City's custodian for a fixed term at a fixed rate, the City may enter into other types of repurchase agreements which may include but not be limited to flexible repurchase agreements, tri-party agreements and reverse repurchase agreements.
- D. Repurchase agreements must be collateralized as provided in individually executed Master Repurchase Agreements at a minimum of 102 percent.
- E. Zero coupon instruments will not be accepted as collateral.
- F. The collateralized securities of the repurchase agreement can include but are not limited to: U.S Treasuries, Collateralized Mortgage Obligations or Agency securities.

8.7 ~~Suitable and Authorized Investments~~ **Diversification and Liquidity**

1. *Diversification and Asset Allocation:* It is the intent of the City to diversify its investment portfolio. Investments shall be diversified to eliminate the risk of loss resulting from over-concentration of assets in a specific maturity, issuer or class of securities. Diversification strategies and guidelines shall be determined and revised periodically by the Financial Officer. The investments may be diversified by:
 - A. Limiting investments to avoid over-concentration in securities from a specific issuer or business sector (excluding U.S. Treasury securities);
 - B. Limiting investment in securities that have higher credit risks;
 - C. Investing in securities with varying maturities; and
 - D. Maintaining a portion of the portfolio in readily available funds such as local government investment pools, money market funds or short term repurchase agreements to ensure that City liquidity needs are met.

The maximum investment allowable for each investment category as a percentage of the entire portfolio is as follows (excluding collateral for repurchase agreements):

CASH AND CASH EQUIVALENTS.....	100%
TREASURY SECURITIES	90%
GOVERNMENT-SPONSORED AGENCY SECURITIES	90%
REPURCHASE AGREEMENTS	70%
LOCAL GOVERNMENT INVESTMENT POOLS.....	60%
CORPORATE NOTES OR BONDS*	40%
BANK DEBENTURES*	25%
COMMERCIAL PAPER*	25%
BANKER'S ACCEPTANCES*	25%
LOCAL GOVERNMENT INVESTMENT POOLS	20%
MONEY MARKET FUNDS AND MUTUAL FUNDS	15%
CD ACCOUNT REGISTRY SERVICE (MAXIMUM 50 MILLION).....	15%
CERTIFICATES OF DEPOSIT	15%
GUARANTEED INVESTMENT CONTRACTS.....	5%

* A maximum of 10 percent of the portfolio may be invested in any one provider or issuer.

2. *Investment Maturity and Liquidity*

- A. A portion of the portfolio should be continuously invested in readily available funds such as local government investment pools, money market funds, or short-term repurchase agreements to ensure that appropriate liquidity is maintained to meet ongoing obligations. The City must at all times maintain 5 percent of its operating investment portfolio in instruments maturing in 120 days or less.
- B. Reserved funds may be invested in securities exceeding 5 years if the maturities of such investments are made to coincide as closely as possible with the expected use of funds.
- C. The weighted average final maturity limitation of the total portfolio, excluding pension funds and long-term reserve funds, **will not exceed 3 years.**
- D. The City may collateralize repurchase agreements with longer-dated investments, final maturity not to exceed 30 years.

8.8 — Inter-agency Loan Program

- ~~1. Purpose: The purpose of the Inter-agency loan program is to support City services, missions, and values by making loans to outside entities such as the Urban Renewal Authority and the Downtown Development Authority while maintaining an adequate rate of return for the City.~~
- ~~2. Eligible Applicants: The following are examples of situations in which City loans to outside agencies may be appropriate:

 - ~~A. An entity that was created wholly or in part by the City and is in a fledgling stage and does not yet have an established credit history to access the capital markets. Examples include the Urban Renewal Authority, etc.~~
 - ~~B. An entity related to the City desires to issue debt that will be repaid over a timeframe that would be unrealistic for a private lender. Examples include bonds issued by the Downtown Development Authority for less than 10 years.~~
 - ~~C. Any other situation in which the Council deems it appropriate to meet the financing needs of an entity that is engaged in services that support the mission and values of the City.~~~~
- ~~3. Program Guidelines:

 - ~~A. The borrowing entity must have approval from its governing body.~~
 - ~~B. The loan must be evidenced by a promissory note.~~
 - ~~C. There must be a reasonable probability of repayment of the loan from an identifiable source such as TIF revenues.~~
 - ~~D. The interest rate assigned to the loan must be the higher of the Treasury Note or Municipal Bond of similar duration (3 year, 5 year, etc.), plus 0.5%, subject to the following minimum (floor).~~~~

FLOOR—Minimum Loan Rates

Term	Rate
0—5 years	2.75%
6—10 years	3.25%
11—15 years	3.75%

16—25 years

4.00%

- ~~E. The loans must be limited to 25 years.~~
- ~~F. City Council must review the request and approve the amount and terms and conditions of the loan.~~
- ~~G. Loans of Utility reserves must be reviewed by either the Energy Board or Water Board in advance of City Council consideration, and must meet the following additional criteria:

 - ~~a. the City Council must make a formal finding that the funds will not be needed for utility purposes during the term of the loan, and that the terms and conditions of the loan represent a reasonable rate of return to the Utility; and~~
 - ~~b. utility rates must not be increased for the purposes of funding the loan.~~~~

~~4. Limit on Funds available for Loan Program~~

- ~~A. Governmental Funds: Total loans shall not exceed 25% of the aggregate cash and investments balance of the governmental funds (i.e., General Fund and Special Revenue Funds).~~
- ~~B. Enterprise Funds: Total loans shall not exceed 5% of the aggregate cash and investments balance in the enterprise funds (i.e. Utility Funds and Golf Fund).~~
- ~~C. Operating and capital needs of the loaning funds shall not be significantly impaired by these loans.~~
- ~~D. Loans should not impact the loaning funds compliance with minimum fund balance policies, timing of intended uses, etc.~~

8.9 8.8 Reporting

1. *Methods:* The Financial Officer will prepare an investment report on a quarterly basis. In addition, a comprehensive investment report may be published on the City’s website on an annual basis. All investment reports will be submitted in a timely manner to the City Manager.
2. *Performance Standards:* The investment portfolio will be managed in accordance with the parameters specified within this Investment Policy. The

Financial Officer will establish a benchmark yield for the City's investments equal to the average yield on the U.S. Treasury security which most closely corresponds to the portfolio's actual weighted average maturity. In order to determine the actual rate of return on any portion of the portfolio managed by an investment advisor, the Financial Officer must include all of the advisor's expenses and fees in the computation of the rate of return.

3. *Marking to Market:* The market value of the portfolio will be calculated at least quarterly and a statement of the market value will be included in the quarterly investment report.

8.10 Policy Adoption

This Investment Policy will be reviewed at least every ~~three~~two years by the Investment Committee, City Manager and the Financial Officer and may be amended by Council as conditions warrant. The Investment Policy may be adopted by Resolution of the Council.

Definitions

Agency: *A bond, issued by a U.S. government-sponsored agency. The offerings of these agencies are backed by the U.S. government, but not guaranteed by the government since the agencies are private entities. Such agencies have been set up in order to allow certain groups of people to access low cost financing, especially students and first-time home buyers. Some prominent issuers of agency bonds are Student Loan Marketing Association (Sallie Mae), Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac). Agency bonds are usually exempt from state and local taxes, but not federal tax.*

Average Life: *The length of time that will pass before one-half of a debt obligation has been retired.*

Bankers' Acceptance: *A short-term credit investment which is created by a non-financial firm and whose payment is guaranteed by a bank. Often used in importing and exporting, and as a money market fund investment.*

Benchmark: *A comparative base for measuring the performance or risk tolerance of the investment portfolio. A benchmark should represent a close correlation to the level of risk and the average duration of the portfolio's investments.*

Book Value: *The value at which a security is carried on the inventory lists or other financial records of an investor. The book value may differ significantly from the security's current value in the market.*

Broker: *An individual who brings buyers and sellers together for a commission.*

Cash Sale/Purchase: *A transaction which calls for delivery and payment of securities on the same day that the transaction is initiated.*

Certificate of Deposit (CD): *A time deposit with a specific maturity evidenced by a certificate.*

Collateralization: *Process by which a borrower pledges securities, property, or other deposits for the purpose of securing the repayment of a loan and/or security.*

Commercial Paper: *An unsecured short-term promissory note issued by corporations, with maturities ranging from 2 to 270 days.*

Coupon Rate: *The annual rate of interest received by an investor from the issuer of certain types of fixed-income securities. Also known as the "interest rate".*

Credit Quality: *The measurement of the financial strength of a bond issuer. This measurement helps an investor to understand an issuer's ability to make timely interest payments and repay the loan principal upon maturity. Generally, the higher the credit quality of a bond issuer, the lower the interest rate paid by the issuer because the risk of default is lower. Credit quality ratings are provided by nationally recognized rating agencies.*

Credit Risk: *The risk to an investor that an issuer will default on the payment of interest and/or principal on a security.*

Current Yield (Current Return): *A yield calculation determined by dividing the annual interest received on a security by the current market price of that security.*

Debenture: *A bond secured only by the general credit of the issuer.*

Delivery versus Payment (DVP): *A type of securities transaction in which the purchaser pays for the securities when they are delivered either to the purchaser or to their custodian.*

Diversification: *A process of investing assets among a range of security types by sector, maturity, and quality rating.*

Duration: *A measure of the timing of the cash flows, such as the interest payments and the principal repayment, to be received from a given fixed-income security. This calculation is based on three variables: term to maturity, coupon rate and yield to maturity. The duration of a security is a useful indicator of its price volatility for given changes in interest rates.*

Federal Deposit Insurance Corporation (FDIC): *A federal agency that insures deposits in member banks and thrifts up to \$100,000 (\$250,000 through 12/31/2013).*

Federal Funds: *Funds placed in Federal Reserve banks by depository institutions in excess of current reserve requirements. These depository institutions may lend fed funds to each other overnight or on a longer basis. They may also transfer funds among each other on a same-day basis through the Federal Reserve banking system. Fed funds are considered to be immediately available funds.*

Federal Funds Rate: *The interest rate that banks charge each other for the use of Federal funds.*

Government Securities: *An obligation of the U.S. government, backed by the full faith and credit of the government. These securities are regarded as the highest quality of investment securities available in the U.S. securities market.*

Green Investments: *Mutual funds that are considered "ethical investments." These funds screen companies to ensure that they have sound environmental practices such as: maintaining or improving the environment, industrial relations, racial equality, community involvement, education, training, healthcare and various other environmental criteria. Negative screens include but are not limited to: alcohol, gambling, tobacco, irresponsible marketing, armaments, pornography, and animal rights.*

Interest Rate Risk: *The risk associated with declines or rises in interest rates which cause an investment in a fixed-income security to increase or decrease in value.*

Investment-grade Obligations: *An investment instrument suitable for purchase by institutional investors under the prudent person rule. Investment-grade is restricted to those obligations rated BBB or higher by a rating agency.*

Liquidity: *An asset that can be converted easily and quickly into cash without a substantial loss of value.*

Local Government Investment Pool (LGIP): *An investment by local governments in which their money is pooled as a method for managing local funds.*

Mark-to-Market: *The process whereby the book value or collateral value of a security is adjusted to reflect its current market value.*

Market Value: *Current market price of a security.*

Master Repurchase Agreement: *A written contract covering all future transactions between the parties to repurchase and reverse repurchase. Establishes each party's rights in the transaction.*

Maturity: *The date on which payment of a financial obligation is due. The final state maturity is the date on which the issuer must retire a bond and pay the face value to the bondholder.*

Money Market Mutual Fund: *Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers' acceptances, repurchase agreements, and federal funds).*

Mutual Fund: *An investment company that pools money and can invest in a variety of securities, including fixed-income securities and money market instruments. Mutual funds are regulated by the investment company Act of 1940 and must abide by the Securities and Exchange Commission (SEC) disclosure guidelines.*

National Association of Securities Dealers (NASD): *A self-regulatory organization of brokers and dealers in the over-the-counter securities business. Its regulatory mandate includes authority over firms that distribute mutual fund shares as well as other securities.*

Net Asset Value: *The market value of one share of an investment company, such as a mutual fund. This figure is calculated by totaling a fund's assets which includes securities, cash, and any accrued earnings, subtracting this from the fund's liabilities and dividing this total by the number of shares outstanding. This is calculated once a day based on the closing price for each security in the fund's portfolio.*

No Load Fund: *A mutual fund which does not levy a sales charge on the purchase of its shares.*

Portfolio: *Collection of securities held by an investor.*

Primary Dealer: *A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight.*

Real Estate Investment Trust (REIT): *A company that buys, develops, manages and sells real estate assets. Allows participants to invest in a professionally managed portfolio of real-estate properties. The main function is to pass profits on to investors; business activities are generally restricted to generation of property rental income.*

Repurchase Agreement (Repo): *An agreement of one party to sell securities at a specified price to a second party and a simultaneous agreement of the first party to repurchase the securities at a specified price or at a specified later date.*

Reverse Repurchase Agreement: *An agreement of one party to purchase securities at a specified price from a second party and a simultaneous agreement of the first party to resell the securities at a specified price to the second party on demand or at a specified date.*

Rule 2a-7 of the Investment Company Act: *Applies to all money market mutual funds and mandates such funds to maintain certain standards, including a 13-month maturity limit and a 90-day average maturity on investments, to help maintain a constant net asset value of one dollar (\$1.00).*

Securities and Exchange Commission (SEC): *Agency created by Congress to protect investors in securities transactions by administering securities legislation.*

Total Return: *The sum of all investment income plus changes in the capital value of the portfolio. For mutual funds, return on an investment is composed of share price appreciation plus any realized dividends or capital gains. This is calculated by taking the following components during a certain time period. (Price Appreciation) + (Dividends Paid) + (Capital Gains) = Total Return*

Treasury Bills: *Short-term U.S. government non-interest-bearing debt securities with maturities of no longer than one year.*

Treasury Bonds: *Long-term U.S. government debt securities with maturities of more than ten years. Currently, the longest outstanding maturity is 30 years.*

Treasury Notes: *Intermediate U.S. government debt securities with maturities of two to ten years.*

Tri-party Repurchase Agreement: *In a "normal repurchase" transaction there are two parties, the buyer and the seller. A tri-party repurchase agreement adds a custodian as the third party to act as an impartial entity to the repurchase transaction to administer the agreement and to relieve the buyer and seller of many administrative details.*

Weighted Average Maturity (WAM): *The average maturity of all the securities that comprise a portfolio.*

Yield: *The current rate of return on an investment security. Generally expressed as a percentage of the security's current price.*

Yield Curve: *A graphical representation that depicts the relationship at a given point in time between yields and maturity for bonds that are identical in every way except maturity. A normal yield curve may be alternatively referred to as a positive yield curve.*

Yield-to-Maturity: *The rate of return yielded by a debt security held to maturity when both interest payments and the investor's potential capital gain or loss are included in the calculation of return.*

Zero-Coupon Securities: *A security that is issued at a discount and makes no periodic interest payments. The rate of return consists of a gradual accretion of the principal of the security and is payable at par upon maturity.*



AGENDA ITEM SUMMARY

City Council

STAFF

Edgar Ramos, Business Connector
Shannon Hein, Economic Health Manager, Small Business

SUBJECT

Multicultural Business and Entrepreneur Center (MBEC) Update

ATTACHMENTS

1. Presentation

02-07-2023

Multicultural Business and Entrepreneur Center (MBEC) Update

Presented by:

Edgar Ramos

Business Connector
Spanish Bilingual

Shannon Hein

Economic Health Manager,
Small Business



Katie Geiger



Business Connector
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Tommy Meritt



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- Overview of the MBEC
- Customer Success Stories
- Highlights
- Success Metrics



- Free business support
 - Currently available in English and Spanish
- No limit on number of appointments
- Funded by the American Rescue Plan Act (ARPA)
 - Includes three Business Connectors
 - Programming
- Alignment with EHO Strategy, Recovery Plan





- Lack of consistent engagement specialists in the community who could speak Spanish, or work with diverse communities.
- Prepare and create sustainable businesses in our community.
- Create a path to generational wealth.





Consistent Spanish language
business support

General business
guidance



Specialized consultants

Focused on
growth/expansion



- Helped with the launch of the food truck, Las Catrinas LLC
- Maria and Jesús Castro - Fuerza Latina Steering Committee Members and owners of Clean House Co
- Assisted established business with:
 - Small Business Recovery Grant
 - Go through government processes
 - Social media feature for appreciation and awareness



Process Improvement

FC Lean

supported intake, customer journey, and survey process

Grant Support

Scheduled **40 grant support** appointments

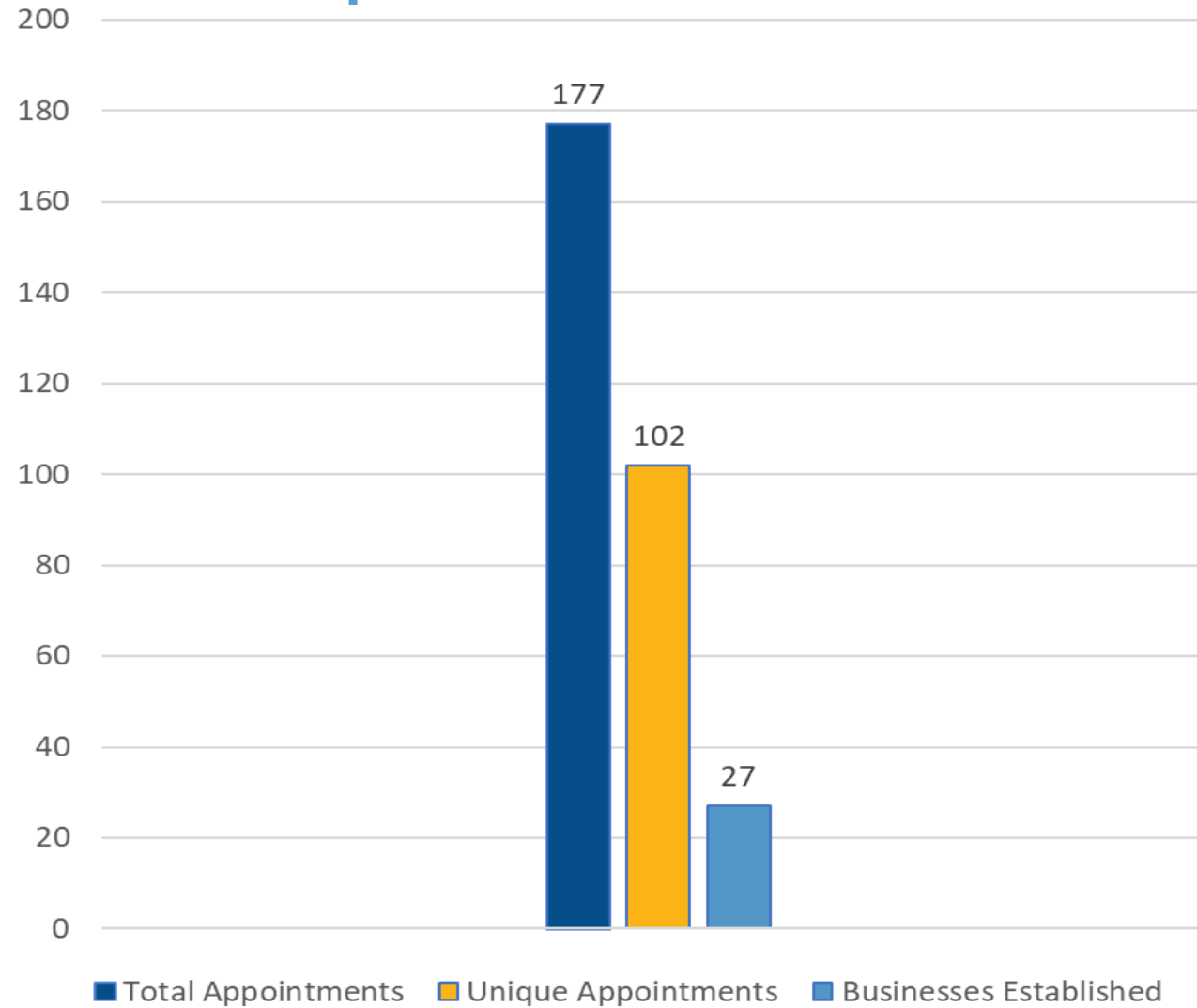
21 of those were awarded Small Business Recovery Grants.

Digital Empowerment

Partnered with Larimer SBDC

Distributed 14 free Chromebooks that included a technology and finance course

April – December 2022



*Assisted with the registration of the business with the state.

	Strongly Agree	Agree	Disagree	Strongly Disagree	N/A	Responses
You have a clearer direction for your business after this visit: Count Row %	18 81.8%	4 18.2%	0 0.0%	0 0.0%	0 0.0%	22
The City is a trustworthy partner: Count Row %	18 85.7%	3 14.3%	0 0.0%	0 0.0%	0 0.0%	21

	Muy de Acuerdo	De Acuerdo	No Estoy de Acuerdo	Muy en desacuerdo	N/A	Responses
Tiene una dirección más clara para su negocio después de su visita: Count Row %	36 92.3%	3 7.7%	0 0.0%	0 0.0%	0 0.0%	39
La Ciudad es una organización de confianza: Count Row %	37 94.9%	2 5.1%	0 0.0%	0 0.0%	0 0.0%	39

- Of 61 individuals surveyed post-appointment:
 - 39 utilized Spanish services
 - 32 Identified as Women,
 - 48 Identified as Hispanic/LatinX

- Workshops with local industry experts and partners
 - Spanish workshops Jan, Feb, March with Larimer SBDC and Latino Chamber
- Technical Assistance Grants
- Marketing and Outreach
- Identify funding and partnerships after 2024



- Building infrastructure and systems
- Continue to earn and build trust of the community
- Establishing a community of business owners and entrepreneurs
- Access to City employees and unique connection points
- Small businesses create culture and amenities for community members

Business Connectors:

Tommy Meritt - tmeritt@fcgov.com

Edgar Ramos - eramos@fcgov.com

Katie Geiger – kgeiger@fcgov.com

Economic Sustainability Manager

Shannon Hein - shein@fcgov.com

Schedule your appointment:

fcgov.com/business/mbec

Or email business@fcgov.com

THANK YOU!

For More Information, Visit

fcgov.com/business/mbec



AGENDA ITEM SUMMARY

City Council



STAFF

Kirk Longstein, Senior Environmental Planner
Rebecca Everette, Planning Manager
Paul Sizemore, Director, Community Development and Neighborhood Services
Brad Yatabe, Legal

SUBJECT

First Reading of Ordinance No. 023, 2023, Amending the Land Use Code to Include Regulations for Areas and Activities of State Interest.

EXECUTIVE SUMMARY

The purpose of this ordinance is to amend the Fort Collins Land Use Code to include regulations for reviewing and permitting designated areas and activities of statewide interest - a new 1041 permit process for major domestic water, sewage treatment and highway projects. 1041 powers give local governments the ability to regulate particular development projects occurring within their jurisdiction, even when the project has broader impacts.

If Council wishes to provide additional time for review and consideration of the Ordinance, a postponement by motion to a date certain would be appropriate or providing additional time between first and second reading. Regardless, staff recommends Council use February 7th for discussion and further clarifications. If there will not be a hearing on February 21st, a new notice will need to be published in a newspaper of general circulation at least 30 days prior to the hearing.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The term "1041" refers to the number of the bill, House Bill 74-1041, that created the 1041 powers in 1974, and the statutes regarding 1041 powers are also referred to as the Areas and Activities of State Interest Act ("AASIA"). The statute authorizes local governments to regulate specified activities and areas, and the proposed regulations address three types of activities listed in the statute. In October 2021, Council adopted Ordinance No. 122, 2021, to designate the following activities as being subject to the City's authority granted under the AASIA: 1. Domestic water and wastewater treatment facilities; and 2. Highways and Interchanges. In Ordinance No. 122, 2021, Council also imposed a moratorium on conducting such activities, with certain exceptions, until Land Use Code regulations to administer the designated activities

were adopted or until December 31, 2022. The moratorium was extended in December 2022 until March 31, 2023, by Ordinance 139, 2022.

As directed by City Council through a resolution adopted May 2021, staff has sought input from engaged community partners; including utility providers and environmental advocacy groups on 1041 regulations for major domestic water, sewage treatment and highway projects as set forth in the AASIA. Generally, these types of projects are reviewed through the Site Plan Advisory Review (SPAR), and by adopting the 1041 powers, the City will leverage a regulatory framework to review projects as opposed to the SPAR advisory process, which is non-binding. Following Council feedback, regulatory goals have included defining a process that is (1) contextually appropriate to Fort Collins, (2) addresses deficiencies within the SPAR process, (3) provides predictability for developers and decision makers, (4) establishes a meaningful public process, and (5) incentivize project siting and design that avoid impacts to critical natural habitat, cultural resources, and disproportionately impacted communities.

1041 regulations align with City Plan environmental health policies and principals - by directing development away from natural features to the maximum extent feasible. Protecting and enhancing the environment is a core value in Fort Collins, and the community's leadership on environmental stewardship and conservation reinforces that core value. Since 1997, the Fort Collins Land Use Code Section 3.4.1 has included development standards directed at protecting and enhancing natural habitat features through buffering, naturalistic design, and mitigation performance criteria. These same guiding principles are incorporated within the proposed 1041 regulations for activities of statewide interest.

What problem do 1041 regulations solve?

The Site Plan Advisory Review (SPAR) process requires the submittal and approval of a site development plan that describes the location, character and extent of improvements to parcels owned or operated by public entities. Projects subject to SPAR are reviewed by staff through an advisory process and the level of details provided through the SPAR process are limited in scope. Additionally, because the SPAR process is advisory and non-binding there may be projects that were not initiated by public entities through the SPAR development review process. As an example: in 2016, a Boxelder Combined Interceptor Sewer was replaced within an existing 80' easement and stretched 6,130 Linear feet. Because the project's siting and design aligned with Running Deer natural area (city-owned property), the project was required to follow the City's Natural Area standards for that portion of the project on city owned property, but a SPAR was never reviewed. The 1041 permitting process would give local control of these types of projects, allow greater transparency through enhanced public engagement opportunities, and through the permitting authority, impose higher standards and improved environmental protections across the City. Staff has researched past projects that would meet the project size thresholds proposed under the 1041 regulations. (ATTACHMENT – Example past projects)

When is a project required to obtain a 1041 permit?

To provide additional predictability, staff included more prescriptive language within the Article 6 definitions that narrows the State AASIA definitions while continuing to comply with the scope of the authority provided under the AASIA. These new project definitions consider size thresholds like pipe diameter, pipe length, and easement size. In concert with the Finding of Negligible Adverse Impact (FONAI) determinations (LUC 6.6.5), these definitions and the pre-application submittal meeting (LUC 6.6.3) incentivize applicants to propose a development plan that avoids adverse impacts before entering a full permit application (LUC 6.6.6).

Definitions

The proposed regulations define project-size thresholds (e.g., pipe diameter, pipe length, and easement size). The 30-foot easement size in combination with 1,320 linear feet roughly equates to just under one (1) acre of impact area, which is used as a threshold for state agency permitting programs. This impact area is roughly equivalent to four (4) lots within the old town neighborhoods.

The definitions included in the City's 1041 Regulations are similar to the Larimer County regulations (ATTACHMENT - Peer community research) to align with a consistent approach. The definitions regarding major domestic water and sewer facilities are written to comply with the scope of authority provided under the AASIA statute. To provide additional predictability and to more precisely identify which projects have the potential to adversely impact important community resources, staff has provided more prescriptive language within the definitions of the Land Use Code that bring more precision to the AASIA definitions. Additionally, the definitions provide a description for projects that would not be covered by the scope of the regulations. For example: the definition of major domestic water and wastewater excludes irrigation and stormwater related facilities. Additionally, work within an existing easement is excluded where the surface impact is not expanded beyond 30-feet wide by 1,320 linear feet in the aggregate. A specific set of exemptions are provided within the regulations and separate from the definitions (LUC 6.4.1). Examples of the specific exemptions include (1) any project previously approved by the Planning and Zoning Commission pursuant to the Site Plan Advisory Review (SPAR) process (e.g., NEWT 3 pipeline); and (2) a proposed development plan that is directly necessitated by a proposed residential, commercial, industrial or mixed-use development (e.g., Bloom pipeline).

FONAI Review and Evaluation Criteria

A guiding principle of this process is to incentivize project siting and designs, prior to a full permit, that minimize impacts to Disproportionately Impacted Communities, critical natural features, historic and cultural resources and City-owned properties. As such, staff proposes a review process that allows an applicant to avoid a full 1041 permit submittal if their project design meets that intent. Geographic-based thresholds are included as evaluation criteria for determining the potential for adverse impacts ATTACHMENT - MAPS - FONAI evaluation criteria. Once a potential applicant determines that their project falls within the defined project size thresholds, a pre-application review and neighborhood meeting would be scheduled. A Finding of Negligible Adverse Impacts (FONAI) is a review by staff following a neighborhood meeting to determine applicability of the standards and if a full permit is required. Staff will evaluate a FONAI determination using the following criteria and such determination is appealable to the Planning and Zoning Commission. In addition to FONAI evaluation criteria, mitigation plans reviewed by staff may be a factor when issuing a Finding of Negligible Adverse Impact and whether a 1041 permit is required.

Has potential to adversely impact:

- City natural areas or parks
- City-owned property
- High Priority Habitat and Natural Habitat Corridors
- Natural habitat features and buffer zones
- Historic and Cultural Resources
- Disproportionately Impacted Communities

Is the standard to achieve a FONAI too high?

As seen in version-two of the draft 1041 regulations, including the map-based layers within the definitions of what qualifies as an activity of statewide interest created confusion and greater uncertainty. Whereas initial community concerns implied the creation of "loop-holes" and "casting too wide of a net", upon further scenario planning, adding geographic thresholds to the definitions also created similar concerns. Based on stakeholder feedback from both environmental groups and potential applicants for a 1041 permit, the proposed code language continues to focus on impacts to specific resources through pre-application review, the determination of adverse impacts, and common review standards applied to a full permit.

The geographic areas within the FONAI evaluation incentivize the applicant to propose a siting and design that avoids these areas of interest. If the applicants propose a project design that avoids geographic areas within the FONAI evaluation criteria, a potential applicant could save the proposed projects months of time by receiving a FONAI without a full permit. If the applicant cannot find a siting and design alternative then staff may consider compensatory mitigation as defined in the Code which would allow the project to

Item 20.

proceed with conditions. This process not only allows additional predictability for the applicant but also greater transparency and enhanced opportunities for the community's engagement.

Additional option for Council's consideration

Environmental stakeholders have suggested that the regulations do not account for construction activities outside the jurisdiction that have an adverse impact on land area within the jurisdiction. Staff has not included a common review standard within proposed 1041 regulations to review portions of a project outside the City limits that is seeking to place a portion of such project within the City that would be subject to 1041 review. To the extent Council wishes to explore this option for inclusion in the proposed 1041 regulations, further analysis and discussion with staff is recommended.

CITY FINANCIAL IMPACTS

With the information available to staff through a recent Request for Information (RFI), a full permit review (only) is estimated to cost between \$20-30K per application reviewed. A Request for Proposal (RFP) will be issued shortly after the adoption of the Code for an on-call contractor servicing third party permit review of all phases of the 1041 permit: including conceptual, FONAI, and full permit review. All costs assessed by the contractor will pass through to the applicant and an additional staffing analysis is needed for ongoing management of the permitting program. The proposed program design will help staff get the program started soon after adoption with existing staff levels, and better prepare Community Development and Neighborhood Services for a future BFO offer. If Council adopts the ordinance on first reading, staff will prepare a supplemental appropriation for Council's consideration shortly after second reading of the Code.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Staff met with several City Boards and Commissions listed in the community member outreach activities listed in subsequent sections of the Council materials. During the Planning and Zoning Commission hearing on January 25, the Commission unanimously adopted the recommendation below:

The Planning and Zoning Commission recommend that City Council NOT ADOPT the proposed 1041 regulations until the public has sufficient time to review staff's Version 3 and to comment fully on its impact. The Planning and Zoning Commission believes the proposed regulation is directionally correct; however, additional input is needed by affected parties on at least the following areas:

- *Potential consequences of the proposed regulation, as currently written*
- *The extent to which the regulation could legally extend to impacts created by components of the project outside the jurisdictions but that affect the natural resources and natural areas of Fort Collins*
- *Whether the scope of projects to be regulated is appropriate, relative to what would be considered material in the scope of such projects.*

This recommendation could require that more time be allowed between first and second readings, or that the current moratorium be extended, if necessary. This decision is based upon the agenda materials, the information and materials presented during the work session and this hearing, and the Commission discussion on this item.

PUBLIC OUTREACH

Since the November 7, 2022, City Council work session, staff sought input from engaged community partners; including utility providers and environmental advocacy groups on 1041 regulations for water and highway projects that continue to meet the following regulatory goals (1) contextually appropriate to Fort Collins, (2) provide predictability for developers and decision makers, and (3) provide adequate guidance for staff review and implementation of permits. Staff has provided the notes and written comments from working group members as an attachment to this memo.

Community Member Outreach Activities:

- Staff convened 90-minute working groups representing regional economic, and environmental interest, as well as representation from City Boards and Commissions, local water provider, and regional CDOT representatives. Notes from these group conversations are provided as an ATTACHMENT - Phase III Engagement Summary
- Staff meet 1:1 with interested groups to discuss redline edits to version-two of the draft regulations and provide general feedback on policy direction. 1:1 meeting in November through January 2023 are included in the list below.
- Staff hosted a public open house at Fort Fun along Mulberry Ave. January 19 at 4pm Spanish materials were presented, and a survey provided. A summary of the feedback themes received from Disproportionately impacted community members is provided as an ATTACHMENT - Disproportionately impacted communities feedback

Date	Community Member Outreach Activities
1/25/2023	Planning and Zoning Commission Hearing
1/19/2023	Disproportionately Impacted Communities - Open House
1/19/2023	Water Commission
1/13/2023	Planning and Zoning Commission work session
1/12/2023	Economic working group
1/11/2023	Fort Collins Utilities
1/11/2023	Water Provider Working Group
1/9/2023	Environmental Working Group
1/9/2023	Save the Poudre
1/6/2023	Boards and Commissions Working Group
1/5/2023	Fort Collins Sustainability Group
12/21/2022	Transportation Board
12/19/2022	Economic working group
12/16/2022	Natural Areas Department
12/15/2022	Natural Resources Advisory Board
12/14/2022	Northern Water
12/13/2022	Boards and Commissions Working Group
12/7/2022	CDOT
12/7/2022	Water Provider Working Group
12/6/2022	Environmental Working Group
12/5/2022	Boxelder Sanitation
11/17/2022	Water Commission
11/16/2022	Transportation Board
11/10/2022	Planning and Zoning Commission work session
11/9/2022	Land Conservation Stewardship Board
11/6/2022	City Council work session

ATTACHMENTS

1. Ordinance for Consideration
2. Example Past Projects
3. Peer community research
4. MAPS - FONAI evaluation criteria
5. Phase III Engagement Summary
6. Disproportionately impacted communities' feedback
7. Working group discussion notes and comments
8. Letters to City leaders

ORDINANCE NO. 023, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE LAND USE CODE TO INCLUDE GUIDELINES AND
REGULATIONS FOR THE ADMINISTRATION OF DESIGNATED AREAS AND
ACTIVITIES OF STATE INTEREST

WHEREAS, on December 2, 1997, by its adoption of Ordinance No. 190, 1997, the City Council enacted the Fort Collins Land Use Code (the "Land Use Code"); and

WHEREAS, at the time of the adoption of the Land Use Code, it was the understanding of staff and the City Council that the Land Use Code would most likely be subject to future amendments, not only for the purpose of clarification and correction of errors, but also for the purpose of ensuring that the Land Use Code remains a dynamic document capable of responding to issues identified by staff, other land use professionals and citizens of the City; and

WHEREAS, Colorado Revised Statutes ("C.R.S.") Section 24-65.1-101 et seq, commonly referred to as 1041 statutes or powers, empowers the City to designate certain areas and activities to be matters of state interest subject to City regulation and to adopt guidelines and regulations for the administration of designated areas and activities; and

WHEREAS, on second reading on October 19th, 2021, City Council adopted Ordinance 122, 2021, designating two activities of state interest:

- (1) the site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems; and
- (2) the site selection of arterial highways and interchanges and collector highways

; and

WHEREAS, pursuant to C.R.S. Section 24-65.1-404(4) and the City's power to impose a moratorium on development activity pursuant to its home rule powers granted under Article XX of the Colorado Constitution, Ordinance 122, 2021, also imposed a moratorium on conducting the designated activities until December 31, 2022, to allow City staff time to draft guidelines and regulations for the administration of the designated activities; and

WHEREAS, pursuant to Ordinance 139, 2022, the moratorium was extended until March 31, 2023, to allow additional time for City staff to continue drafting guidelines and regulations; and

WHEREAS, on January 25, 2023, the Planning and Zoning Commission reviewed the draft guidelines and regulations and recommended that City Council not adopt the draft guidelines and regulations until, among other issues mentioned in the recommendation, the

public has sufficient time to review the draft guidelines and regulations and to comment fully on the impact of such guidelines and regulations; and

WHEREAS, City Council held a public hearing pursuant to C.R.S. 24-65.1-404 to consider the adoption of guidelines and regulations for the administration of the two activities designated pursuant to Ordinance 122, 2021; and

WHEREAS, after considering the Planning and Zoning Commission recommendation, public input, and the City staff recommendation, the City council has determined that the guidelines and regulations for the administration of the two activities designated pursuant to Ordinance 122, 2021, are in the best interests of the City and shall be adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Division 1.1 of the Land Use Code is hereby amended to read as follows:

DIVISION 1.1 - ORGANIZATION OF LAND USE CODE

The City of Fort Collins Land Use Code is organized into ~~five (5)~~ six (6) Articles as follows:

- Article 1 General Provisions
- Article 2 Administration
- Article 3 General Development Standards
- Article 4 District Standards
- Article 5 Definitions
- Article 6 Guidelines and Regulations for Areas and Activities of State Interest

The General Provisions contained in Article 1 address the organization of this Land Use Code; its title, purpose and authority; the establishment of the Zoning Map and Zone Districts; rules for interpretation and measurements; rules for nonconformities and legal matters.

Article 2, Administration, guides the reader through the procedural and decision-making process by providing divisions pertaining to general procedural requirements and a twelve-step common development review process, as well as providing a separate division for each type of development application and other land use requests.

The General Development Standards contained in Article 3 establish standards which apply to all types of development applications unless otherwise indicated. This article is divided into divisions addressing standards for site planning and design, engineering, environmental and cultural resource protection, compact urban growth, buildings, transportation and circulation, and supplemental uses.

All zone districts within the City of Fort Collins and their respective list of permitted uses, prohibited uses and particular development standards are located in Article 4, District Standards. These zone districts directly relate to the Zoning Map and Zone Districts established in Article 1.

Definitions of terms used throughout this Land Use Code are included in Article 5.

Article 6 sets forth guidelines and regulations for areas and activities of state interest adopted pursuant to Section 24-65.1-101, et seq., C.R.S.

This method of organization, which distinguishes and separates general provisions, administration, general development standards, and district standards, ~~and~~ definitions, ~~and areas and activities of state interest~~, is intended to provide a user-friendly and easily accessible Land Use Code by consolidating most city regulations addressing land use and development, standardizing the regulatory format, providing common development review procedures, separating and clarifying standards and separating and clarifying definitions.

When this Land Use Code is amended, any amendments to procedural provisions will be made in Article 2, Administration. Amendments to general development standards will occur in Article 3, General Development Standards. Amendments to District Standards (Zone Districts) will be made in Article 4. ~~And~~ Article 5 will be the place to change or add definitions. ~~Amendments to areas and activities of state interest will occur in Article 6.~~

For an overview on how to use this Land Use Code when applying for a development application or other request, reference should be made to Section 2.1.2, Overview of the Development Review Process.

This symbol:

Examples & Explanations

appears under selected subsections of the Land Use Code. It refers to a nonregulatory manual explaining the Land Use Code's approach to development using example pictures and diagrams. The manual, called the *Fort Collins Design Manual*, is available separately.

Section 3. That Division 2.1 of the Land Use Code is hereby amended to read as follows:

DIVISION 2.1 - GENERAL PROCEDURAL REQUIREMENTS

2.1.1 - Decision Maker and Administrative Bodies

The City Council, Planning and Zoning Board Commission, Zoning Board of Appeals Land Use Review Commission and Director are frequently referenced in this Land Use Code. Reference should be made to Chapter 2 of the City Code for descriptions of these and other decision makers and administrative bodies, and their powers, duties, membership qualifications and related matters.

The Director or the Planning and Zoning Board Commission will consider, review and decide all development applications for permitted uses (overall development plans, PUD Overlays 640 acres or less, basic development review plans, project development plans and final plans) according to the provisions of this Land Use Code. For those development applications subject to basic development review, the Director (or the Director's subordinate) is the designated decision maker. For those development applications subject to administrative review (sometimes referred to as "Type 1 review"), the Director is the designated decision maker (see Section 2.2.7(A)(1)). For those development applications subject to P&Z review (sometimes referred to as "Type 2 review"), the Planning and Zoning Board Commission is the designated decision maker (see Section 2.2.7(A)(2)). For PUD Overlays greater than 640 acres, the City Council is the designated decision maker after receiving a Planning and Zoning Board Commission recommendation. The permitted use list for a particular zone district and the development review procedure "steps" for a particular development application identifies which review, Type 1 or Type 2, will apply. For building permit applications, the Building and Zoning Director Chief Building Official is the decision maker (see Section 2.7.3). (See "Overview of Development Review Procedures," Section 2.1.2, below, for a further description of different levels of review.) City Council is the decision maker regarding the issuance of permits to conduct an activity or develop within an area of state interest pursuant to Article 6 after receiving a Planning and Zoning Commission recommendation.

2.1.2 – Overview of Development Review Procedures

This article establishes the development review procedures for different types of development applications and building permits within the city.

- (A) ***Where is the project located?*** An applicant must first locate the proposed project on the Zoning Map. Once the proposed project has been located, the applicable zone district must be identified from the Zoning Map and legend. Then, by referring to Article 4, District Standards, of this Land Use Code, the applicant will find the district standards which apply to the zone district in which the proposed project is located. The city's staff is available to assist applicants in this regard.

- (B) ***What uses are proposed?*** Next, an applicant must identify which uses will be included in the proposed project. If *all* of the applicant's proposed uses are listed as permitted uses in the applicable zone district for the project, then the applicant is ready to proceed with a development application for a permitted use. If *any* of the applicant's proposed uses are *not* listed as permitted uses in the applicable zone district for the project, then the applicant must either eliminate the nonpermitted uses from his or her proposal, seek the addition of a new permitted use pursuant to Section 1.3.4, seek a text amendment to this Land Use Code or a rezoning amendment to the Zoning Map pursuant to Division 2.9, or seek approval of a PUD Overlay pursuant to Divisions 2.15 and 4.29. Any use not listed as a permitted use in the applicable zone district is deemed a prohibited use in that zone district, unless it has been permitted pursuant to Section 1.3.4 for a particular development application or permitted as part of an approved PUD Overlay. Applications for permits pursuant to the Article 6 areas and activities of state interest provisions may be reviewed regardless of whether the zone district or districts in which the proposed project allow such a use or even expressly prohibit such use. Again, the city's staff will be available to assist applicants with their understanding of the zone districts and permitted uses.
- (C) ***Which type of development application should be submitted?*** To proceed with a development proposal for permitted uses, the applicant must determine what type of development application should be selected and submitted. All development proposals which include only permitted uses must be processed and approved through the following development applications: first through a project development plan (Division 2.4), and then through a final plan (Division 2.5). If the applicant desires to develop in two (2) or more separate project development plan submittals, an overall development plan (Division 2.3) will also be required prior to or concurrently with the project development plan. Overall development plans, PUD Overlays, basic development reviews, project development plans and final plans are the five (5) types of development applications for permitted uses. Each successive development application for a development proposal must build upon the previously approved development application, as needed, by providing additional details (through the development application submittal requirements) and by meeting additional restrictions and standards (contained in the General Development Standards of Article 3 and the District Standards of Article 4). Overall development plans, basic development reviews and project development plans may be consolidated into one (1) application for concurrent processing and review when appropriate under the provisions of Section 2.2.3. The purpose, applicability and interrelationship of these types of development applications are discussed further in Section 2.1.3. Applications for a permit pursuant to the Article 6 areas and activities of state interest provisions are addressed in Division 2.20 and Article 6.
- (D) ***Who reviews the development application?*** Once an applicant has determined the type of development application to be submitted, ~~he or she~~ the applicant must determine the appropriate level of development review required for the development application. To make this determination, the applicant must refer to

the provisions of the applicable zone district in Article 4 and the provisions pertaining to the appropriate development application. These provisions will determine whether the permitted uses and the development application are subject to basic development review, administrative review ("Type 1 review"), Planning and Zoning Board Commission review ("Type 2 review"), or City Council review in the case of PUD Overlays greater than 640 acres and permits to conduct a designated activity or develop in a designated area of state interest. Identification of the required level of development review will, in turn, determine which decision maker, the Director in the case of administrative review ("Type 1 review"), or the Planning and Zoning Board Commission in the case of Planning and Zoning Board Commission review ("Type 2 review"), or the City Council for PUD Overlays greater than 640 acres and permits pursuant to the areas and activities of state interest provisions, will review and make the final decision on the development application. When a development application contains both Type 1 and Type 2 uses, it will be processed as a Type 2 review.

- (E) ***How will the development application be processed?*** The review of overall development plans, PUD Overlays, project development plans and final plans, and permits pursuant to the areas and activities of state interest provisions will each generally follow the same procedural "steps" regardless of the level of review (administrative review, ~~or~~ Planning and Zoning Board Commission, or City Council review). The common development review procedures contained in Division 2.2 establish a twelve-step process equally applicable to all overall development plans, project development plans and final plans.

The twelve (12) steps of the common development review procedures are the same for each type of development application, whether subject to basic development review, administrative review, Planning and Zoning Board Commission review, or City Council review in the case of PUD Overlays greater than 640 acres and permits pursuant to the areas and activities of state interest provisions unless an exception to the common development review procedures is expressly called for in the particular development application requirements of this Land Use Code. In other words, each overall development plan, each project development plan and each final plan will be subject to the twelve-step common procedure. The twelve (12) steps include: (1) conceptual review; (2) neighborhood meeting; (3) development application submittal; (4) determination of sufficiency; (5) staff report; (6) notice; (7) public hearing; (8) standards; (9) conditions of approval; (10) amendments; (11) lapse; and (12) appeals.

However, Step 1, conceptual review, applies only to the initial development application submittal for a development project (i.e., overall development plan or PUD Overlay when required, or project development plan when neither an overall development plan nor a PUD Overlay is required). Subsequent development applications for the same development project are not subject to Step 1, conceptual review.

Moreover, Step 2, neighborhood meeting, applies only to certain development applications subject to Planning and Zoning Board **Commission** and City Council review. Step 2, neighborhood meeting, does not apply to development applications subject to basic development review or administrative review. Step 3, application submittal requirements, applies to all development applications. Applicants shall submit items and documents in accordance with a master list of submittal requirements as established by the City Manager. Overall development plans must comply with only certain identified items on the master list, while PUD Overlays, project development plans, and final plans must include different items from the master list. This master list is intended to assure consistency among submittals by using a "building block" approach, with each successive development application building upon the previous one for that project. City staff is available to discuss the common procedures with the applicant.

- (F) ***What if the development proposal doesn't fit into one of the types of development applications discussed above?*** In addition to the four (4) development applications for permitted uses, the applicant may seek approval for other types of development applications, including development applications for a modification of standards (Division 2.8), an amendment to the text of the Land Use Code and/or the Zoning Map (Division 2.9), a hardship variance (Division 2.10), an appeal of an administrative decision (Division 2.11), **a permit to conduct an activity or develop in an area of state interest (Division 2.20 and Article 6)**, or other requests. These other types of development applications will be reviewed according to applicable steps in the common development review procedures.
- (G) ***Is a building permit required?*** The next step after approval of a final plan is to apply for a Building Permit. Most construction requires a Building Permit. This is a distinct and separate process from a development application. The twelve (12) steps of the common development review procedures must be followed for the Building Permit process. Procedures and requirements for submitting a Building Permit application are described in Division 2.7.
- (H) ***Is it permissible to talk with decision makers "off the record" about a development plan prior to the decision makers' formal review of the application?*** No. Development plans must be reviewed and approved in accordance with the provisions of this Land Use Code and the City's decision whether to approve or deny an application must be based on the criteria established herein and on the information provided at the hearings held on the application. In order to afford all persons who may be affected by the review and approval of a development plan an opportunity to respond to the information upon which decisions regarding the plan will be made, and in order to preserve the impartiality of the decision makers, decision makers who intend to participate in the decisions should avoid communications with the applicant or other members of the public about the plan prior to the hearings in which they intend to participate.

2.1.3 - Types of Development Applications

- (A) **Applicability.** All development proposals which include only permitted uses must be processed and approved through the following development applications: a basic development review; or through a project development plan (Division 2.4), then through a final plan (Division 2.5), then through a development construction permit (Division 2.6) and then through a building permit review (Division 2.7). If the applicant desires to develop in two (2) or more separate project development plan submittals, an overall development plan (Division 2.3) will also be required prior to or concurrently with the project development plan. A PUD Master Plan associated with a PUD Overlay may be substituted for an overall development plan (Divisions 2.15 and 4.29). Each successive development application for a development proposal must build upon the previously approved development application by providing additional details (through the development application submittal requirements) and by meeting additional restrictions and standards (contained in the General Development Standards of Article 3 and the District Standards of Article 4).

Permitted uses subject to administrative review or permitted uses subject to Planning and Zoning Board **Commission** review listed in the applicable zone district set forth in Article 4, District Standards, shall be processed through an overall development plan, a project development plan or a final plan. If any use not listed as a permitted use in the applicable zone district is included in a development application, it may also be processed as an overall development plan, project development plan or final plan, if such proposed use has been approved, or is concurrently submitted for approval, in accordance with the requirements for an amendment to the text of this Land Use Code and/or the Zoning Map, Division 2.9, or in accordance with the requirements for the addition of a permitted use under Section 1.3.4. Development applications for permitted uses which seek to modify any standards contained in the General Development Standards in Article 3, or the District Standards in Article 4, shall be submitted by the applicant and processed as a modification of standards under Division 2.8. Hardship variances to standards contained in Article 3, General Development Standards, or Article 4, District Standards, shall be processed as hardship variances by the ~~Zoning Board of Appeals~~ **Land Use Review Commission** pursuant to Division 2.10. Appeals of administrative/staff decisions shall be according to Division 2.11. PUD overlays shall be processed pursuant to Divisions 2.15, 4.29.

Applications to conduct an activity or develop within an area of state interest are addressed in Division 2.20 and Article 6.

- (B) **Overall Development Plan.**
 - (1) **Purpose and Effect.** The purpose of the overall development plan is to establish general planning and development control parameters for projects that will be developed in phases with multiple submittals while allowing

sufficient flexibility to permit detailed planning in subsequent submittals. Approval of an overall development plan does not establish any vested right to develop property in accordance with the plan.

- (2) *Applicability.* An overall development plan shall be required for any property which is intended to be developed over time in two (2) or more separate project development plan submittals. Refer to Division 2.3 for specific requirements for overall development plans.

(C) ***Project Development Plan and Plat.***

- (1) *Purpose and Effect.* The project development plan shall contain a general description of the uses of land, the layout of landscaping, circulation, architectural elevations and buildings, and it shall include the project development plan and plat (when such plat is required pursuant to Section 3.3.1 of this Code). Approval of a project development plan does not establish any vested right to develop property in accordance with the plan.
- (2) *Applicability.* Upon completion of the conceptual review meeting and after the Director has made written comments and after a neighborhood meeting has been held (if necessary), an application for project development plan review may be filed with the Director. If the project is to be developed over time in two (2) or more separate project development plan submittals, an overall development plan shall also be required. Refer to Division 2.4 for specific requirements for project development plans.

(D) ***Final Plan and Plat.***

- (1) *Purpose and Effect.* The final plan is the site specific development plan which describes and establishes the type and intensity of use for a specific parcel or parcels of property. The final plan shall include the final subdivision plat (when such plat is required pursuant to Section 3.3.1 of this Code), and if required by this Code or otherwise determined by the Director to be relevant or necessary, the plan shall also include the development agreement and utility plan and shall require detailed engineering and design review and approval. Building permits may be issued by the Building and Zoning Director only pursuant to an approved final plan or other site specific development plan, subject to the provisions of Division 2.8.
- (2) *Applicability.* Application for a final plan may be made only after approval by the appropriate decision maker (Director for Type 1 review, or Planning and Zoning Board **Commission** for Type 2 review) of a project development plan, unless the project development and final plans have been consolidated pursuant to Section 2.2.3(B). An approved final plan shall be required for any property which is intended to be developed. No development shall be allowed to develop or otherwise be approved or permitted without an

approved final plan. Refer to Division 2.5 for specific requirements for final plans.

(E) ***Site Plan Advisory Review.***

- (1) *Purpose and Effect.* The Site Plan Advisory Review process requires the submittal and approval of a site development plan that describes the location, character and extent of improvements to parcels owned or operated by public entities. In addition, with respect to public and charter schools, the review also has as its purpose, as far as is feasible, that the proposed school facility conforms to the City's Comprehensive Plan.
- (2) *Applicability.* A Site Plan Advisory Review shall be applied to any public building or structure. For a public or charter school, the Planning and Zoning Board **Commission** shall review a complete Site Plan Advisory Review application within thirty (30) days (or such later time as may be agreed to in writing by the applicant) of receipt of such application under Section 22-32-124, C.R.S. For Site Plan Advisory Review applications under Section 31-23-209, C.R.S., such applications shall be reviewed and approved or disapproved by the Planning and Zoning Board **Commission** within sixty (60) days following receipt of a complete application.

Enlargements or expansions of public buildings, structures, schools and charter schools are exempt from the Site Plan Advisory review process if:

- (a) The change results in a size increase of less than twenty-five (25) percent of the existing building, structure or facility being enlarged, whether it be a principal or accessory use; and
- (b) The enlargement or expansion does not change the character of the building or facility.

Application for a Site Plan Advisory Review is subject to review by the Planning and Zoning Board **Commission** under the requirements contained in Division 2.16 of this Code.

(F) ***PUD Overlay.***

- (1) *Purpose and Effect.* The purpose of the PUD Overlay is to provide an avenue for property owners with larger and more complex development projects to achieve flexibility in site design by means of customized uses, densities, and Land Use Code and non-Land Use Code development standards. In return for such flexibility, significant public benefits not available through traditional development procedures must be provided by the development. A PUD Master Plan is the written document associated

with a PUD Overlay and the PUD Master Plan sets forth the general development plan and the customized uses, densities, and Land Use Code and non-Land Use Code development standards. An approved PUD Overlay overlays the PUD Master Plan entitlements and restrictions upon the underlying zone district requirements.

- (2) **Applicability.** A PUD Overlay is available to properties or collections of contiguous properties fifty (50) acres or greater in size. Refer to Divisions 2.15 and 4.29 for specific requirements and review of PUD Overlays and PUD Master Plans.

(G) Areas and Activities of State Interest.

- (1) **Purpose and Effect.** The areas and activities of state interest guidelines and regulations set forth in Article 6 are adopted pursuant to Section 24-65.1-101, et seq., C.R.S., and provide the City with the ability to review and regulate matters of state interest. A permit issued pursuant to Article 6 is required in order for a proposed development plan related to a designated activity or within a designated area of state interest to be constructed and operate.

- (2) **Applicability.** A permit to conduct a designated activity or to develop within a designated area of state interest within the City is required for all proposed development plans meeting the criteria set forth in Article 6 unless an exemption exists pursuant to Section 6.4.1 or a finding of negligible adverse impact is issued pursuant to Section 6.6.5.

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2.1.6 - Optional Pre-Application Review

(A) *Optional City Council Pre-Application Review of Complex Development Proposals:*

A potential applicant for development other than a PUD Overlay may request that the City Council conduct a hearing for the purpose of receiving preliminary comments from the City Council regarding the overall proposal in order to assist the proposed applicant in determining whether to file a development application or annexation petition. Only one (1) pre-application hearing pursuant to this Subsection (A) may be requested. The following criteria must be satisfied for such a hearing to be held:

- (a) The proposed development cannot have begun any step of the Common Development Review Procedures for Development Applications set forth in Article 2, Division 2.2.

- (b) The proposed application for approval of a development plan must require City Council approval of an annexation petition, an amendment to the City's Comprehensive Plan, or some other kind of formal action by the City Council, other than a possible appeal under this Land Use Code.
- (c) The City Manager must determine in writing that the proposed development will have a community-wide impact.

(B) *Optional Pre-Application PUD Overlay Proposal Review:*

This optional review is available to potential PUD applicants that have not begun any step of the Common Development Review Procedures for Development Applications set forth in Article 2, Division 2.2. Such review is intended to provide an opportunity for applicants to present conceptual information to the Planning and Zoning Board Commission for PUD Overlays between 50 and 640 acres in size, or to City Council for PUD Overlays greater than 640 acres in size, regarding the proposed development including how site constraints will be addressed and issues of controversy or opportunities related to the development. Applicants participating in such review procedure should present specific plans showing how, if at all, they intend to address any issues raised during the initial comments received from staff and affected property owners. In order for a pre-application hearing to be held, the Director must determine in writing that the proposed PUD will have a community-wide impact. Only one (1) pre-application hearing pursuant to this Subsection (B) may be requested.

(C) *Optional Pre-Application Area and Activity Proposal Review:*

A potential applicant to conduct a designated activity or develop within a designated area of state interest may request that the City Council conduct a hearing for the purpose of receiving preliminary comments from the City Council regarding the overall proposal in order to assist the proposed applicant. Only one (1) pre-application hearing pursuant to this Subsection (C) may be requested. The following criteria must be satisfied for such a hearing to be held:

- (a) The proposed development cannot have begun any step of the Common Development Review Procedures for Development Applications set forth in Article 2, Division 2.2.
- (b) The proposed application for a permit pursuant to Article 6 must require City Council approval of a permit for areas and activities of state interest.
- (c) The City Manager must determine in writing that the proposed development will have a community-wide impact.

(E) *Notice and Hearing Procedure.*

All preapplication hearings under above Subsections (A), ~~or (B)~~, or (C) of this provision will be held in accordance with the provisions contained in Steps (6), (7)(B) and (7)(C) of the Common Development Review Procedures, except that the signs required to be posted under Step (6)(B) shall be posted subsequent to the scheduling of the session and not less than fourteen (14) days prior to the date of the hearing. At the time of requesting the hearing, the applicant must advance the City's estimated costs of providing notice of the hearing. Any amounts paid that exceed actual costs will be refunded to the applicant.

(E) *Input Non-Binding, Record.*

The Planning and Zoning Board ~~Commission~~ or City Council as applicable pursuant to above Subsections (A), ~~or (B)~~, or (C) may, but shall not be required to, comment on the proposal. Any comment, suggestion, or recommendation made by any Planning and Zoning Board ~~Commission~~ or City Council member with regard to the proposal does not bind or otherwise obligate any City decision maker to any course of conduct or decision pertaining to the proposal. All information related to an optional review shall be considered part of the record of any subsequent development review related to all or part of the property that was the subject of the optional review.

Section 4. That Section 2.2.3 of the Land Use Code is hereby amended to read as follows:

2.2.3 - Step 3: Development Application Submittal

- (A) *Development Application Forms.* All development applications shall be in a form established by the Director and made available to the public.
- (B) *Consolidated Development Applications and Review.* Development applications combining an overall development plan and a project development plan for permitted uses for the same development proposal may be consolidated for submittal and review, in the discretion of the Director, depending upon the complexity of the proposal. For these consolidated applications, the applicant shall follow the project development plan development review procedures. Such consolidated applications shall be reviewed, considered and decided by the highest level decision maker that would have decided the development proposal under Section 2.2.7 had it been submitted, processed and considered as separate development applications. Decision makers, from highest level to lowest level, are the Planning and Zoning Board ~~Commission~~ and the Director, respectively.

(C) *Development Application Contents.*

- (1) *Development Application Submittal Requirements Master List.* A master list of development application submittal requirements shall be established by the Director. The master list shall, at a minimum, include a list of all information, data, explanations, analysis, testing, reports, tables, graphics, maps, documents, forms or other items reasonably necessary, desirable or convenient to (1) determine whether or not the applicant, developer and/or owner have the requisite power, authority, clear title, good standing, qualifications and ability to submit and carry out the development and/or activities requested in the development application; and (2) determine whether or not the development activities and development application address and satisfy each and every applicable general development standard, district standard or other requirement or provisions of this Land Use Code.
- (2) *Submittal Requirement.* Each development application shall be submitted to the Director and shall include the items on the master list that are identified as submittal requirements for that development application. The Director may waive items on the master list that are not applicable due to the particular conditions and circumstances of that development proposal. **At the time of application submittal, all applicants must agree in writing to pay the costs for third-party consultants the City retains to adequately review the application as described in Land Use Code Section 2.2.3(D)(3).**
- (3) *Execution of Plats/Deeds; Signature Requirements.* All final plats and/or deeds (for conveyances of real property either off the site described on the plat or at a time or in a manner separate from the plat), submitted to the City shall:
 - (a) be signed by all current owners of any recorded fee interest in the surface of the land described on the plat (or in the deed), whether full or defeasible and whether solely or partially owned.
 - (b) be signed by all current owners of any equitable interest arising out of a contract to purchase any fee interest in the surface of the land described on the plat (or in the deed), whether full or defeasible and whether solely or partially owned.
 - (c) be signed by all current record owners of any non-freehold interest arising from any recorded lease of the surface of the land described on the plat (or in the deed) if such lease has a remaining term of six (6) years following approval of the final development plan by the decision maker or if such lease contains any right of extension which, if exercised by the tenant, would create a remaining term of

six (6) years following approval of the final development plan by the decision maker.

- (d) be signed by all current owners of any recorded mortgage, deed of trust or other lien, financial encumbrance upon or security interest in the lands described on the plat (or deed) which, if foreclosed would take, injure, diminish or weaken the city's interest in any land, easement or right-of-way which is dedicated to the city or to the public on the plat (or in the deed).
- (e) be signed by all current owners of any easement or right-of-way in the lands described on the plat (or in the deed) whether on, above or below the surface, which includes rights which will take, injure, diminish or weaken the city's interest in any land, easement or right-of-way which is dedicated to the city or to the public on the plat (or in the deed).
- (f) be signed by an attorney licensed to practice law in the State of Colorado certifying to the city that all signatures as required pursuant to subparagraphs (a) through (e) above have lawfully and with full authority been placed upon the plat (or in the deed). Said certification may be limited by the attorney so certifying to only those ownership interests that are of record or, if not of record, are either actually known to the certifying attorney to exist, or in the exercise of reasonable diligence, should have been known to the certifying attorney to exist. For purposes of such certification, the terms "record," "recorded" and "of record" shall mean as shown by documents recorded in the real estate records in the Clerk and Recorder's Office of Larimer County, Colorado prior to the date of certification.
- (g) contain a maintenance guarantee, a repair guarantee and a certificate of dedication signed by the developer and the owner (as described in subparagraph (a) above), which provide a two-year maintenance guarantee and five-year repair guarantee covering all errors or omissions in the design and/or construction. The specific provisions of the maintenance guarantee, repair guarantee and certificate of dedication shall be established by the City Engineer.
- (h) contain the legal notarization of all signatures as required pursuant to subparagraphs (a) through (e) above to be placed upon the plat (or deed).

The Director may waive or modify the requirements of subparagraphs (b) through (e), and the requirements of subparagraph (g) above upon a clear and convincing showing by the applicant that such waiver or modification will not result in any

detriment to the public good, including without limitation, detriment to the interest of the public in the real property conveyed to it on the plat (or in the deed); and will not result in any harm to the health, safety or general welfare of the City and its citizens.

(D) **Development Review Fees and Costs for Specialized Consultants.**

(1) *Recovery of Costs.* Development review fees are hereby established for the purpose of recovering the costs incurred by the City in processing, reviewing and recording applications pertaining to development applications or activity within the municipal boundaries of the City, and issuing permits related thereto. The development review fees imposed pursuant to this Section shall be paid at the time of submittal of any development application, or at the time of issuance of the permit, as determined by the City Manager and established in the development review fee schedule.

(2) *Development Review Fee Schedule.* The amount of the City's various development review fees shall be established by the City Manager, and shall be based on the actual expenses incurred by or on behalf of the City. The schedule of fees shall be reviewed annually and shall be adjusted, if necessary, by the City Manager on the basis of actual expenses incurred by the City to reflect the effects of inflation and other changes in costs. At the discretion of the City Manager, the schedule may be referred to the City Council for adoption by resolution or ordinance.

(3) **Specialized Consultants.** In the Director's discretion, the City may retain the services of third-party consultants with specialized knowledge that the City requires to adequately evaluate an application, the costs of which must be paid by the applicant with such payment agreed to in writing at the time of application submittal. Prior to retaining any consultant, the Director must inform the applicant of the intent to retain such consultant and the estimated costs. The applicant must pay to the City the estimated costs prior to the City retaining the consultant. Within sixty (60) days of completion of the consultant's work, the applicant must pay to the City the actual cost of the consultant's services in excess of the estimate or the City must refund any portion of the estimate in excess of the actual cost.

Section 5. That Section 2.2.4 of the Land Use Code is hereby amended to read as follows:

2.2.4 - Step 4: Review Of Applications

(A) *Determination of Sufficiency.* After receipt of the development application, the Director shall determine whether the application is complete and ready for review.

The determination of sufficiency shall not be based upon the perceived merits of the development proposal.

(B) *Specialized Consultants to Assist With Review.* As described in Section 2.2.3(D)(3), the City may retain the services of third-party consultants with specialized knowledge that the City requires to adequately evaluate whether an application is complete pursuant to above Subsection (A) or to assist in the review of a complete application, the costs of which must be paid by the applicant.

(BC) *Processing of Incomplete Applications.* Except as provided below, if a submittal is found to be insufficient, all review of the submittal will be held in abeyance until the Director receives the necessary material to determine that the submittal is sufficient. The development application shall not be reviewed on its merits by the decision maker until it is determined sufficient by the Director. Notwithstanding the foregoing, if an application has been determined to be incomplete because the information provided to the Director shows that a portion of the property to be developed under the application is not yet under the ownership and control of the applicant or developer, the Director may nonetheless authorize the review of such application and the presentation of the same to the decision maker, as long as:

- (1) the applicant, at the time of application, has ownership of, or the legal right to use and control, the majority of the property to be developed under the application;
- (2) the Director determines that it would not be detrimental to the public interest to accept the application for review and consideration by the decision maker; and
- (3) the applicant and developer enter into an agreement satisfactory in form and substance to the City Manager, upon consultation with the City Attorney, which provides that:
 - (a) until such time as the applicant has acquired full ownership and control of all property to be developed under the application, neither the applicant nor the developer will record, or cause to be recorded, in the office of the Larimer County Clerk and Recorder any document related to the City's review and approval of the application; and
 - (b) the applicant will indemnify and hold harmless the City and its officers, agents and assigns from any and all claims that may be asserted against them by any third party, claiming injury or loss of any kind whatsoever that are in any way related to, or arise from, the City's processing of the application.

The denial of an incomplete application that has been allowed to proceed to the decision maker under the provisions of this Section shall not cause a post denial re-submittal delay under the provisions of Paragraph 2.2.11(D)(9) for property that was not owned by the applicant or within the applicant's legal right to use and control at the time of denial of the application.

Section 6. That Section 2.2.6 of the Land Use Code is hereby amended to read as follows:

2.2.6 - Step 6: Notice

- (A) **Mailed Notice.** The Director shall mail written notice to the owners of record of all real property within eight hundred (800) feet (exclusive of public rights-of-way, public facilities, parks or public open space) of the property lines of the parcel of land for which the development is planned. Owners of record shall be ascertained according to the records of the Larimer County Assessor's Office, unless more current information is made available in writing to the Director prior to the mailing of the notices. If the development project is of a type described in the Supplemental Notice Requirements of subsection 2.2.6(D), then the area of notification shall conform to the expanded notice requirements of that Section. In addition, the Director may further expand the notification area. Formally designated representatives of bona fide neighborhood groups and organizations and homeowners' associations within the area of notification shall also receive written notice. Such written notices shall be mailed at least fourteen (14) days prior to the public hearing/meeting date. The Director shall provide the applicant with a map delineating the required area of notification, which area may be extended by the Director to the nearest streets or other distinctive physical features which would create a practical and rational boundary for the area of notification. The applicant shall pay postage and handling costs as established in the development review schedule.
- (B) **Posted Notice.** The real property proposed to be developed shall also be posted with a sign, giving notice to the general public of the proposed development. For parcels of land exceeding ten (10) acres in size, two (2) signs shall be posted. The size of the sign(s) required to be posted shall be as established in the Supplemental Notice Requirements of subsection 2.2.6(D). Such signs shall be provided by the Director and shall be posted on the subject property in a manner and at a location or locations reasonably calculated by the Director to afford the best notice to the public, which posting shall occur within fourteen (14) days following submittal of a development application to the Director.
- (C) **Published Notice.** Notice of the time, date and place of the public hearing/ meeting on the development application and the subject matter of the hearing shall be published in a newspaper of general circulation within the City at least seven (7) days prior to such hearing/meeting.

(D) *Supplemental Notice Requirements.*

	<i>Minimum Notice Radius</i>	<i>Sign Size</i>
All developments except as described below.	800 feet	12 square feet
Developments proposing more than fifty (50) and less than one hundred (100) single-family or two-family lots or dwelling units.	800 feet	12 square feet
Developments proposing more than twenty-five (25) and less than one hundred (100) multi-family dwelling units.	800 feet	12 square feet
Nonresidential developments containing more than twenty-five thousand (25,000) and less than fifty thousand (50,000) square feet of floor area.	800 feet	12 square feet
Developments proposing one hundred (100) or more single-family or two-family lots or dwelling units.	1,000 feet	12 square feet
Developments proposing one hundred (100) or more multi-family dwelling units.	1,000 feet	12 square feet
Nonresidential developments containing fifty thousand (50,000) or more square feet of floor area.	1,000 feet	12 square feet
Nonresidential developments which propose land uses or activities which, in the judgment of the Director, create community or regional impacts.	1,000 feet; plus, with respect to neighborhood meetings, publication of a notice not less than seven (7) days prior to the meeting in a newspaper of general circulation in the City.	12 square feet
Off-site construction staging	500 feet	12 square feet
Zonings and rezonings of forty (40) acres or less.	800 feet	12 square feet
Zonings and rezonings of more than forty (40) acres.	1,000 feet	12 square feet
Area or activity of state interest.	1,000 feet in all directions of the location of a proposed development plan as determined by the Director, this distance	12 square feet, however, the Director may require an increased number of

	<p>shall apply to mailed notice for neighborhood meetings, appeals of Director FONAI decisions, Planning and Zoning Commission permit recommendations, and City Council permit hearings</p>	<p>signs depending upon the size and configuration of the proposed development plan</p>
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(E) The following shall not affect the validity of any hearing, meeting or determination by the decision maker:

- (1) The fact that written notice was not mailed as required under the provision of this Section.
- (2) The fact that written notice, mailed as required under the provision of this Section, was not actually received by one (1) or more of the intended recipients.
- (3) The fact that signage, posted in compliance with the provision of this Section, was subsequently damaged, stolen or removed either by natural causes or by persons other than the person responsible for posting such signage or his or her agents.

Section 7. That Section 2.2.12 of the Land Use Code is hereby amended to read as follows:

2.2.12 - Step 12: Appeals/Alternate Review

- (A) *Appeals.* Appeals of any final decision of a decision maker under this Code shall be only in accordance with Chapter 2, Article II, Division 3 of the City Code, unless otherwise provided in this Section or Division 2.
- (B) *Alternate Review.* Despite the foregoing, if the City is the applicant for a development project, there shall be no appeal of any final decision regarding such development project to the City Council. In substitution of an appeal of a development project for which the City is the applicant, the City Council may, by majority vote, as an exercise of its legislative power and in its sole discretion, overturn or modify any final decision regarding such project, by ordinance of the City Council. Any Councilmember may request that the City Council initiate this exercise of legislative power but only if such request is made in writing to the City Clerk within fourteen (14) days of the date of the final decision of the Planning and Zoning Board-Commission. City Council shall conduct a hearing prior to the adoption of the ordinance in order to hear public testimony and receive and consider

any other public input received by the City Council (whether at or before the hearing) and shall conduct its hearing in the manner customarily employed by the Council for the consideration of legislative matters. When evaluating City projects under alternate review, the City Council may, in its legislative discretion, consider factors in addition to or in substitution of the standards of this Land Use Code.

(C) *Appeal of Minor Amendment, Changes of Use, and Basic Development Review Decisions by the Director.* The Director's final decision on a minor amendment or change of use application pursuant to Section 2.2.10(A) or basic development review application pursuant to Division 2.18 may be appealed to the Planning and Zoning ~~Board~~ **Commission** as follows:

(1) *Parties Eligible to File Appeal.* The following parties are eligible to appeal the Director's final decision on a minor amendment, change of use, or basic development review application:

- (a) The applicant that submitted the application subject to the Director's final decision;
- (b) Any party holding an ownership or possessory interest in the real or personal property that was the subject of the final decision;
- (c) Any person to whom or organization to which the City mailed notice of the final decision;
- (d) Any person or organization that provided written comments to the appropriate City staff for delivery to the Director prior to the final decision; and
- (e) Any person or organization that provided written comments to the appropriate City staff for delivery to the decision maker prior to the final decision on the project development plan or final plan being amended or provided spoken comments to the decision maker at the public hearing where such final decision was made.

(2) *Filing Notice of Appeal.* An appeal shall be commenced by filing a notice of appeal with the Director within fourteen (14) calendar days after the date the written final decision is made that is the subject of the appeal. Such notice of appeal shall be on a form provided by the Director, shall be signed by each person joining the appeal ("appellant"), and shall include the following:

- (a) A copy of the Director's final decision being appealed;

- (b) The name, address, email address, and telephone number of each appellant and a description why each appellant is eligible to appeal the final decision pursuant to Subsection (C)(1) above;
 - (c) The specific Land Use Code provision(s) the Director failed to properly interpret and apply and the specific allegation(s) of error and/or the specific Land Use Code procedure(s) not followed that harmed the appellant(s) and the nature of the harm; and
 - (d) In the case of an appeal filed by more than one (1) person, the name, address, email address and telephone number of one (1) such person who shall be authorized to receive, on behalf of all persons joining the appeal, any notice required to be mailed by the City to the appellant.
- (3) *Scheduling of Appeal.* A public hearing shall be scheduled before the Planning and Zoning ~~Board~~ **Commission** within sixty (60) calendar days of a notice of appeal being deemed complete unless the Planning and Zoning ~~Board~~ **Commission** adopts a motion granting an extension of such time period.
- (4) *Notice.* Once a hearing date before the Planning and Zoning ~~Board~~ **Commission** has been determined, the Director shall mail written notice pursuant to Section 2.2.6(A). Notice requirements set forth in Section 2.2.6(B)-(D) shall not apply. The mailed notice shall inform recipients of:
- (a) The subject of the appeal;
 - (b) The date, time, and place of the appeal hearing;
 - (c) The opportunity of the recipient and members of the public to appear at the hearing and address the Planning and Zoning ~~Board~~ **Commission**; and
 - (d) How the notice of appeal can be viewed on the City's website.
- (5) *Planning and Zoning ~~Board~~ **Commission** Hearing and Decision.*
- (a) The Planning and Zoning ~~Board~~ **Commission** shall hold a public hearing pursuant to Section 2.2.7 to decide the appeal, and City staff shall prepare a staff report for the Planning and Zoning ~~Board~~ **Commission**. The notice of appeal, copy of the Director's final decision, and the application and all application materials submitted to the Director shall be provided to the Planning and Zoning ~~Board~~ **Commission** for its consideration at the hearing.

- (b) The hearing shall be considered a new, or *de novo*, hearing at which the Planning and Zoning Board-Commission shall not be restricted to reviewing only the allegations of error listed in the notice of appeal, the Planning and Zoning Board-Commission shall not give deference to the Director's final decision being appealed, and the applicant shall have the burden of establishing that the application complies with all relevant Land Use Code provisions and should be granted. The applicant, appellant or appellants, members of the public, and City staff may provide information to the Planning and Zoning Board-Commission for its consideration at the appeal hearing that was not provided to the Director for his or her consideration in making the final decision being appealed.
- (c) The Planning and Zoning Board-Commission shall review the application that is the subject of the appeal for compliance with all applicable Land Use Code standards and may uphold, overturn, or modify the decision being appealed at the conclusion of the hearing and may impose conditions in the same manner as the Director pursuant to Section 2.2.10(A) and Division 2.18. The Planning and Zoning Board-Commission decision shall constitute a final decision appealable to City Council pursuant to Section 2.2.12(A).

(D) *Appeal of FONAI Determination.* The Director's determination pursuant to Section 6.5.5 that a proposed development plan would have negligible adverse impact and would not require a permit pursuant to Article 6, or that a proposed development plan would cause more than a negligible adverse impact and must obtain a permit pursuant to Article 6, may be appealed to the Planning and Zoning Commission as follows:

(1) *Parties Eligible to File Appeal.* The applicant is the only party eligible to file an appeal of the Director's determination that a proposed development plan would cause more than a negligible adverse impact and, therefore, a permit is required pursuant to Article 6.

Any person is eligible to file an appeal of the Director's finding that a proposed development plan would cause only a negligible adverse impact and would not require a permit pursuant to Article 6.

(2) *Filing Notice of Appeal.* An appeal shall be commenced by filing a notice of appeal with the Director within fourteen (14) calendar days after the date of the written final determination on a FONAI application. Such notice of appeal shall be on a form provided by the Director, shall be signed by each person joining the appeal ("appellant"), and shall include the following:

(a) A copy of the Director's determination being appealed;

- (b) The name, address, email address, and telephone number of each person joining the appeal;
- (c) The specific reasons why the appellant believes the Director’s determination is incorrect; and
- (d) In the case of an appeal filed by more than one (1) person, the name, address, email address and telephone number of one (1) such person who shall be authorized to receive, on behalf of all persons joining the appeal, any notice required to be mailed by the City to the appellant.

The Director shall reject any notice of appeal that is not timely filed, does not contain the information set forth in (a) – (d) above, or is not filed by a party with standing to file an appeal. The decision to reject a notice of appeal is not subject to appeal. Should multiple notices of appeal be filed, a single hearing shall be held.

(3) *Scheduling of Appeal.* A public hearing shall be scheduled before the Planning and Zoning Commission as soon as practicable but not later than within sixty (60) calendar days of a complete notice of appeal being filed. In the instance that multiple notices of appeal are filed, the sixty days shall be counted from the date the first complete notice of appeal is filed.

(4) *Notice.* Once a hearing date has been determined, the Director shall mail written notice to the appellant and all parties to whom notice of the decision was mailed pursuant to Section 6.6.5(E)(3). The mailed notice shall inform recipients of:

- (a) The subject of the appeal;
- (b) The date, time, and place of the appeal hearing;
- (c) The opportunity of the recipient and members of the public to appear at the hearing and address the Planning and Zoning Commission; and
- (d) How the notice of appeal can be viewed on the City's website.

(5) *Planning and Zoning Commission Hearing and Decision.*

(a) The Planning and Zoning Commission shall hold a public hearing pursuant to Section 2.2.7 to decide the appeal with appellant being substituted for applicant in Section 2.2.7. In any appeal of a Director finding that a proposed development project would have a negligible adverse impact and is not required to obtain a permit, the procedure

set forth in Section 2.2.7 shall be modified to provide the FONAI applicant an opportunity equal to that of the appellant to address the Commission and respond to evidence and arguments raised by the appellant and members of the public. City staff shall prepare a staff report for the Commission. The notice of appeal, copy of the Director's final decision, and the application and all application materials submitted to the Director shall be provided to the Commission for its consideration at the hearing.

(b) The hearing shall be considered a new, or *de novo*, hearing at which the Planning and Zoning Commission shall not be restricted to reviewing only the allegations of error listed in the notice of appeal, the Planning and Zoning Commission shall not give deference to the Director's decision being appealed, and the burden shall be on the appellant to establish why the appeal should be granted. The applicant, appellant, members of the public, and City staff may provide information to the Planning and Zoning Commission for its consideration at the appeal hearing that was not provided to the Director for their consideration in making the decision being appealed.

(c) The Planning and Zoning Commission shall review the application that is the subject of the appeal for compliance with all applicable criteria set forth in Section 6.6.5(A) and shall uphold or overturn the Director's determination. The Planning and Zoning Commission decision shall constitute a final decision appealable to City Council pursuant to Section 2.2.12(A).

Section 8. That Section 2.17 of the Land Use Code is hereby amended to read as follows:

DIVISION 2.17 - CITY PROJECTS

Development projects for which the City is the applicant shall be processed in the manner described in this Land Use Code, as applicable, but shall be subject to review by the Planning and Zoning Board Commission in all instances, except for permits pursuant to Article 6 in which City Council is the decision maker, despite the fact that certain uses would otherwise have been subject to administrative review.

Section 9. That Article II of the Land Use Code is hereby amended by the addition of a new Division 2.20 which reads in its entirety as follows:

DIVISION 2.20 - AREAS AND ACTIVITIES OF STATE INTEREST

(A) *Purpose.* Pursuant to Colorado Revised Statutes Section 24-65.1-101, et. seq, the City is empowered to designate certain activities and areas to be matters of state

interest and to regulate designated activities and areas through adopted guidelines and regulations. The Land Use Code areas and activities of state interest provisions in Article 6 set forth procedures and requirements for the designation of activities and areas as matters of state interest, procedures for requesting a permit to conduct a designated activity or develop in a designated area, and criteria that must be met in order for a permit to be issued.

(B) Applicability. These areas and activities of state interest provisions 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. To the extent a proposed development plan could be reviewed under another Land Use Code process, such plan shall be reviewed under Article 6 unless an exemption exists pursuant to Section 6.4.1 or the Director issues a finding of negligible adverse impact (“FONAI”) pursuant to Section 6.6.5. Proposed development plans for which the Planning and Zoning Commission denied a Site Plan Advisory Review application prior to the effective date of Article 6 shall be subject to such regulations unless an exemption exists or a FONAI is issued.

A permit to conduct a designated activity or develop in an area of state interest may be issued for a proposed 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 proposed development plan as an allowed use or otherwise prohibit such use.

(C) Process.

(1) Step 1 (Conceptual Review): Applicable.

(Pre-Application Area or Activity Review): The Director shall require an additional pre-application areas and activities review pursuant to Section 6.6.3 for any proposed development plan that the Director determines may require a permit pursuant to Article 6. The purposes of the pre-application area or activity review are described in Section 6.6.3(A). The Director may retain the services of third-party consultants pursuant to the terms of Land Use Code Section 2.2.3(D)(3) to assist the Director during the pre-application areas and activities review.

(2) Step 2 (Neighborhood Meeting): Applicable.

(3) Step 3 (Development Application Submittal): Applicable. The simultaneous processing of development applications submitted in association with an application for a permit to conduct a designated activity or develop in an area of state interest is addressed in Section 6.6.9, and combined applications for a permit to conduct multiple activities or develop in multiple areas of state interest is addressed in Section 6.6.10.

(4) **Step 4** (Review of Application): Applicable except that Section 6.6.7 shall substitute for Land Use Code Section 2.2.4(A).

(5) **Step 5** (Staff Report): Applicable.

(6) **Step 6** (Notice): Applicable with particular timing for published and mailed notice as set forth in Section 6.6.11.

(7) **Step 7** (Public Hearing):

7(A) (Decision Maker): Not applicable and in substitution therefor, City Council is the decision maker on permits pursuant to Article 6 after receiving a Planning and Zoning Commission recommendation.

Steps 7(B) (Conduct of Public Hearing), **7(C)** (Order of Proceedings at Public Hearing):

Applicable to Planning and Zoning Commission hearings where a recommendation on a permit application will be made.

Not applicable to City Council hearings where a decision on a permit application will be made. City Council shall adopt into its rules of procedure a procedure for conducting such hearings.

Applicable to appeals of Director FONAI determinations to the Planning and Zoning Commission as modified pursuant to Section 2.2.12(D)(5).

Not applicable to appeals to City Council of Planning and Zoning Commission decisions on appeals of Director FONAI decisions. The procedures set forth in the Code of the City of Fort Collins Chapter 2, Article II, Division 3 shall apply.

7(D) (Decision and Findings): Not applicable and in substitution therefor, see Section 6.6.5 regarding Director FONAI determinations, Section 2.2.12(D) regarding appeals of Director FONAI decisions, and Section 6.6.11 regarding Planning and Zoning Commission recommendations on permits and City Council permit decisions.

7(E) (Notification to Applicant), **7(F)** (Record of Proceedings), **7(G)** (Recording of Decisions and Plat): *Applicable.*

(8) **Step 8** (Standards): Applicable except that the applicable standards that must be met are set forth in Article 6.

(9) **Step 9** (Conditions of Approval): Applicable to Planning and Zoning Commission recommendations on permit applications and City Council decisions on permit applications as modified pursuant to Section 6.6.14.

- (10) **Step 10** (Amendments): Not applicable and in substitution thereof, the requirements of Sections 6.12.3 and 6.12.4 shall apply
- (11) **Step 11** (Lapse): Only 2.2.11(A) is applicable and approved permits for areas and activities of state interest are not eligible for vested rights pursuant to the Land Use Code. Sections 6.6.14 and 6.11.1 require that the permittee make substantial steps toward initiating and completing the proposed development plan or the permit may be subject to revocation.
- (12) **Step 12** (Appeals): Applicable pursuant to Section 2.2.12(D).

Section 10. That the definitions of “Development”, “Development application”, and “Development plan” contained in Section 5.1.2 of the Land Use Code are hereby amended to read as follows:

Development shall mean the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or, except as is authorized in Section 1.4.7, the dividing of land into two (2) or more parcels.

- (1) *Development* shall also include:
- (a) Any construction, placement, reconstruction, alteration of the size, or material change in the external appearance of a structure on land;
 - (b) Any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;
 - (c) Any change in use of land or a structure;
 - (d) Any alteration of a shore or bank of a river, stream, lake, pond, reservoir or wetland;
 - (e) The commencement of drilling (except to obtain soil samples), mining, stockpiling of fill materials, filling or excavation on a parcel of land;
 - (f) The demolition of a structure;
 - (g) The clearing of land as an adjunct of construction;
 - (h) The deposit of refuse, solid or liquid waste, or fill on a parcel of land;
 - (i) The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property;

- (j) The construction of a roadway through or adjoining an area that qualifies for protection by the establishment of limits of development.
- (2) Development shall not include:
- (a) Work by the City, or by the Downtown Development Authority (if within the jurisdictional boundary of the Downtown Development Authority and if such work has been agreed upon in writing by the City and the Authority), or work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way, or on land adjacent to the right-of-way if such work is incidental to a project within the right-of-way. Notwithstanding, such work shall be considered development if it is determined to require a permit pursuant to Land Use Code Article 6 Guidelines and Regulations for Areas and Activities of State Interest;
 - (b) Work by the City or any public utility for the purpose of restoring or stabilizing the ecology of a site, or for the purpose of inspecting, repairing, renewing or constructing, on public easements or rights-of-way, any mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks or the like; provided, however, that this exemption shall not include work by the City or a public utility in constructing or enlarging mass transit or railroad depots or terminals or any similar traffic-generating activity. Notwithstanding, such work shall be considered development if it is determined to require a permit pursuant to Land Use Code Article 6, Guidelines and Regulations for Areas and Activities of State Interest;
 - (c) Work by any person to restore or enhance the ecological function of natural habitats and features, provided that such work does not result in adverse impacts to rivers, streams, lakes, ponds, wetlands other natural habitats or features, or adjacent properties as determined by the Director; and provided that all applicable State, Federal, and local permits or approvals have been obtained;
 - (d) The maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure;
 - (e) The use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products; for raising or feeding livestock (other than in feedlots); for other agricultural uses or purposes; or for the delivery of water by ditch or canal to agricultural uses or purposes, provided none of the above creates a nuisance, and except that an urban agriculture license is required in accordance with Section 3.8.31 of this Code;

- (f) A change in the ownership or form of ownership of any parcel or structure;
 - (g) The creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land;
 - (h) The installation, operation, maintenance, or upgrade of a small cell or broadband facility by a telecommunications provider principally located within a public highway as the terms small cell facility, telecommunications provider, and public highway are defined in Section 38-5.5-102, C.R.S. The regulation of such activities is addressed in Chapter 23 of the Code of the City of Fort Collins.
- (3) When appropriate in context, development shall also mean the act of developing or the result of development.

Development application shall mean any application or request submitted in the form required by the Land Use Code and shall include only applications for an overall development plan, a PUD Overlay, a project development plan, a final plan, a basic development review, a Building Permit, a modification of standards, amendments to the text of this Code or the Zoning Map, a hardship variance, ~~or~~ an appeal from administrative decisions prescribed in Article 2, a minor or major plan amendment, or a permit application pursuant to the Article 6 areas and activities of state interest provisions.

...

Development plan shall mean an application submitted to the City for approval of a permitted use which depicts the details of a proposed development. *Development plan* includes an overall development plan, a project development plan, a final plan, a basic development review, and/or an amendment of any such plan. A PUD Overlay is also considered to be a *development plan* even though the PUD Overlay may request uses that are not permitted in the applicable underlying zone district. Additionally, an application for a permit pursuant to the Article 6 areas and activities of state interest provisions is considered a development plan even though the application may propose uses that are not permitted in the applicable zone district or districts.

...

Section 11. That the Land Use Code is hereby amended by the addition of a new Article 6 which reads in its entirety as follows:

**ARTICLE 6
GUIDELINES AND REGULATIONS FOR
AREAS AND ACTIVITIES OF STATE INTEREST**

Division 6.1 Introductory and General Provisions

- 6.1.1 Title and Citation
- 6.1.2 Purpose and Findings; Scope
- 6.1.3 Authority
- 6.1.4 Applicability
- 6.1.5 Permit Required; Allowed Use Not Required; Stay On Issuance of Easements and Other Permits
- 6.1.6 Relationship of Regulations to other City, State and Federal Requirements
- 6.1.7 Maps
- 6.1.8 Severability
- 6.1.9 Definitions

Division 6.2 Procedure for Designation of Matters of State Interest

- 6.2.1 City Council to Make Designations
- 6.2.2 Public Hearing Required
- 6.2.3 Notice of Public Hearing; Publication
- 6.2.4 Matters to be Considered at Designation Hearing
- 6.2.5 Adoption of Designation and Regulations
- 6.2.6 Effect of Notice of Designation – Moratorium until Final Determination
- 6.2.7 Mapping Disputes

Division 6.3 Designated Activities of State Interest

- 6.3.1 Designated Areas and Activities of State Interest

Division 6.4 Exemptions

- 6.4.1 Exemptions

Division 6.5 Permit Authority

- 6.5.1 Permit Authority Established

Division 6.6 Permit Application Procedures

- 6.6.1 Preliminary Design Review
- 6.6.2 Application Fee; Financial Security Waiver
- 6.6.3 Pre-Application Area or Activity Review
- 6.6.4 Neighborhood Meeting
- 6.6.5 Determination of Applicability of Regulations- FONAI

- 6.6.6 Application Submission Requirements
- 6.6.7 Determination of Completeness
- 6.6.8 Referral Agencies
- 6.6.9 Simultaneous Processing of Associated Development Applications
- 6.6.10 Combined Application for Multiple Activities or Development in More than One Area of State Interest.
- 6.6.11 Permit Decision Making Procedures
- 6.6.12 Conduct of Permit Hearings
- 6.6.13 Approval or Denial of Permit Application
- 6.6.14 Issuance of Permit, Conditions

Division 6.7 Common Review Standards

- 6.7.1 Review Standards for All Applications

Division 6.8 Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extensions of Such Systems

- 6.8.1 Applicability
- 6.8.2 Purpose and Intent
- 6.8.3 Specific Review Standards for Major New Domestic Water or Sewage Treatment Systems or Major Extensions

Division 6.9 Site Selection of Arterial Highways and Interchanges and Collector Highways

- 6.9.1 Applicability
- 6.9.2 Purpose and Intent
- 6.9.3 Specific Review Standards Specific Review Standards for Arterial Highway, Interchange or Collector Highway Projects

Division 6.10 Financial Security

- 6.10.1 Financial Security

Division 6.11 Suspension or Revocation of Permits

- 6.11.1 Suspension or Revocation of Permits

Division 6.12 Review, Renewal, Amendment, Transfer

- 6.12.1 Annual Review; Progress Reports
- 6.12.2 Permit Renewal
- 6.12.3 Permit Amendment
- 6.12.4 Minor Revision Not Constituting a Material Change
- 6.12.5 Transfer of Permits
- 6.12.6 Inspection

Division 6.13 Enforcement

6.13.1 Enforcement

DIVISION 6.1 INTRODUCTORY AND GENERAL PROVISIONS

- 6.1.1 Title and Citation
- 6.1.2 Purpose and Findings; Scope
- 6.1.3 Authority
- 6.1.4 Applicability
- 6.1.5 Permit Required; Allowed Use Not Required; Stay On Issuance of Easements and Other Permits
- 6.1.6 Relationship of Regulations to other City, State and Federal Requirements
- 6.1.7 Maps
- 6.1.8 Severability
- 6.1.9 Definitions

6.1.1 Title and Citation

The various regulations constituting Divisions 1 through 13 of Article 6 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.”

6.1.2 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, cultural, 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 3.4.1; 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 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.

(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;
- (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 historic, 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.

6.1.3 Authority

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

6.1.4 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 of 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 6.6.5 or an exemption as set forth in Section 6.4.1 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 and been denied by the Planning and Zoning Commission shall be subject to these Regulations unless a FONAI is issued pursuant to Section 6.6.5 or an exemption applies pursuant to Section 6.4.1.

(C) Certain work exempt from the definition of development set forth in Article 5 may be subject to these Regulations as stated in the definition of development and these Regulations.

(D) 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 6.1.10.

(E) 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 arterial highways, interchanges and collector highways are set forth in Section 6.1.10.

6.1.5 Permit Required; Allowed Use Not Required; Stay On Issuance of Easements and Other Permits

(A) Permit Required.

Other than as stated in Sections 6.1.4, 6.4.1, and 6.6.5, 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 a permit or a permit amendment under these Regulations.

(B) Allowed Use in Zone District Not Required.

(1) Proposed development plans subject to these Regulations shall not be considered as an allowed use in any zone district unless a permit has been issued pursuant to these Regulations. However, as described in Section 6.4.1(A), any fully constructed and operating project or facility that was lawfully developed under prior law but would be subject to these Regulations if it were currently proposed may continue to operate pursuant to Division 1.5 as a nonconforming use or structure.

(2) 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 may otherwise allowed under these Regulations.

6.1.6 Relationship of Regulations to Other City, State and Federal Requirements

- (A) Whenever these Regulations are found to be inconsistent with any other Land Use Code provision, the more stringent standard or requirement 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, these 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 Code, Natural Areas Easement Policy, and regulations regarding flood plain and encroachment permits as set forth in the Code of the City of Fort Collins, all as currently in effect or hereafter amended.
- (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, the Director, in their discretion, may attempt to eliminate redundant application submittal requests and may coordinate City review of the application with that of other agencies as appropriate. To the extent the Director determines that the City's authority is preempted with regards to any requirement under these Regulations, such requirement shall not be applicable to the proposed development plan to the extent of the preemption.
- (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. To the extent the Director determines that any requirement under these Regulations would modify or amend existing laws or court decrees with respect to the determination and administration of water rights, such requirement shall not be applicable to the development plan to the extent of the modification or amendment of existing laws or court decrees.

6.1.7 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.

6.1.8 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.

6.1.9 Definitions

The words and terms used in these Regulations shall have the meanings set forth below subject to Section 1.4.9 regarding the rules of construction for text. The definitions set forth below are specifically applicable to this Article 6 and other Land Use Code provisions referencing Article 6, including Division 2.20, and are not otherwise generally applicable to the Land Use Code.

Adequate security shall mean such funds or funding commitments, whether in the form of 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.

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 plan 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.

Cumulative impacts shall mean the impact on the environment and cultural impacts which result from the incremental impact of the development plan when added to other present, and reasonable future actions.

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., as amended.

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.

FONAI shall mean a finding of negligible adverse impact pursuant to Section 6.6.5.

High priority habitat shall mean habitat areas identified by City Natural Areas or Colorado Parks and Wildlife where measures to avoid, minimize, and mitigate adverse impacts to wildlife have been identified to protect breeding, nesting, foraging, migrating, or other uses by wildlife. Maps showing, and spatial data identifying, the individual and combined extents of the high priority habitats are provided by Colorado Parks and Wildlife and City Natural Areas.

Highways shall mean state and federal highways.

Historic and cultural resource shall mean a site, structure, or object, including archeological features, located on a lot, lots, or area of property and is (1) designated as a Fort Collins landmark; (2) a contributing resource to a designated Fort Collins landmark district; (3) designated on the State Register of Historic Properties or National Register of Historic Places; or (4) determined to be eligible for designation as a Fort Collins landmark.

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

Interceptor main 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 new sewage system shall mean:

- (1) A new wastewater treatment plant;

- (2) A new lift station; or
- (3) An interceptor main or collector sewer used for the purposes of transporting wastewater that meets one or more of the following criteria:
 - (a) Transmission lines greater than 15” diameter pipe and 1,320 linear feet in the aggregate for the proposed development plan; or
 - (b) Will require a new easement 30-feet or greater in width and 1,320 linear feet in length in the aggregate for the proposed development plan.

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 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) A 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;

And all or part of a system described in (1) or (2) above meets one or more of the following criteria:

- (a) Distribution and transmission lines greater than 12” diameter pipe and 1,320 linear feet in the aggregate for the proposed development plan; or
- (b) Will require a new easement of 30-feet or greater in width and 1,320 linear feet in length in the aggregate for the proposed development plan.

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. Domestic water supply systems shall not include that portion of a system that serves agricultural customers, irrigation facilities or stormwater infrastructure.

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 domestic water treatment system shall exclude the following:

- (1) Any maintenance, repair, adjustment;

- (2) Existing pipeline or the relocation, or enlargement of an existing pipeline within the same easement;
- (3) Expanding any existing easement to a total width of 30-feet or less and for a distance of 1,320 linear feet or less; or
- (4) Any facility or pump station or storage tank that does not increase the rated capacity from the Colorado Department of Public Health and Environment.

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. Major extension of an existing sewage treatment system shall exclude the following:

- (1) Any maintenance, repair, adjustment;
- (2) Existing pipeline or the relocation, or enlargement of an existing pipeline within the same easement;
- (3) Expanding any existing easement to a total width of 30-feet or less and for a distance of 1,320 linear feet or less; or
- (4) Any facility or lift station that does not increase the rated capacity from the Colorado Department of Public Health and Environment.

Material change shall mean any change in a development plan approved under these Regulations which significantly expands 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.

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

Mitigation shall mean avoiding an adverse impact or minimizing impacts by limiting the degree, magnitude, or location of the action or its implementation.

Natural features shall mean land area and processes present in or produced by nature, including, but not limited to, soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, flood plains, aquatic life, wildlife, and view corridors which present vistas to mountains and foothills, water bodies, open spaces and other regions of principal environmental importance, provided that such natural features are identified on the City's Natural Habitats and Features Inventory Map.

Permit shall mean a permit issued under these Regulations to conduct and develop an activity of state interest or to engage in development in an area of state interest, or both.

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 6.5.1.

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 that would result in either (a) or (b), or both as follows:
 - (a) An increase in road capacity by at least one (1) vehicle lane through widening or alternative lane configuration.
 - (b) Expansion or modification of an existing interchange or bridge.

Transmission main 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.

Treatment System shall mean either, or both, the water distribution system and wastewater collection system.

Wastewater collection system means a system of pipes, conduits, and associated appurtenances that transports domestic wastewater from the point of entry to a domestic wastewater treatment facility. The term does not include collection systems that are within the property of the owner of the facility. The term is defined in Section 25-9-102(4.9), C.R.S., and as amended.

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.

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 or by increasing the volume or timing of water flow above its natural (pre-diversion) levels.

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 6.2 PROCEDURE FOR DESIGNATION OF MATTERS OF STATE INTEREST

- 6.2.1 City Council to Make Designations
- 6.2.2 Public Hearing Required
- 6.2.3 Notice of Public Hearing; Publication
- 6.2.4 Matters to be Considered at Designation Hearing
- 6.2.5 Adoption of Designation and Regulations
- 6.2.6 Effect of Notice of Designation – Moratorium until Final Determination
- 6.2.7 Mapping Disputes

6.2.1 City Council to Make Designations

Designations and amendments of designations may be initiated in 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.

6.2.2 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.

6.2.3 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; and
 - (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; and

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

6.2.4 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.

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

6.2.6 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.

6.2.7 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 6.2.3.

DIVISION 6.3 DESIGNATED ACTIVITIES OF STATE INTEREST

6.3.1 Designated Areas and Activities of State Interest

6.3.1 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. 122, 2021)

(B) Site Selection of Arterial Highways and Interchanges and Collector Highways (Ordinance No. 122, 2021)

DIVISION 6.4 EXEMPTIONS

6.4.1 Exemptions

6.4.1 Exemptions

These Regulations are not applicable to the following:

- (A) Any fully constructed and operating project or facility that was lawfully developed under prior law in effect before the effective date of these Regulations that would be subject to these Regulations if it were currently proposed, may continue to operate pursuant to Division 1.5, Nonconforming Uses and Structures, with the exception that enlargement or expansion of any such project or facility shall require a permit under these Regulations unless an exemption exists or a FONAI is issued. An enlargement or expansion requiring a permit shall not include the maintenance, repair or replacement of existing buildings or structures associated with an existing facility, 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 1.5.5 or an applicable Land Use Code development review process.
- (B) Any site specific development plan that would be subject to these Regulations but has received final City approval as of the effective date of these Regulations so long as the vested rights for such approved site specific development plan have not expired. This exemption does not apply to any subsequent modifications to the approved 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 Use Code, including but not limited to a project development plan or basic development review, and (2) which proposed development plan is directly necessitated by a proposed residential, commercial, industrial or mixed-use development.
- (D) Any project previously approved by the Planning and Zoning Commission pursuant to the Site Plan Advisory Review (SPAR) process.
- (E) Any proposed development plan issued a FONAI pursuant to Section 6.6.5.

DIVISION 6.5 PERMIT AUTHORITY

6.5.1 Permit Authority Established

6.5.1 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 FONAI.
- (C) The Planning and Zoning Commission shall be the decision maker regarding appeals of Director decisions to issue or not issue a FONAI and regarding recommendations to City Council regarding permit applications.
- (D) The City Council shall be the decision maker for approving or not approving a Permit. 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 FONAI. Permit applications are reviewed by the City Council pursuant to the procedure set forth in these Regulations.

DIVISION 6.6 PERMIT APPLICATION PROCEDURES

- 6.6.1 Preliminary Design Review
- 6.6.2 Application Fee; Financial Security Waiver
- 6.6.3 Pre-Application Area or Activity Review
- 6.6.4 Neighborhood Meeting
- 6.6.5 Determination of Applicability of Regulations- FONAI
- 6.6.6 Application Submission Requirements
- 6.6.7 Determination of Completeness
- 6.6.8 Referral Agencies
- 6.6.9 Simultaneous Processing of Associated Development Applications
- 6.6.10 Combined Application for Multiple Activities or Development in More than One Area of State Interest.
- 6.6.11 Permit Decision Making Procedures
- 6.6.12 Conduct of Permit Hearings
- 6.6.13 Approval or Denial of Permit Application
- 6.6.14 Issuance of Permit, Conditions

6.6.1 Application Procedures

The application procedures for activities and areas of state interest are described in Land Use Code Division 2.20 and in these Regulations.

6.6.2 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 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 reasonable fee for the review of a development application and the applicant shall pay such fee which shall detail the basis for the fee imposed. No hearings by the Permit Authority will be held if any such referral agency’s fee has not been paid.

6.6.3 Pre-Application Area or Activity Review

(A) The purpose of the pre-application area or activity review is to determine if a permit 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, proximity to natural and human-made features; 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 and cultural 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) Community policy considerations, including the review process and likely conformity of the proposed development with the policies and requirements of these Regulations.
- (6) Applicable regulations, review procedures and submission requirements.
- (7) 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.

(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 desired location of the proposed development plan including a vicinity map showing the location of three (3) siting and design alternatives, one of which is the preferred location, drafted at approximately thirty percent (30%) completeness. One (1) of the three (3) alternatives submitted shall avoid natural features and historic and cultural resources and avoid the need for mitigation to the maximum extent feasible;
- (4) A vicinity map of the preferred siting and proposed development plan projected at an easily readable scale showing the outline of the perimeter of the parcel proposed for the project site (for linear facilities, the proposed centerline and width of any corridor to be considered), property parcels, location of all residences and businesses, any abutting subdivision outlines and names, the boundaries of any adjacent municipality or growth management area, roads (clearly labeled) and natural features within a half

(1/2) mile radius and identified historic and cultural resources within a two hundred (200) foot radius of the project site boundary; an Ecological Characterization Study as defined by Land Use Code Section 3.4.1 within a half (1/2) mile radius of the impact area; and a cultural and historic resource survey documentation and determinations of Fort Collins landmark eligibility for resources within two hundred (200) feet of the project site boundary for each of the three siting alternatives. All final determinations of eligibility for designation as a Fort Collins landmark shall be made in the reasonable discretion of City Historic Preservation staff after reviewing the cultural and historic resource survey and such determinations are not subject to appeal.

- (5) A written summary of the cumulative impacts on natural features within a half (1/2) mile radius and on historic and cultural features within 200 feet of the preferred location of the proposed development plan;
- (6) Any required certificate of appropriateness pursuant to Chapter 14 of the Code of the City of Fort Collins allowing proposed alterations to any designated historic or cultural resource that may be affected by the proposed development plan.
- (7) Any conceptual mitigation plans for the preferred location of the proposed development plan;
- (8) 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 a FONAI determination pursuant to Section 6.6.5; (2) the Director retaining third-party consultants necessary to assist the Director with the completeness review of any submitted application pursuant to Section 6.6.7; 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
- (9) Any additional information requested by the Director as necessary to make a FONAI determination pursuant to Section 6.6.5.

6.6.4 Neighborhood meeting

- (A) Prior to a written FONAI determination being issued pursuant to Section 6.6.5, a neighborhood meeting is required pursuant to Land Use Code Section 2.2.2 following the pre-application area or activity review document submittal to the Director being deemed complete.
- (B) At the applicant's cost, notifications for the neighborhood meeting shall be mailed to the property owners and occupants within one thousand feet (1,000) 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.

6.6.5 Determination of Applicability of Regulations - FONAI

The Director shall determine the applicability of these Regulations only after a neighborhood meeting and based upon the pre-application area or activity review meeting described in Section 6.6.3.

- (A) The Director shall make a finding related to whether the proposed development plan will result in adverse impacts. In order for the Director to determine that a proposed development plan will only result in negligible adverse impacts and to issue a FONAI, they must determine that the proposed project does not meet any of the below criteria (1) through (8). The decision by the Director of potential 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. The FONAI shall be evaluated under the following criteria:
- (1) Is located wholly or partly on, under, over or within an existing or planned future City natural area or park, whether developed or undeveloped;
 - (2) Is located wholly or partly on, under, over or within a City-owned, non-right-of-way, property or current or anticipated City building site, whether developed or undeveloped;
 - (3) Is located within a buffer zone of an existing natural habitat or feature, as defined in Land Use Code Section 3.4.1;
 - (4) Is located within a buffer of a high priority habitat as identified by Colorado Parks and Wildlife;
 - (5) Has potential to adversely impact a natural feature as defined by the Land Use Code;
 - (6) Has the potential to adversely impact natural habitat corridors identified by the City's Natural Area Department;
 - (7) Has potential to adversely impact historic or cultural resources within a two hundred (200) foot outer boundary of the proposed development plan; or
 - (8) Has potential to adversely impact disproportionately impacted communities.
- (B) 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 Use Code requirements, and an alternative review process may be required.
- (C) 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 6.6.3 to 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 (F) and require a permit under these Regulations.

(D) Permit Not Required. If the Director has made a finding of negligible adverse impacts, or FONAI, a permit pursuant to these Regulations is not required. However, the proposed development plan may be subject to a different Land Use Code development review process.

(E) Permit Required. If the Director determines a FONAI is not appropriate, the proposed development plan requires a permit and is subject to these Regulations. The Director shall provide the applicant with written comments, to the extent such comments differ from comments provided for any conceptual review, regarding the proposal to inform and assist the applicant in preparing components of the permit application; including a submittal checklist pursuant to Section 6.6.6, and additional research questions to address common review standards pursuant to Section 6.7.1.

(F) Notice of Director's Determination.

(1) The Director's determination to either issue a FONAI and not require a permit or to not issue a FONAI and 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 neighborhood meeting pursuant to Section 6.6.4 or the date of receipt of any requested additional information or third-party consultation.

(2) If a permit is required, the Director shall provide additional information needed to deem a permit application complete; including additional scope of analysis needed to review.

(3) The Director shall provide the written determination to the applicant by email if an email address has been provided and promptly mail a copy of the written determination, at the applicant's cost, to the applicant and to 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.

(G) Appeal of the Director's Determination. The Director's determination whether to issue or not issue a FONAI is subject to appeal to the Planning and Zoning Commission pursuant to Land Use Code Section 2.2.12(D). The Planning and Zoning Commission decision on the appeal is further subject to appeal to City Council pursuant to the Code of the City of Fort Collins Ch. 2, Art. 2, Div. 3. After the filing of a timely notice of appeal pursuant to Section 2.2.12(D), 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 6.6.7 and 6.6.11 and such time period shall begin from the date the appeal is decided as previously described.

6.6.6 Application Submission Requirements

In addition to specific submission requirements for the activities addressed in Divisions 6.8 and 6.9, all applications for a permit under these Regulations shall be accompanied by the following materials:

- (A) Completed application form and submittal checklist 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 city permit which are substantially the same as required herein, a copy of those materials may be submitted to satisfy the corresponding requirement below.

6.6.7 Determination of Completeness

- (A) No permit application may be processed, nor shall a 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 areas and activities review meeting and neighborhood meeting, the applicant may submit a permit application only after at least fourteen (14) days have passed since the FONAI determination. 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. If the Director retains a third-party consultant for permit review, the scope of work will be available for review by the applicant.
- (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; or
 - (2) The Director and the applicant agree in writing to exceed sixty (60) days.
- (C) 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 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.

6.6.8 Referral Agencies

All permit applications under these Regulations shall be referred to internal and external review agencies or City departments 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 forwarded to the applicant for its response at the time that comments are provided from City review staff.

6.6.9 Simultaneous Processing of Associated Development Applications

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 Code that result in an additional and separate development application, then both development applications can be processed simultaneously.

6.6.10 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 activity or 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 and may be reviewed simultaneously and, if appropriate in the discretion of City Council, a single determination made to grant or deny permit approval. The City reserves the right to charge an application fee pursuant to Section 6.6.2 of these Regulations for each activity or area that is the subject of a combined application.

6.6.11 Permit Decision Making Procedures

When an application has been determined complete by the Director pursuant to Section 6.6.7 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) 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) Upon setting a permit hearing date, the Director shall publish notice once in a newspaper of general circulation in the City of Fort Collins containing:

(1) The date, time, and place of the permit hearing not less than thirty (30) nor more than sixty (60) days before the date set for the hearing. The thirty (30) and sixty (60) day periods may be extended if the applicant agrees to an extension in writing.

(2) 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) At least fourteen (14) days prior to the City Council 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 2.2.6. 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 2.2.6 and may be combined with the mailed notice for the City Council hearing.

6.6.12 Conduct of Permit Hearing.

(A) Planning and Zoning Commission hearings where a recommendation is made shall follow the requirements and procedures of Section 2.2.7.

(B) City Council shall adopt into its rules of procedure a procedure for conducting permit hearings. Upon the closing of the portion of a permit hearing to receiving comments and evidence from the public, agencies, and the applicant, 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 by reopening the public hearing.

6.6.13 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 development plan, in consideration of all proposed mitigation measures and any conditions, complies with all applicable standards. If City Council finds the development plan does not comply with all applicable standards, the permit shall be denied unless City Council, in its sole discretion, imposes conditions pursuant to Section 6.6.14 which if fulfilled would bring the development plan into compliance with all applicable standards, in which case City Council may approve the permit. City Council may also impose additional conditions pursuant to Section 6.6.14 on any permit.

(C) If City Council finds that there is insufficient information concerning any of the applicable standards to determine that such standards have been met, City Council may deny the

permit, may approve with conditions pursuant to Section 6.6.14 which if fulfilled would bring the development plan into compliance with all applicable standards, or may continue the public hearing or reopen a previously closed public hearing for additional information to be received. However, no continuance to receive additional evidence may exceed sixty (60) days unless agreed to by City Council and the applicant.

(D) City Council shall approve a permit application only if the proposed development plan satisfies all applicable standards of these Regulations in consideration of proposed mitigation measures and any conditions necessary to attain compliance with any standards. City Council may also impose additional conditions pursuant to Section 6.6.14 on any permit.

(E) 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 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) 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.

6.6.14 Issuance of Permit; Conditions

(A) City Council may attach conditions to the permit pursuant to Section 2.2.9 and additional conditions to ensure that the purpose, requirements, and standards 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 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 6.11.1, 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 6.11.1. This time may be extended by the Director for only one (1) additional year upon a showing of substantial progress.

DIVISION 6.7 COMMON REVIEW STANDARDS

6.7.1 Review Standards for All Applications

6.7.1 Review Standards for All Applications

In addition to the review standards for specific activities listed at Divisions 6.8 and 6.9, all applications under these Regulations, in consideration of proposed mitigation measures, shall be evaluated against the following general standards, to the extent applicable or relevant to the development plan, in 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.

If City Council finds the development plan does not comply with all applicable standards, the permit shall be denied unless City Council, in its sole discretion, imposes conditions pursuant to Section 6.6.14 which if fulfilled would bring the development plan into compliance with all applicable standards, in which case City Council may approve the permit. City Council may also impose additional conditions pursuant to Section 6.6.14 on any permit. The common review standards are as follows:

- (A) 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 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 not subject to 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.
 - (2) Expansive or evaporative soils and risk of subsidence.
 - (3) Wildfire hazard areas.
 - (4) Floodplains.
- (E) The development plan will not an adverse 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) Need for temporary roads or other infrastructure to serve the development plan for construction and maintenance.

(F) The development plan will not have an adverse impact on the quality or quantity of recreational opportunities and experience. The determination of 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, playgrounds, community gardens, recreation fields or courts, picnic areas, and other City park amenities.

(G) The development plan when completed will not have an adverse impact on existing visual quality. The determination of visual impacts of the development plan may include but is not limited to the following considerations:

(1) Visual changes to ground cover and vegetation, streams, or other natural features.

(2) Interference with viewsheds and scenic vistas.

(3) Changes in landscape character 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.

(8) Changes to the visual character of historic and cultural resources.

(H) The development plan will not have an adverse impact on 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) The development plan will not have an adverse impact on surface water quality. The determination of 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.

(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) The development plan will not have an adverse impact on groundwater quality. The determination of impacts 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) The development plan will not have an adverse impact on wetlands and riparian areas (including riparian forests) 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) The development plan shall not have an adverse impact on 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.

(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.

(M) The development plan shall not have an adverse impact on 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:

- (1) Changes to high priority habitat identified by the Colorado Parks and Wildlife and the Fort Collins Natural Areas Department.
 - (2) Changes to the structure and function of vegetation, including species composition, diversity, biomass, and productivity.
 - (3) Changes in advancement or succession of desirable and less desirable species, including noxious weeds.
 - (4) Changes in threatened or endangered species.
- (N) The development plan will not have an adverse impact on natural habitats and features as defined in Land Use Code Section 3.4.1.
- (O) The development plan will not have an adverse impact on historic or cultural resources as defined in Section 6.1.9 of these Regulations.
- (P) The development plan will not have an adverse impact on significant trees as defined in Land Use Code Section 3.2.1.
- (Q) The development plan will not have an adverse impact on soils and geologic conditions. The determination of 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.
 - (4) Compacting, sealing and crusting.
- (R) The development plan will not cause a nuisance. The determination of nuisance impacts 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 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) The development plan will not have disproportionately greater adverse impact on disproportionately impacted communities within the City considering, for example, the distribution of impacts to the following:

(1) Air quality.

(2) Water quality.

(3) Soil contamination.

(4) Waste management.

(5) Hazardous materials.

(6) Access to parks, natural areas, trail, community services, cultural activities, and historic and cultural resources, and other recreational or natural amenities.

(7) Nuisances.

(U) The development plan shall include mitigation plans that avoid or minimize adverse impacts by limiting the degree or magnitude of the action. Mitigation plans shall include detailed information on how the proposed project will avoid or minimize adverse impacts identified and related to all applicable common and specific review standards, including but not limited to the following:

(1) Detailed information on how the proposed project will avoid or minimize adverse impacts on natural features must include an adaptive management plan and established performance criteria based on a local reference site and analogous habitat type. Plans submitted must address success criteria regarding quantity, quality, diversity and structure of vegetative cover or habitat value; and

(2) Detailed information on how the proposed project will avoid or minimize adverse impacts on historic and cultural features during the full span of ground disturbance and construction activities, to include an archeological monitoring plan that anticipates the possibility of new discoveries related to that activity; and plan(s) of protection that detail mitigation strategies for any identified historic and cultural resources.

DIVISION 6.8 Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extensions of Such Systems

- 6.8.1 Applicability
- 6.8.2 Purpose and Intent
- 6.8.3 Specific Review Standards for Major New Domestic Water or Sewage Treatment Systems or Major Extensions

6.8.1 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 within the municipal boundaries of the City.

6.8.2 Purpose and Intent

The specific purpose and intent of this Division are:

- (A) 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 avoid or fully mitigate impacts associated with such development;
- (B) 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 within the City;
- (D) To ensure that the off-site adverse impacts of new domestic water and sewage treatment systems are avoided or fully mitigated; and
- (E) 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.

6.8.3 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 6.7.1 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 City Council finds the development plan does not comply with all applicable standards, the permit shall be denied unless City Council, in its sole discretion, imposes conditions pursuant to Section 6.6.14 which if fulfilled would bring the development plan into compliance with all applicable standards, in which case City Council may approve the permit. City Council may also impose additional conditions pursuant to Section 6.6.14 on any permit. The specific review standards are:

- (A) New domestic water and sewage treatment systems shall only 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; and
- (B) Area and community development and population trends must demonstrate clearly a need for such development.

DIVISION 6.9 Site Selection of Arterial Highways and Interchanges and Collector Highways

- 6.9.1 Applicability
- 6.9.2 Purpose and Intent
- 6.9.3 Specific Review Standards for Arterial Highway, Interchange or Collector Highway Projects

6.9.1 Applicability

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

6.9.2 Purpose and Intent

The specific purpose and intent of this Division are:

- (A) To ensure that community traffic needs are met;
- (B) To provide for the continuation of desirable community traffic circulation patterns by all modes;
- (C) 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) To prevent direct conflicts with local, regional and state master plans;
- (E) To ensure that highway and interchange development is compatible with surrounding land uses;
- (F) To encourage the coordination of highway planning with community and development plans;
- (G) To discourage traffic hazards and congestion;
- (H) To minimize sources of traffic noise, air and water pollution; and
- (I) To protect scenic, natural, historical and cultural resources from destruction.

6.9.3 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 6.7.1 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 City Council finds the development plan does not comply with all applicable standards, the permit shall be denied unless City Council, in its sole discretion, imposes conditions pursuant to Section 6.6.14 which if fulfilled would bring the development plan into compliance with all applicable standards, in which case City Council may approve the permit. City Council may also impose additional conditions pursuant to Section 6.6.14 on any permit. The specific review standards are:

- (A) The proposed arterial highway, interchange or collector highway will be located so that natural habitats and features, historic and cultural resources, City natural areas and parks and other local government facilities and resources are protected to the maximum extent feasible;
- (B) 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) 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, 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) The construction of the arterial highway and interchange or collector highway shall be phased to minimize interference with traffic movement;
- (E) The location and access limitations for the arterial highway, interchange or collector highway will not restrict access to other roadways, mass transit facilities, pedestrian 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) Alternative modes of transportation will be incorporated into the proposal to the extent feasible;
- (G) If park-and-ride facilities are utilized, they shall be located in areas approved by the City;
- (H) 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) 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) 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) 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) 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 local and regional transportation plans;
- (M) 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) 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) 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) The proposed highways can be integrated into the regional transportation network;
- (Q) The new or expanded arterial highway, or interchange or collector highway will not have an adverse impact on prime or unique farmland as defined by the U.S. Department of Agriculture, Natural Resources Conservation Service;
- (R) 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) Noise levels caused by the new or expanded arterial highway, interchange or collector highway will follow federal noise regulations;
- (T) Vertical structures will match the character of the City through materials and design; and
- (U) 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.

DIVISION 6.10 Financial Security

6.10.1 Financial Security

6.10.1 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.

(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;

(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 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 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) 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 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) 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 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 6.11 SUSPENSION OR REVOCATION OF PERMITS

6.11.1 Suspension or Revocation of Permits

6.11.1 Suspension or Revocation of Permits

- (A) If the Director has reason to believe that the permittee has violated any provision of the 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 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 health, safety, welfare, the environment or wildlife resources, 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.
- (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 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.

DIVISION 6.12 PERMIT REVIEW, RENEWAL, AMENDMENT, TRANSFER

- 6.12.1 Annual Review; Progress Reports
- 6.12.2 Permit Renewal
- 6.12.3 Permit Amendment
- 6.12.4 Minor Revision Not Constituting a Material Change
- 6.12.5 Transfer of Permits
- 6.12.6 Inspection

6.12.1 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 6.11.1.
- (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.

6.12.2 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 FONAI review pursuant to Section 6.6.5.

6.12.3 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 permit except that the Director’s FONAI review pursuant to Section 6.6.5 shall not occur.

6.12.4 Minor Revision Not Constituting a Material Change

The permittee may apply to the Director for minor revisions to an issued permit to correct errors or make other changes to conform the permit to actual conditions to the extent such minor revision is not a material change to the permit as determined by the Director. The Director is granted discretion to approve such minor revisions or to determine that a permit amendment is required

pursuant to Section 6.12.3. In reviewing a requested minor revision or revisions, the Director shall consider the request in the context of previously approved minor revisions to determine whether in the aggregate, the requested minor revision or revisions constitute a material change.

6.12.5 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.

6.12.6 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 2.14.3.

DIVISION 6.13 ENFORCEMENT

6.13.1 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 Use Code and the City may take enforcement action pursuant to Division 2.14 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 Use Code or the Code of the City of Fort Collins. These Regulations are not intended to create third party rights of enforcement.

Introduced, considered favorably on first reading and ordered published this 7th day of February, 2023, and to be presented for final passage on the 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 21st day of February, 2023.

Mayor

ATTEST:

City Clerk

Following projects were researched by staff and have potential to meet the proposed project size thresholds and potential to have an adverse impact under the FONAI evaluation criteria:

Greeley Partial Relocation of Waterlines Phase 1

In 2020 the project consisted of two 30" steel water pipeline roughly 2,200 LF long of new pipe realignment in a new easement. The pipe was installed in a 70 foot wide LOC and staff could not find info on temporary construction easements for the two trenches roughly 6' wide. Of note the easement acquired also included a road easement which based off the plans submitted to Utilities measured 60ft wide.

Greely Partial Relocation of waterlines phase 2

In 2021, this project was entirely contained within the CDOT ROW. The plans call for 20' Perm Utility easement within that ROW. This work contained one 30" steel pipe in two sections of the plans totaling 1,025 LF long of new pipe. The pipe section is longer, at an additional 710 LF, and all entirely within CDOT ROW outside of City MS4 boundary so that section of water pipe was not shown on the erosion control plans. Staff could not find information on temporary easements.

Boxelder Combined Interceptor Sewer

In 2016, project construction was done within an existing easement. Staff calculate an 80 ft easement which stretched 6,310 LF and went through natural area and also got an excavation permit. The project was required to use City Natural Area standards due to the pipe location through City Property on Running Deer Natural Area.

Anheuser Busch Line

The Project is over 40,000 LF and consists of pipes ranging from 48" Steel Pipe (SP) and reduces size as it heads east down to 42" Pre-stressed Concrete Cylinder Pipe (PCCP) and later to 30" PCCP as it traverses the city. Best guess is it is within a 40 ft easement but cannot confirm. Larimer County Records show an agreement in 1985 between City and Anheuser for a 20 ft easement. But it is located next to powerlines which probably have another easement in addition to the waterline making it closer to the 40 ft.

Suniga Road and the underlying easements

There is a 60" Greeley Water line in a 40' permanent easement and a 42" ELCO & NWCWD in a 40' permanent easement. As you head along Suniga east of redwood and across the ditch (Splitting Northfield and Northfield commons) an additional 15" City of Fort Collins Utilities pipe is present with roughly a 65 or 70 ft easement (there is a very large storm culvert under sharing that section.)

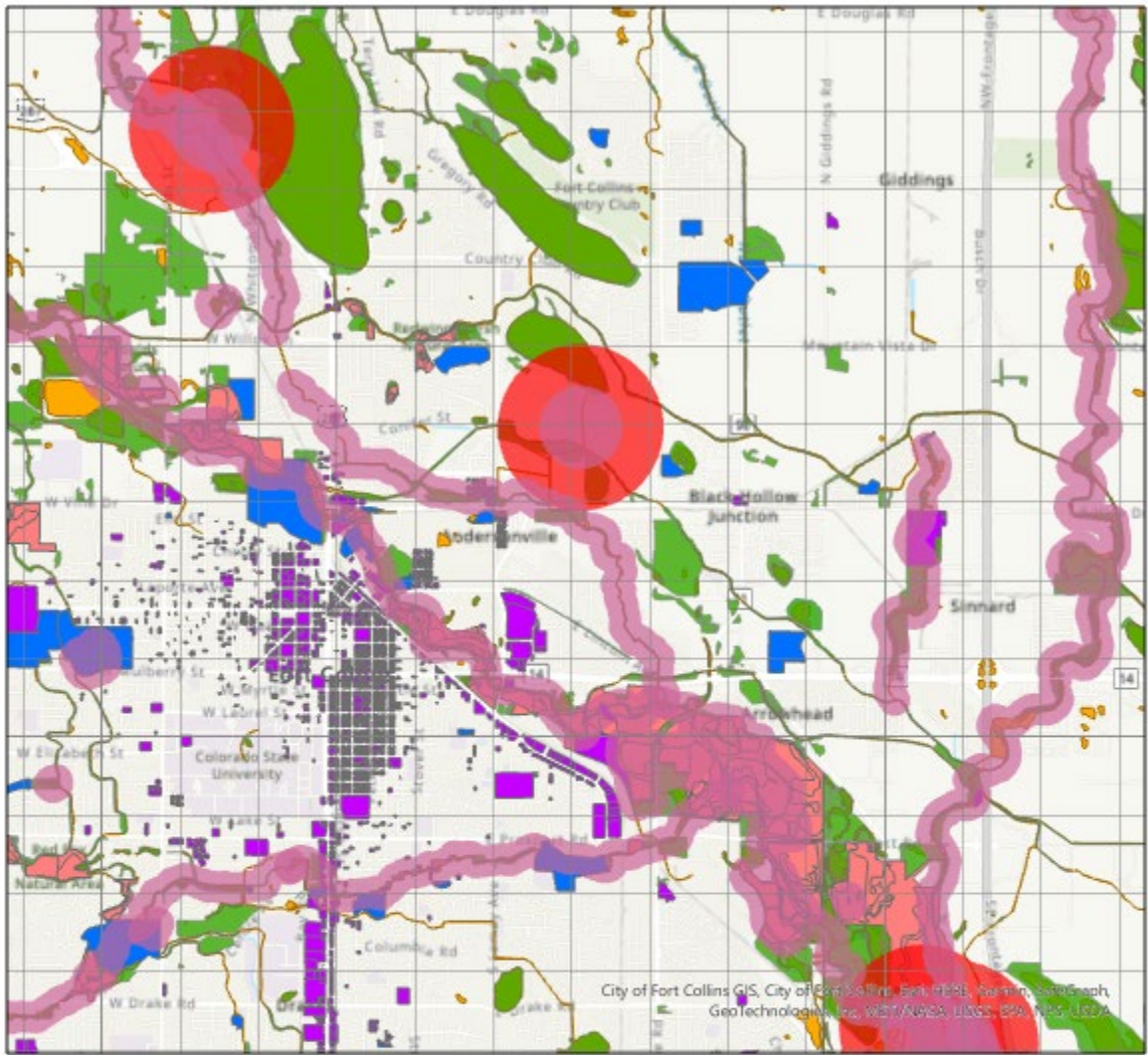
Mulberry Wastewater Replacement Project

The project was constructed over the winter of 2021-2022. It consisted of disturbing 0.4 acres and was located next to City Park Lake and in between New Mercer Ditch 80 ft away and Larimer County Canal #2 which split the project near S. Bryan Ave. This project was entirely within the existing 80 ROW on Mulberry and was a city owned private drive near the parks shop requiring no additional easement or ROW for that work. Only temporary construction easements were needed to abandon rear lot sewer and route it to Mulberry. As it was difficult to determine exactly size the easements on the 17 lots the temp easement was for the whole lot totaling 3.9 acres. This project replaced poorly functioning 6" clay tile and replaced them with an 8" PVC. Abandoning roughly 2,100 LF of clay and adding 2,300 LF of PVC.

Peer communities - Project-Size Threshold	
Boulder Co	serving ≥25 year round residents or with average flow of 2,000 gal/day
Eagle	any extensions to serve a total development density of ten (10) or more dwelling units or the equivalent thereof
LaPlata Co	system is designed to serve a total of 250 or more residential dwelling units
Larimer Co	12" diameter; 30' easement
Louisville	N/A
Pueblo	N/A
Routt	serve a total development density of twenty five (25) or more residential dwelling units or the equivalent thereof
Summit	additional ten (10) single-family dwelling units or the equivalent thereof
Arapahoe	twenty-five (25) or more residential dwelling units or the equivalent thereof

Parameter	Municipality										
	Arapahoe	Boulder Co	Commerce City	Eagle	LaPlata Co	Larimer Co	Louisville	Pueblo	Routt	Superior	Summit
Pre-Submittal Required	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
FONSI?	Y	N	N	Y	Y	N	N	Y	Y	N	Y
IGAs?	Y	Y	Y	N	Y	Y	Y	N	N	N	N
Defined Areas of State Interest?	Y	Y	Y?	Y	Y	Y	Y	Y	Y	Y	Y
Types of Projects											
Arterial & Collector Hwys, Interchanges	Y	Y	Y	N	Y	Y	Y	N	N	Y	Y
New Water & Sanitation	Y (Major)	Y	Y (Major)	Y (Major)	Y(Major)	Y	N	Y	Y (Major)	N	Y (Major)
Water Extensions	Y (Major)	Y	Y (Major)	Y (Major)	Y(Major)	Y	N	Y	Y (Major)	N	Y (Major)
Efficient Water Use	N	Y	Y	Y	Y	N	N	Y	Y	N	Y
New Reservoirs	N	Y	N	N	N	Y	N	N	N	N	N
Specific Qualification Criteria	Y	Y	N	Y	Y	Y	N	Y	Y	N	Y
Submittal Requirements											
EIS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Transportation Impacts	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Less Damaging Alternatives	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Exemptions	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Decision Maker	Planning Director (FONSI), otherwise Board of County Commissioners	County Commissioners	City Council	Director (FONSI), otherwise Board of County Commissioners	County Community Development Director or County Commissioners	County Commissioners	City Council	The Director, otherwise the Permit Authority	Planning Director, otherwise Board of County Commissioners	Town Manager, otherwise Board of Trustees	Planning Director (FONSI), otherwise Board of County Commissioners
Financial Security Required?	Possible	Possible	N	Possible	Possible	Possible	Possible	Possible	Possible	Possible	Possible

FONAI Evaluation criteria MAPS

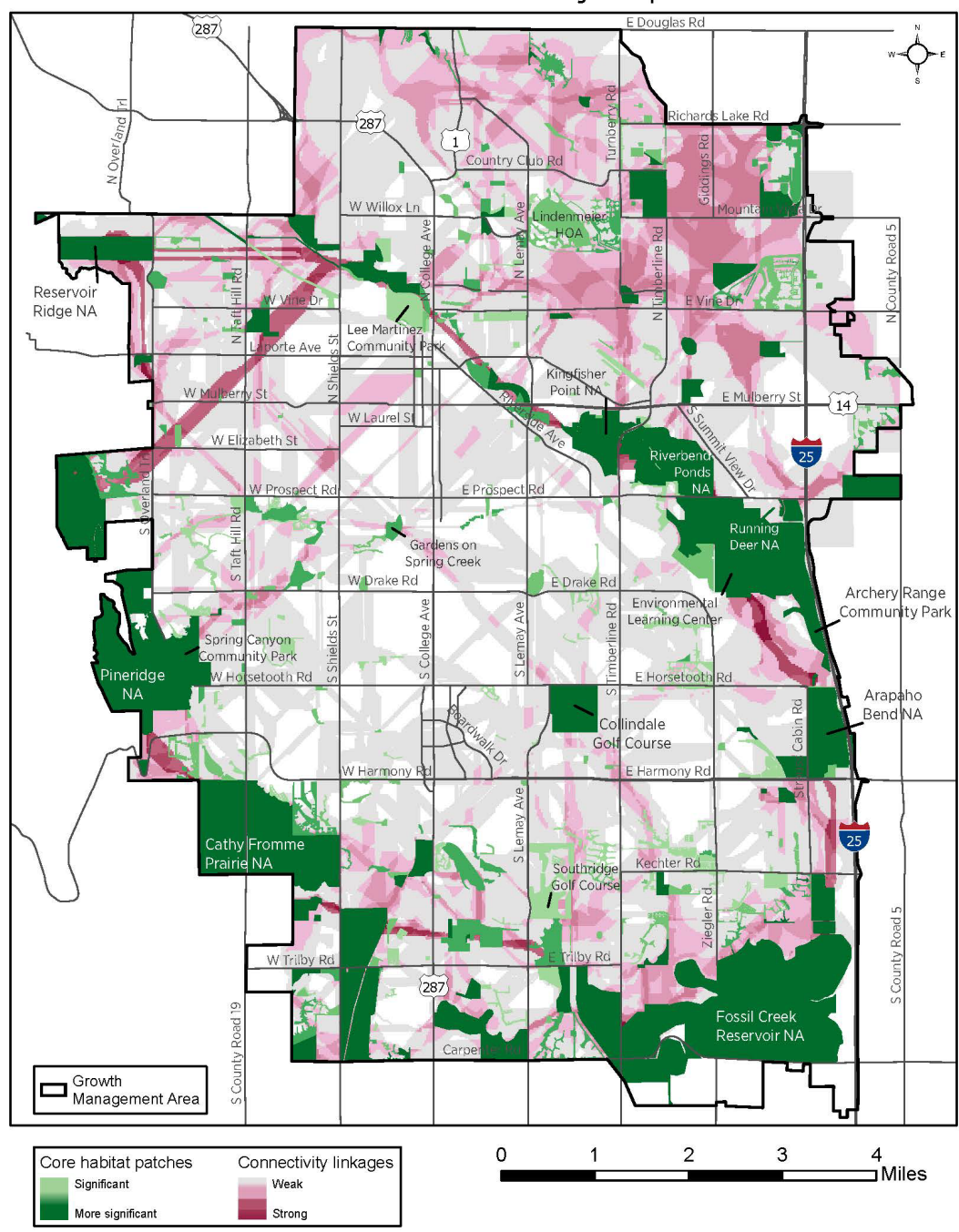


1041 regulations - geographic based thresholds

- Aquatic Native Species Conservation Waters HPHC
- Bald Eagle Roost Site HPHE1
- Fort Collins Historic Resource Survey
- City Natural Areas
- City Parks
- Natural Habitat Features

Nature in the City Wildlife Connectivity Map

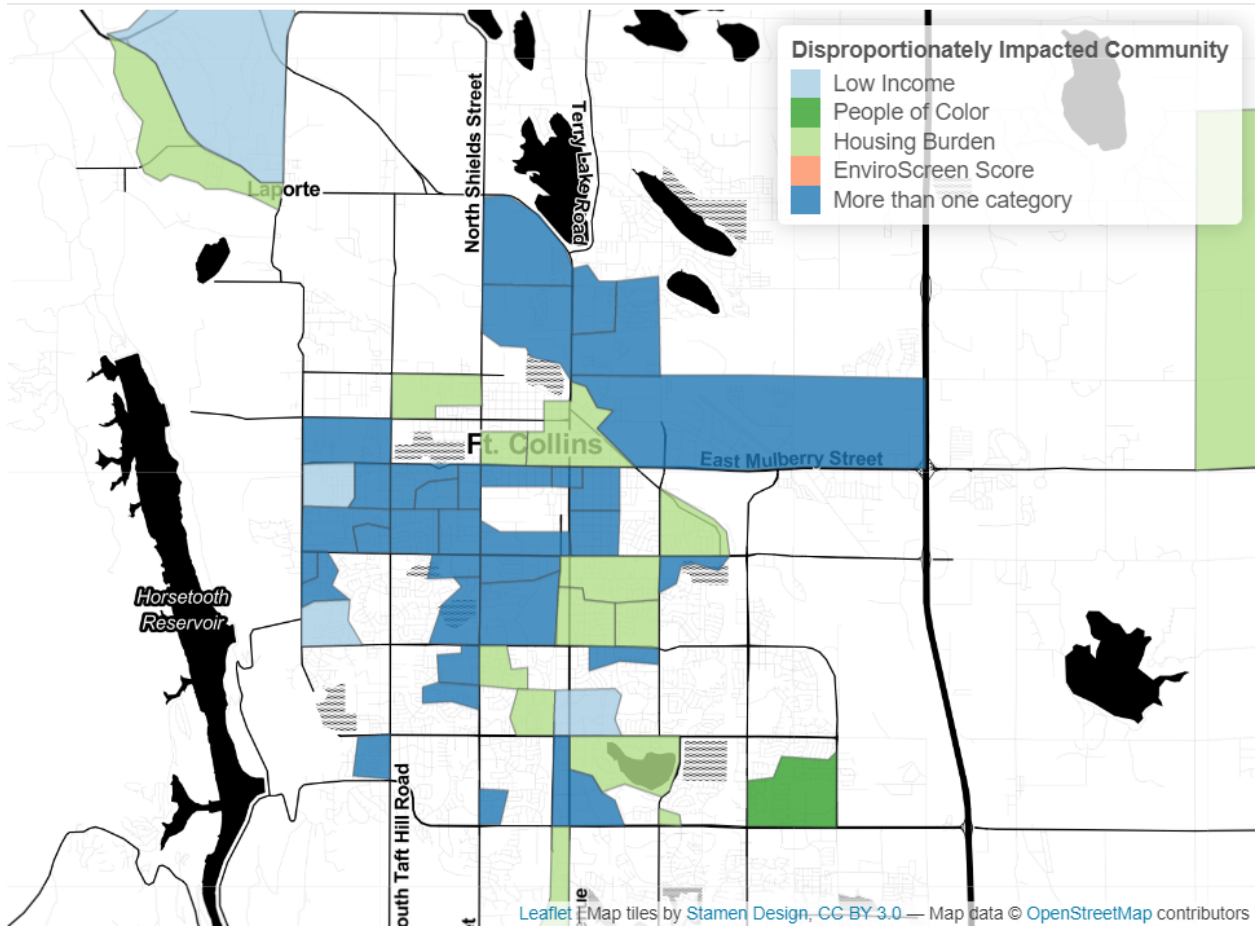
NIC Wildlife Connectivity Map 2020



Disproportionally Impacted Communities

Colorado EnviroScreen

https://teeo-cdphe.shinyapps.io/COEnviroScreen_English



The following table summarizes general feedback from public comments, and working group meetings since the November 7, 2022 City Council work session:

Version-Two Regulations Feedback Themes	
Timeline to review before adoption of the regulations	<ul style="list-style-type: none"> • Not enough time to review version-three of the draft regulations • Question about the urgency and the problem that the city is trying to solve • Support for 1041 regulations as a long overdue policy discussion
Geographic Based Thresholds	<ul style="list-style-type: none"> • Geographic Based Thresholds do not account for disproportionately impacted communities (DIC). • Without project size thresholds applicability for projects casts too wide a net and will capture too many projects. • General support to move geographic based thresholds into review standards as opposed to definitions.
FONAI Determination	<ul style="list-style-type: none"> • General support for FONAI review by Director • Neighborhood meeting should be required prior to FONAI determination • More prescriptive language related to pre-application submittal requirements • Bar to achieve a FONAI is too high
Definitions of Development	<ul style="list-style-type: none"> • Concern for projects within existing rights-of-way and easements. Especially when Stormwater is not covered by regulations and has a similar impact. • Concerns that any maintenance, repair, adjustment are covered • City Projects should be exempt if they have already been approved through the Budgeting for Outcomes (BFO) process.

Staff has further detailed comments from working group members related to the version-two draft regulations in the table below and how staff has addressed stakeholder comments in version-three of the regulations ahead of Council first reading. Detailed notes from working groups are provided as an attachment to this memo.

Version-Two Feedback	How has Staff Addressed Feedback within Version-three of the 1041 regulations?
Suggest looking at specific scope and size thresholds instead of geographic limitations (i.e. pipe sizes and whether it's new or a replacement).	Staff has updated the definitions to include project size thresholds similar to Larimer County regulations. Previously proposed geographic based thresholds have been incorporated into the common review standards.
The bar is too high for achieving a FONAI and its likely that all projects will be reviewed through a full permit	The Director's decision includes a consideration for mitigation which incentivized the applicant to avoid natural features or mitigate for the potential disturbance.
Concerns that regardless of the analysis by staff, public comments and recommendations by third-parties, Council may make their decision without weighing all the facts.	Staff has provided a development plan review process that incentives applicants to work with staff to reach a recommendation for approval. There is also an optional preapplication hearing with Council to seek specific direction early in the review.
Not enough time to review version-three regulations	Staff has provided version-three of the draft regulations within the Planning and Zoning Commission material ahead of the Council materials
Review pass-through fees, permit fees, inspection fees so that there isn't "triple dipping" or overlap between fees for topic experts.	Staff is proposing to administer the full 1041 permit review process through a third-party contract until we can have better data to propose a new permit fee. With the information available to staff through a recent request for information (RFI), staff plan to issue a request for proposal (RFP) shortly after the adoption of the code for an on-call contractor servicing third party permit review of all phases of the 1041 permit review; including conceptual, FONAI, and full permit review.
Remove subjectivity from the application review process by providing more details to the submittal requirements and processing procedures.	Staff has added additional definition to the submittal documents required at pre-application and FONAI review; including details for an initial cumulative impacts review.
Concerns about the definition of development including work within ROW	Staff has updated definitions to exclude any maintenance, repair, adjustment; and excludes existing pipeline or the relocation, replacement, or enlargement of an existing pipeline within the same easement or right-of-way.
The consultant's responsibilities should be clearly defined when reviewing a full permit.	As a part of the FONAI determination, Staff will provide details related to additional study needed. Scope of work and submittal documents will be provided through an application checklist.
Staff should consider adding the definition of Natural Resources.	C.R.S 24-65.1-104. includes a definition for "natural resources" and so staff do not recommend adding a new definition that might create confusion. In this way, staff recommend using the existing definition for "natural feature" already being used within the LUC. also, staff suggest adding geographic areas identified by Colorado Parks and Wildlife and City Natural Area for its high priority habitat.
Financial Security Language is too weak	In addition to the financial security language, City Council may approve a permit with conditions of approval.
Regulations do not account for construction activities outside the jurisdiction that have an adverse impact on City-owned assets within the jurisdiction.	Staff recommend common review standards that review adverse impacts and mitigation within the City's jurisdiction. Staff do not recommend prescribing mitigation measures outside of city limits.

Date: 1/19/2023

Event: Outreach to Disproportionately Impacted Communities Regarding Draft 1041 Regulations

Duration: 2 hours

Facilitators: Miriam McGilvray (Logan Simpson), Jeremy Call (Logan Simpson), and Emily Morales (Logan Simpson)

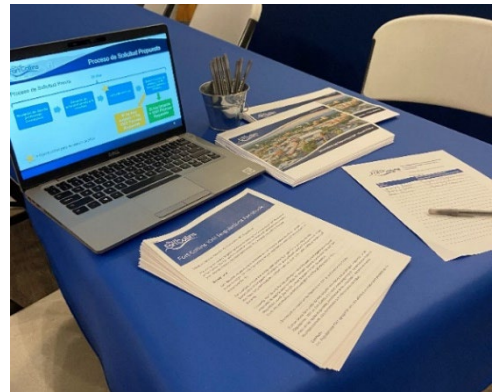
Attendees: 3

Summary:

A community meeting was held on January 19, 2023, from 4-6 P.M., at Fort Fun to engage and inform community members about the draft 1041 regulations. This event was designed to specifically engage Disproportionately Impacted Community members and business owners. Notification materials, the online survey, an informational video, and event materials were prepared in both English and Spanish.

There were three attendees from the public. They filled out a hard-copy survey during the meeting, which were entered into the online survey. The main points of discussion at the event include:

- General support for the regulations, as they provide more voice and power to residents/business owners and the city in design, siting, and approval of these projects.
- Concern that impacts to mobile park communities is not currently part of the important criteria for City Council to use in making their decision.
- Concern that private properties will be impacted by the construction of these projects and that Water Providers or CDOT would use eminent domain.
- Would like to see more transparency with project applicants at the conceptual phase (support for the Neighborhood Meeting in the Pre-Application Process).
- Concern about the uncertainty of new projects (Mulberry Corridor) and their impacts on surrounding properties.



Date: 12/7/2022

Topic: Water Provider Group 1041 Regulations Discussion

Duration: 90 minutes

Participants: Kirk Longstein (City), Miriam McGilvray (Logan Simpson), Luke O'Brian (Northern Water), Brian Zick (Boxelder Sanitation), Sandra Bratie (FCLWD/SFCSD), Linsey Chalfant (FCLWD/SFCSD), Eric Rickentine (NWCWD), Mike Scheid (ELCO Water District)

Introductions:

- Kirk Longstein – Senior Environmental Planner
- Miriam McGilvray – Logan Simpson (Consultant)
- Luke O'Brian, Northern Water
- Brian Zick, Boxelder Sanitation
- Sandra Bratie, FCLWD/SFCSD
- Linsey Chalfant, FCLWD/SFCSD
- Eric Rickentine, NWCWD
- Mike Scheid, ELCO Water District
- Zachary White, North Weld County Water District

Summary:

1. Applicability for projects casts too wide a net and will capture too many projects. Particular concern was for projects within existing rights-of-way and easements. Recommendation to look at exemptions for ROW projects.
2. Generally on the fence whether the geographic limits are better option. The right of way and easement applicability seems like the larger issue here.
3. Process should be clear that completeness review resets the 60-day clock if Fort Collins requests additional information.

Actions:

1. Provide the definition of "Development" and then will be able to provide number of projects that are coming.
2. If Geographic Limits are used, include a map with the buffers will be easier to apply.
3. Set up another meeting in early January to walk through draft regulations more specifically. Miriam to distribute Doodle Poll. Participants to indicate which sections they want to focus on.
4. Suggestion to include CoFC Utilities in this group discussion

Notes:

Kirk offered an overview of what's changed in the new draft, particularly with

- Procedural Changes
 - Extension to the Moratorium until March 31. First Reading on Feb. 7

- Updated Permit Review Process. Shifted to heavy pre-application timeline. Removed staff discretion and made Council final decision maker.
- FONAI (Finding of Negligible Adverse Impact) determined in Pre-Application Process
 - Moved from FONSI. “Significant” was too high to trigger permit review.
 - Can be appealed to PC and City Council, but staff determination up front
- Alternatives are reviewed through Pre-Application process, not as a Review Criteria
- Moves away from Project-based thresholds to Geographic Thresholds
- Added CDPHE definition of Disproportionately Impacted Communities

Process Discussion

- Eric: How is “Adverse Impact” determined?
 - Kirk: Intended to be a lower bar than “significant”
- Sandra: Pipe projects that are in the public corridor/ROW, does this capture all projects?
 - Applicability: New projects, material change and upgrades, and if there is an adverse impact to one of the natural resources. Otherwise, it wouldn’t trigger a full 1041 permit.
 - FONAI is initial determination of applicability for the 1041 permit process.
 - Sandra: This feels like it will capture a lot of projects and thus it will be a huge workload.
- Sandra: This seems to cast a very wide net for number of projects. And the 28th day pre-app process may be too long.
- Mike: Still confused on process and who determines whether they have to go to the city or not.
 - The intent isn’t to bring everything into the 1041 review process. City wanted to narrow the scope using the geographic resource.
 - Mike: How does this square with our statutory allowance to build in the right-of-way?
- Kirk: the Pre-application process was intended to be a release valve, but it sounds like this may complicate your process. How can we update the review process to be more efficient?
 - Sandra: Leave the exemption for dedicated Right of Way and Easements
 - Kirk: This was a directive from council, so encourage communication with decision makers on this point.
- Eric: My understanding is that the City will sub out the work load for review of applications. And then the applicant needs to pay the consultant fee. Not a burden to City staff.
 - Kirk: yes, however, city staff will be closely involved in the customer service aspect of the application to make sure it’s going well.
- Brian: Should make it clear that the 60-day process could be circular as the city asks for more and more for the completeness review.
- Sandra: What are the costs on this?
 - Kirk: FONAI is covered, no cost. Issued an RFI to third party consultants to propose a program to review and inspect the application projects which is still TBD to know what the costs look like. Will share more information on costs with Council in February.

Council Question #1: Do you have feedback on the proposal scope to focus on the greatest areas of impacts rather than major projects?

- Eric: How are temporary impacts vs. permanent impacts reviewed?
 - Kirk: if the impact has any adverse impact to a natural habit or any one of the general review standards.

- Sandra: Does this map include the buffer?
 - Kirk: No, these are only the natural features, and then we would adopt the Buffer Table
 - Kirk would suggest engaging with staff in the pre-application to make sure if a project is applicable.
 - Still need to ground truth the natural features on the map, as part of the FONAI/pre-application review.
- Mike: Is there political support for the geographic thresholds?
 - Kirk: yes, there is general support for this direction. However, the environmental stakeholders adamantly do not support this.
 - Mike: Not sure which is the lesser of two evils. Still feels onerous.
- Sandra (asked in Chat): Will the geographic thresholds always be updated in context of 1041 or is there risk that they can be added by an auxiliary process such as land use code, Nature in the City, etc.?
- Brian: As a sewer utility, we have facilities within natural areas and have had a good working relationship with the City to do maintenance and upgrades. Request that the new regulations acknowledge existing facilities – maybe as an exemption. If we have to dig up and replace a pipe, there aren't alternatives to that project.
 - Our customers are the public and the costs associated with these permits go back on the community. Council needs to be aware that all this impacts rate payers, even disadvantaged community members.
 - We don't do development, we respond to demand and current needs.
 - Kirk: if your project is in a direct relationship with a development, this wouldn't apply.

Council Question #2: Definition of "Natural Resources"

- Kirk: the inventory may be outdated and may require additional review. What's missing here? We've shrunk the scope, so what other features or databases could/should we include? CPW High Priority Area, or City Natural Areas Wildlife connectivity areas.
 - Eric: clarify if these areas are already part of this definition?
 - Kirk: yes, these would help inform.
- Eric: There are already processes in place to mitigate natural areas, though it's administrative. There are mitigation standards as part of that.
 - Kirk: This was intended to use this process to create a more binding process to replace SPAR.
- Sandra (from Chat): I also echo the earlier comment that it doesn't align that this is only for water/sewer and surface highway. Specifically when the intent is to minimize impacts to these geographic locations or promote the nature in the city and connectivity corridors.
 - Miriam: The geographic/natural area thresholds is a hybrid approach to applying 1041 powers. The City did not designate an Area of State Interest to include areas of historical, natural, or archaeological resources of statewide importance, which could've applied to all types of activities/projects within those areas. Instead, City Council designated only these Activities of State Interest (highway and water/wastewater projects) and are putting guardrails on where the regulations are most appropriate.
- Brian: State process already requires a permit process for pipes 25" or larger and any treatment facility improvement. How does this overlap with those State requirements.

- Sandra: the state process currently has size thresholds for new easements. This feels like an easier/simpler threshold.

How to comment and be involved:

- Mike: Are you interested in written/red line comments on this version in the form of additional feedback?
- Kirk: Timing doesn't allow for another draft to be release for another round of review before First Reading. Suggest comments to be viewed as a general policy direction in a memo format.
- Can provide comments directly to Kirk, will be submitted as public record and included in the City Council Packet. Also can send to cityleaders@fcgov.com to communicate directly to City Council and City Manager about what you like and don't like.
- Eric: There seems to be a lot of unanswered questions and had serious impacts on how projects will happen in the future. Seems to be moving too fast. There should be a chance to comment on the next draft with thorough review before goes to the First Reading.
- Mike: What's the deadline for comments?
 - We can meet again as a group in January.
 - January 20 as deadline for comments to get into packet for First Reading, but if there are comments ahead of time, we can try to integrate earlier into legal review and draft changes.

Date: 12/19/2022

Topic: Economic/Municipal Group 1041 Regulations Discussion

Duration: 90 minutes

Participants: Kirk Longstein (City), Miriam McGilvray (Logan Simpson), Joe Rowan (consultant with Chamber of Commerce), Keith Meyer (Ditesco), Kevin Jones (FC Chamber), Mike Scheid (ELCO), Peggy Montano (Trout Raley Law), Randy Siddens (ELCO), Kim Emil (Town of Windsor), Eric Rickentine (NWCWD)

Introductions:

- Kirk Longstein – Senior Environmental Planner
- Miriam McGilvray – Logan Simpson (Consultant)
- Joe Rowan – FC Chamber of Commerce
- Keith Meyer – Ditesco
- Kevin Jones – FC Chamber of Commerce
- Mike Scheid - ELCO
- Peggy Montano – Trout Raley, general counsel for Northern Water
- Randy Siddens – ELCO
- Kim Emil – Town of Windsor
- Eric Rickentine – NWCWD

Summary:

1. Exemptions: Projects within existing easements and rights-of-way should be exempt. Including them is overly punitive and burdens small projects. Project previously approved by PZ (and SPAR process) should be exempt.
2. Emergency repair or maintenance on facilities is not adequately addressed and should not be applicable to 1041 regulations.
3. These regulations are too far removed from what the 1041 House Bill intended – the scope of these regulations is overreach from regulating “Activities of State-wide Interest.”
4. Look at definitions – project size, types of projects (i.e. ditches), “development”, and other state definitions
5. Update application process to allow the applicant to revise before final City Council decision.
6. Define role of 3rd party consultant in application review process.
7. Review pass-through fees, permit fees, inspection fees so that there isn’t “triple dipping” or overlap between fees for topic experts.
8. FONAI screening process is supported.

Actions:

1. Send comments to Kirk the week of January 9th in order to get changes into the draft.
2. Kirk to add Kim Emil (Windsor) to email communication (kemil@windsorgov.com)
3. Kirk to prepare summary of proposed changes to policy direction and share with group.
4. Miriam to send Doodle Poll to schedule second meeting in early January.

Notes:

Kirk offered an overview of what's changed in the new draft, particularly with procedural changes, and geographic threshold approach.

- Extension to the Moratorium until March 31. First Reading on Feb. 7
- Joe: Asked if Water Commission has been involved
 - Kirk: Yes, gave updated to Water Commission and they will provide written comments. Water providers and representatives from boards and commissions are also engaged as part of these working group meetings.
 - Formal memos from other boards/commissions will likely not be available ahead of time but included in council packets.
- Procedural Changes
 - Updated Permit Review Process. Shifted to heavy pre-application timeline. Removed staff discretion (tiered approach) and made Council final decision maker.
 - FONAI (Finding of Negligible Adverse Impact) determined in Pre-Application Process
 - Moved from FONSI. "Significant" was too high to trigger permit review.
 - Can be appealed to PC and City Council, but staff determination up front
 - We've heard support for this approach from other groups
 - Alternatives are reviewed through Pre-Application process, not as a Review Criteria
- Moves away from Project-based thresholds to Geographic Thresholds.
 - Larimer County has project-based thresholds (pipe, easement sizes) and we may want to reconsider our approach.
 - City may have shrunk the scope too much. Getting feedback from other groups that we didn't quite hit the mark.
- Review process/timeline
 - 28-day initial screening for FONAI and whether permit is required. Conceptual review. Similar to development review process, with Director as decision maker. Can appeal to Planning & Zoning.
 - Application Completeness Review Process with 60-day limit. Timeline provides predictability for applicant. Alternative considerations at this phase, with mitigation.
 - Have heard from others that we need more specificity on when those 60 days starts/ends if staff asks for additional components of the application.
 - Outsourcing review of applications to 3rd party. Cost of that review is passed on to applicant. Likely between \$25k-\$35k.
 - City is paying for both city and consultant experts. Permit fee plus 3rd party application review plus city staffing – sounds like "triple dipping" and significant expense to applicant.
 - Not unreasonable for huge projects, but the applicability thresholds capture smaller projects. Feels too much of a burden for smaller projects.
 - City would look to other example city 1041 regs. for a benchmark size/threshold standards.
- Question of applicability – are projects within existing easements included? Yes.
 - Joe: easements should be exempted

- Kirk: Should there be an additional trigger for projects within an existing easement. Such as, if the easement is increasing or if the size of the project creates additional impacts.
- Mike: Are maintenance or emergency repairs included?
 - This is a gap in the current draft and needs to be addressed.
 - This is crippling to service providers and their customers, not just timing being on hold during application review but also costs.
- Change in definition of “Development” was addressed in the June Council discussion
 - Group consensus: this new definition creates too much of a burden.
 - Kirk: what bookends can we put on this?
 - Eric: It’s only a “loophole” to close if it gets around a city goal. What is the goal that the city is trying to achieve?
- Joe: there may have been miscommunications with staff and city council this year.
- Keith: Nexus for 1041 regs is within major infrastructure projects of state-wide interest. Current draft misses that nexus by capturing too many small projects.
 - “Major” means trunk mains, transmission lines. Collection and distribution facilities are not major. Not necessary to specify size.
 - Easement projects should only be included here if the easement needs to be augmented or amended.
 - This draft would include all projects that are within alleys and urban streets, which misses the mark on what the 1041 regs are intended to regulate.
 - Kevin: The community desires aren’t clearly represented in this draft. The benchmark is “state-wide interest” and this gets way too much in the weeds with the types of projects that this captures.
- Mike: The draft and the activities designated in this draft are not equitable with other utilities (energy and gas) that use the same easements.
- Peggy: during emergencies (pipe breaking), it’s not an appropriate time to go through permitting process. Bring common-sense approaches.
- Peggy: Consultant role could either be an advocate for one side or another. Slippery slope and needs more bookends to narrow their scope.
- Peggy: Cumulative permitting process – how does an applicant resolve the issues coming out of all the other permitting applications (county, state, local permits)?
- Peggy: FONAI uses “negligible”, but you can be denied a permit for “any adverse impact” – draft language and process is inconsistent.
 - Kirk: FONAI is intended to screen out projects that are
 - Peggy: FONAI is a good idea.
 - Joe: could only be denied for a “material impact” maybe? May complicate everything by adding another term.
- Peggy: Should build in something after City Council Hearing to give the applicant a way to modify the proposal to address their concerns. Give City Council opportunity review draft proposal before it’s final.
 - Kirk: PZ process is fully transparent in terms of their conditional recommendation to Council. Maybe some of that can be worked out in that process.
 - Elected officials may not align with PZ recommendation, so there should be a way to adapt the application after the draft has been reviewed by Council.

- Keith: Ditches were added to the definition of a domestic water system, which they are not.
- Keith: exempt prior SPAR-approved projects.
 - Kirk: There is support for that and that will be reflected in the next draft.
- Kirk: Revised draft language won't be released early. Council will review same time as public.
 - Eric: if Council understood the tight timeline, they may want to push out.
 - Moratorium deadline is the urgency, but some people would like to get the regulations right, even if that extends the moratorium.
 - Could have more time between first and second reading.
- Peggy: Geographic language – something future planned city facilities/parks? As an applicant, that's not clear. "Developed or underdeveloped" is the text. How to make it more predictable?

How does this group feel about moving the geographic applicability trigger into the general review standards?

- There is already a definition of Natural Features and National Resources in the land development code.
- Peggy: Already so much unpredictability for applicant. Subjective standards are hard to work with.
- Kirk: We're hearing that we need to provide more clarity/parameters on mitigation and alternatives process.
- Peggy: There is state attorney definitions on mitigation. Need to tie mitigation to solve current problems/impacts but not to mitigate what's happened in the past.
 - Kirk: There is literature to provide framework for evaluating mitigation in CDOT projects in wetlands. CSU professor put this together for CDOT.

Summary Thoughts:

- Bonding and security: what does that look like for water/wastewater projects?

Date: 12/7/2022

Topic: CDOT Group 1041 Regulations Discussion

Duration: 60 minutes

Participants: Kirk Longstein (City), Miriam McGilvray (Logan Simpson), Heather Paddock (CDOT), James Eusen (CDOT), Vanessa Santistevan (CDOT), James Usher (CDOT)

Introductions:

- Kirk Longstein, Senior Environmental Planner with Fort Collins
- Miriam McGilvray, Logan Simpson (Consultant)
- Heather Paddock, CDOT
- James (Jim) Eusen, CDOT
- Vanessa Santistevan, CDOT
- James Usher, CDOT

Summary:

1. Generally support a narrower scope, using geographic limits, as long as there is explicit areas and criteria to take out subjectivity in application process.
2. Clarify process if Fort Collins doesn't meet the shotclock deadlines. Does the application move forward?

Actions:

1. Send mapping resources and presentation to CDOT Working Group
2. Send a schedule and timeframe for how and when to provide comments.
3. Create a checklist

Notes:

Kirk offered an overview of what's changed in the new draft.

- Procedural Changes
 - Extension to the Moratorium until March 31. First Reading on Feb. 7
 - Updated Permit Review Process. Shifted to heavy pre-application timeline. Removed staff discretion and made Council final decision maker.
 - FONAI (Finding of Negligible Adverse Impact) determined in Pre-Application Process
 - Moved from FONSI. "Significant" was too high to trigger permit review.
 - Can be appealed to PC and City Council, but staff determination up front
 - Alternatives are reviewed through Pre-Application process, not as a Review Criteria
- Moves away from Project-based thresholds to Geographic Thresholds
- Added CDPHE definition of Disproportionately Impacted Communities

Council Question #1: Do you have feedback on the proposal scope to focus on the greatest areas of impacts rather than major projects?

- Heather: like where this version is headed.
 - Like the more focused lens – less bureaucracy for the same results.
 - Like the FONAI process. Feels more common-sense approach and have suggested this to Boulder County.
- Vanessa: appreciate the geographic threshold approach.
- Kirk: Can we leverage the pre-application 28day review process to cast a wider net and then move the geographic thresholds to a review standard. Brings up additional element that these geographic limits (natural areas) don't recognize: Disproportionately Impacted Communities, and social component
- Vanessa: CDOT already has to look at DEI into their projects anyway. How is it defined?
 - Might be better to map the social resource areas too.
- Heather: the more we can close in and follow a defined checklist for the applicant, the better. Want to avoid subjectivity.
 - Include whatever is important, but be sure to define those areas or criteria explicitly
- Vanessa: How is mitigation defined?
 - Kirk: Would be a one-to-one compensatory mitigation. Mitigation would only be needed that go through the natural features.
 - Inspections and bonding was added to this version. Would want on-site mitigation, not fee-in-lieu or banking.
- Heather: What level of design is required for that pre-application process?
 - Kirk: would need to know where the road goes, but not engineering plans
 - The intent of the 1041 Regs is to make a better project, not to kill a project.
- Heather: If Fort Collins didn't make the deadlines, would the projects just keep moving forward in the process?

Council Question #2: Definition of "Natural Resources"

- Kirk showed the Geographic Threshold maps with the CPW High Priority Habitat features too.
 - Archaeological resources are missing
 - Habitat corridors and linkages to potentially add
- Vanessa: The CDOT definitions are more specific to each type of resources.

How do you want to stay involved?

- Heather: provide a schedule and timeframe for how and when to provide comments.
 - The First Reading is February 7
 - Preference to consolidate comments ahead of time so staff can show where and how those comments were addressed.
 - January 20 – packet to Council.
 - cityleaders@fcgov.com to send comments directly to City Council and City Manager.
- Jim: will get with the team to see if there are any other comments. Appreciate the effort to engage and listen to us.
- Heather: feels like a good approach, especially compared to Boulder.

Date: 12/13/2022

Topic: Boards and Commissions Group 1041 Regulations Discussion

Duration: 90 minutes

Participants: Kirk Longstein (City), Miriam McGilvray (Logan Simpson), Ted Shepard (PZ), Karen Artell (AQAB), Dawson Metcalf (NRAB), Ross Cunniff (LCSB), Barry Noon (NRAB), Michelle Haefele (PZ)

Introductions:

- Kirk Longstein – Senior Environmental Planner
- Miriam McGilvray – Logan Simpson (Consultant)
- Ted Shepard, Planning Commission
- Karen Artell, AQAB
- Dawson Metcalf, NRAB
- Ross Cunniff, LCSB
- Barry Noon, NRAB
- Michelle Haefele, Planning Commission

Summary:

1. Recommend that application process explicitly allow for time extensions.
2. Recommend that neighborhood/public is notified or engaged through the FONAI process too.
3. Generally, this group does not support the geographic limits.
4. Suggest looking at specific scope and size thresholds instead of geographic limitations (i.e. pipe sizes and whether it's new or a replacement).
5. Would like Council to designate other Activities of State Interest in the future.
6. Use and build on the existing "Natural Features" definition already in the code and maybe build in subsurface hydrologic resources too.

Actions:

1. Reconvene after New Year. Miriam to send out Doodle Poll with additional meeting times.
2. Working Group members are encouraged to send additional written comments directly to City Council.

Notes:

Kirk offered an overview of what's changed in the new draft, particularly with

- Procedural Changes
 - Extension to the Moratorium until March 31. First Reading on Feb. 7
 - Updated Permit Review Process. Shifted to heavy pre-application timeline. Removed staff discretion and made Council final decision maker.
 - FONAI (Finding of Negligible Adverse Impact) determined in Pre-Application Process
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- Alternatives are reviewed through Pre-Application process, not as a Review Criteria
- Moves away from Project-based thresholds to Geographic Thresholds
- Added CDPHE definition of Disproportionately Impacted Communities

Process Discussion

- Ted: “shot-clock” was sometimes negotiated with SPAR applicants for complex projects. Is there anything in the draft that outlines that flexibility?
 - Kirk: the 60 days for the application submission and completeness review helps staff stay on track. Perhaps during that time, we could
 - Ted: recommend that we include language that explicitly allows for time extensions.
- Michelle: Would like to have staff more hands-on with the applications. Perception that paid consultants could be biased toward applicant (who pays for them).
 - Kirk: Option to have contract work managed through the city, not directly hired from applicant
- Ross: No neighborhood meeting for FONAI, but meeting notice?
 - Kirk: no, but we plan on making that revision
- Barry: “Adverse” vs. “Significant” aside, there should be a numerical threshold to determine impact. What are the decision thresholds? Should be numeric, not qualitative.
 - Kirk: That termination uses the city’s general review standards. The benchmark is not prescribed in the code, but the city already has some EPA limits to ozone or hazard materials etc. But the benchmark data is not codified.
- Barry: If we did have numeric benchmarks, but isolated impacts may not reach that threshold.
 - Kirk: We do not include cumulative impacts within the general review standards.
 - Barry: example of timber sales at a landscape scale not a single unit scale. Oil and gas is another great example.
 - Kirk: If we did put some bookends on that cumulative analysis? Impact on 3 generations in the future? Or reduce the scope of how that is approach?
 - Barry: The way we’ve made decisions in the past, shows that we should do it differently in the future.
 - Kirk: Please share any examples of methodology.
 - Michelle: NEPA process is very similar to this. Not sure if FONAI is better or not. FONSAI has been used in the NEPA process since the 70s.
 - Ted: could you address cumulative issue, add a scoping study and conversation with staff?
 - Kirk: If we add cumulative impact as part of the general review standards, would need some massaging to understand that scope (geographic scale, timing/generational scale etc.)? Could likely address at staff level or during the pre-application review process.
 - Michelle: Look at EPA standards. Will send.
- Ted: 90 day continuance. Is that the maximum? Should it be “up to 90 day continuance”?
 - Kirk: will double check with the statutory guidance.
- Kirk: Updates to the definition of “Development” include City projects and projects within existing right of ways and easements. Some people think that that is unnecessary overreach and are asking for an easement size threshold or exception for projects in the right of way.

- Kirk: Public utility projects as part of another development review process would be exempt. 1041 would be redundant and are therefore exempted.
- Ted: College and Trilby widening example: joint funding for a public utility project.
 - Kirk: that would go through the general development review process and not a 1041 application. But if there are blind spots on that example, let him know.

Council Question #1: Geographic Limitations

- Michelle: Geographic limits were the result of a special interest going directly to Council.
- Karen: Why are the water providers supportive of the geographic limits?
 - Kirk: familiarity with other city standards.
- Ross: Other utility, energy, and natural gas providers are not included in these regulations?
 - Kirk: Correct, City Council decided not to designate those as part of our regulations. But they could be designated in the future.
- Barry: “Geographic limitations/thresholds” doesn’t make sense to me.
- Kirk: There are several maps that show natural and historic features. What are we missing and is this a good way to apply the geographic limits?
 - Process:
 - 1) if it is a designated activity and definition of those types of projects
 - 2) if it intersects with one of these geographic thresholds (likely that no 1041 permit would be required if it doesn’t intersect with a geographic feature)
 - 3) analysis for FONAI
 - Looking for additional resources to ground truth the extent of these features
- Dawson: All of these different maps, what are we trying to include here? What are natural resources?
 - Kirk: That is one of our questions today. What do we want to include
 - Dawson: want to emphasize connectivity as part of the Natural Resource definition.
- Karen: Concern that if the geographic standards are more restrictive, it may push the projects outside of natural areas and burden private landowners. Some of these providers/applicants have eminent domain.
 - Kirk: the intent is to add protections for landowners.
 - Karen: using geographic limits doesn’t recognize or protect residents. Social component is lacking here.
- Barry: the two drafts (with or without geographic limitations). Doesn’t support geographic limits. Projects outside of the city that still have impacts on city do not trigger this permitting process?
 - Kirk: Correct, that is the current interpretation of the statute.
 - Barry: Ecological systems are open systems that don’t respond to political boundaries.
- Kirk: The moratorium language includes a project AND geographic approach, which is confusing.
- Ted: The City will be asked by utility providers to look at the project scale and scoping. Ex: pipe replacement is a gray area. There is too much open to interpretation. Suggest looking at pipe sizes and whether it’s new or a replacement to help limit the scope instead of a geographic threshold for all projects.

- Michelle: did not support the tiered approach at any point. There was pushback on the previous tiered approach which she supported when the applicability was still across the whole city.
 - Kirk: There are still a lot of projects that would be applicable within this geographic proposal.
 - Michelle: There are also a lot of projects that will affect people and underserved communities that aren't reflected in this approach.
- Ted: If a project doesn't meet a geographic threshold, would it still have to go through a SPAR?
 - Kirk: need to check on this, but that is the assumption.
 - Karen: And if it was a project that went through SPAR, they can ignore the SPAR recommendation. This leaves FC residents without protections.
- Ross: We want the whole city to be applicable, because we don't know what we don't know.
- Ted: Use and build on the existing "Natural Features" definition already in the code to define "Natural Resources."
 - Ross: should include more sub-surface hydrologic features too. And work on mapping.

How to comment and be involved:

- If comments are sent to Kirk, he can distribute. If you want to advocate for a particular position, Kirk recommends sending comments directly to Council.

Date: 12/6/2022

Topic: Environmental Group 1041 Regulations Discussion

Duration: 90 minutes

Participants: Kirk Longstein (City), Miriam McGilvray (Logan Simpson), Vicky McLane, Ray Watts, Hattie Johnson, Mark Houdashelt, Scott Benton, Gary Wockner

Introductions:

- Kirk Longstein – Senior Environmental Planner
- Scott Benton – Environmental Planner
- Miriam McGilvray – Senior Planner with Logan Simpson (Consultant)
- Ray Watts – previously on Land Conservation Stewardship Board. Kicked off full 1041 process.
- Vicky McLane – LCS Board too, League of Women Voters
- Hattie Johnson – American Whitewater
- Mark Houdashelt – Fort Collins Sustainability Group; Airport Advisory Board
- Gary Wockner – Save the Poudre

Summary:

1. Geographic limits aren't supported. Should be city-wide.
2. Adverse vs. Significant doesn't change the problem. Recommendation: No Impact.
3. Impact to city property and city residents needs to be reflected in the regulations even though the activity is built outside city limits.
4. Buffer Areas don't recognize that there may be other impacts outside of those areas (i.e. migratory birds).

Actions:

1. Review language to clarify timing and what happens if we don't meet the deadlines.
2. Set up another meeting with this Focus Group in early January.
3. Kirk will look into public comment opportunity to City Council before First Reading.

Notes:

Kirk offered an overview of what's changed in the new draft.

- Procedural Changes
 - Extension to the Moratorium until March 31. First Reading on Feb. 7
 - Updated Permit Review Process. Shifted to heavy pre-application timeline. Removed staff discretion and made Council final decision maker.
 - FONAI (Finding of Negligible Adverse Impact) determined in Pre-Application Process
 - Moved from FONSI. "Significant" was too high to trigger permit review.
 - Can be appealed to PC and City Council, but staff determination up front
 - Alternatives are reviewed through Pre-Application process, not as a Review Criteria

- Mark asked: if an application is deemed incomplete, does the 60-day clock start again?
 - Yes
 - If the City doesn't make completeness review action in those 60 days, does it automatically move forward?
 - ACTION: Review language to clarify timing and what happens if we don't meet the deadlines?
- Gary asked: What version are we looking at to review?
 - Only difference between two versions is the geographic limitations

Council Question #1: Do you have feedback on the proposal scope to focus on the greatest areas of impacts rather than major projects?

- Vicky: the City limits should be the full scope, not with the geographic limitations.
 - Gary agrees. Feels like the geographic limitations didn't come out of the process. Concerned that the recommendations really don't reflect our input.
- Kirk responds: the geographic limitations were introduced as a compromise. There was confusion about the moratorium language. Staff was given direction to introduce Natural Buffer thresholds as a compromise for those folks.
 - This is a standard that's already in place. This would apply the same standards that we use in the Land Use Code.
 - Does this provide more predictability for applicants?
 - Where are the other areas that we want to protect?
- Ray: The geographic threshold language could be interpreted two ways: that it limits the scope or that it clarifies the criteria and standards to apply.
 - Recommendation: Use as standards, not as geographic limits
- Kirk: these are already included in the FONAI review standards.
- Mark: The areas on this map include natural habitat areas outside of City Limits. What's our jurisdiction for this permit?
 - Kirk: Federal Nexus areas would be NEPA process. These activities would only be in the City's 1041 jurisdiction within the City Limits.
 - "Purpose and Findings" says "public safety and welfare" but this is written to only protect the natural areas. If you're only trying to protect natural areas, then the purpose language should be revised.
- Gary: Significant changed to adverse, but there isn't much difference between the two. Our recommendations were No Impacts. Does not support the geographic limitation.
 - Massive projects can be built surrounding Fort Collins, but we can't regulate those because the project isn't in the City Limits.
 - Very concerned that this is going to be greenwashing without any meaningful impact.
 - Kirk: NISP pipeline would apply but not the reservoir.
 - Gary: There is a recent court case between Larimer County and Thornton Water. Gray area and hasn't been thoroughly tested.
- Gary: There are activities that would have impacts to the whole watershed
- Miriam: The powers that have been given by the state don't extend to activities that are built outside of the city limits. That would need to go through the Larimer County 1041 permitting process.

- Ray: Agree with Miriam’s interpretation of the 1041 Bill, but there are activities that will impact whole watershed. This really should be tested to expand to a “Buffer area” surrounding the city.
- Ray: The “Buffer” word needs to be used judiciously, how broad is the area that creates the impacts on our natural features. Need fresh environmental analysis for each project, don’t just try to use the buffer standards. Buffers shouldn’t be pre-ordained (where are the animals going or where does the water come from).

Council Question #2: Definition of “Natural Resources”

- Vicky: air quality isn’t adequately included. Transportation projects will have air quality impacts.
 - Kirk: air quality is included in general standards
 - Air, Water, and Soil are natural resources, so the whole city needs to be included.

Kirk: brings up additional element that these geographic limits (natural areas) don’t recognize:

1. Disproportionately Impacted Communities, and social component
 2. Add CPW State Wildlife High Priority Areas
- Ray: thinks these are similar to the other buffer areas in that they don’t cover the lateral impacts. These could be triggers for additional analysis, but don’t use these for the initial FONAI.
 - Vicky: migratory birds don’t fit into these buffer areas

Gary: Natural Area buffer standards for easements are decided by the Natural Areas Director. City Council should be decision maker in approving easements. Administrative adoption of those standards is weaker than a full City Council adoption in some form into City Code. Concern that those standards could be changed/weakened too easily.

Hattie: will review and send comments either by email or at next meeting.

Date: 1/9/2023

Topic: Boards and Commissions Group 1041 Regulations Discussion

Duration: 60 minutes

Participants: Kirk Longstein (City), Miriam McGilvray (Logan Simpson), Vicky McLane, Ray Watts, Hattie Johnson, Mark Houdashelt, Gary Wockner, Dawson Metcalf, Elena Lopez

Introductions:

- Kirk Longstein – Senior Environmental Planner
- Miriam McGilvray – Logan Simpson (Consultant)
- Vicky McLane
- Ray Watts
- Hattie Johnson
- Mark Houdashelt
- Gary Wockner
- Dawson Metcalf
- Elena Lopez

Summary:

1. Important to cross-reference the definitions and share the relevant maps and information.
2. Tighten up definition of “impact area,” perhaps by naming it “construction area” instead.
3. Need to make sure that there are still protections for impacts on private property too, and not just environmental impacts to city-owned natural areas.
4. Gratified to see the inclusion of Disproportionally Impacted Community criteria.

Meeting Notes:

- PC Public Hearing will be on January 25, 2023. Staff is committed to having the draft ready for that meeting. First reading with the City Council will be February 7, 2023. Would need comments by January 23.
- Based on recent feedback, there was not wholesale support for the geographic limitations. This new draft recommends updating the definitions to include project size thresholds similar to Larimer County regulations. Previously proposed geographic based thresholds should be applied as review criteria to the FONAI determination.
 - Ray: What does the City Attorney say about this approach?
 - What we’re proposing here is legally defensible. With City Council as the sole decisionmaker, there is concern that capturing too many projects would bog down the docket.
 - Intent is to exclude smaller projects and focus on projects that would be captured by SPAR.

- Vicky: very concerned about the definition of Natural Resources. Limiting ourselves if we use the state definition.
 - Kirk: staff recommendation is to use LUC definition of Natural Features which is an expanded definition. Also would include critical habitat and corridors which is identified by Nature in the City.
- Mark: Important to cross-reference the definitions in the LUC and share where the maps/geographic areas area and how/who updates them.
 - Kirk: Staff intends to include a checklist and handbook/program guide to help applicants find all the relevant information.
- Pre-application Submittal Requirements:
 - Ray: “impact area” is hugely ambiguous. Should tighten up that definition.
 - Kirk: regulating surface activities with these regulations. Defined as 1mile outside of area that construction area.
 - Ray: recommend calling it “construction area” instead, if it really means where there is surface disturbance.
 - Kirk: Intent to provide more transparency and more public input before the FONAI determination. The Pre-Application Activity Review and Neighborhood Meeting brought in earlier in the process.
 - Mark: are these requirements intended to be submitted for each of the design alternatives?
 - Kirk: The cumulative impacts and conceptual mitigation plans would be for the preferred alternative. The neighborhood meeting is intended for the client to make their case for their preferred alternative.
- FONAI Determination – Includes the geographic areas
 - If FONAI is determined, there will still be other construction permits that the project will need. City will still be involved in the project, but it won’t need to go through the rest of the 1041 permitting process.
 - FONAI determination criteria is unique to this 1041 permitting process (decided not to use common review standards set forth in Section 2-401 of the LUC).
 - Ray: Gratified to see the inclusion of Disproportionally Impacted Community criteria
 - Ray: These minimum criteria for FONAI determination, which provides clarity and predictability for the applicant too.
 - Mark: are the last three criteria applicable to just the “impact area” or further out?
 - Kirk: All the analysis in the pre-application would inform how the criteria is applied.
 - Mark: Feels like the geographic thresholds have just been moved to a different place in the regulations. Need to make sure that there are still protections for impacts on private property too.
 - Common Review Standards would still apply. Mitigation Plans have performance criteria, too.
 - Elena: Could consideration of public input be added as a FONAI criteria? Also, wish this was still a FONSAI and not a FONAI.
 - Kirk: hopefully we’re addressing this concern by having a neighborhood meeting ahead of the FONAI determination.

- Ray: First few bullets have emphasis on city-owned property. Degradation of environmental quality or degradation of access to natural areas for private property/neighborhood should be on this list.
 - Kirk: Natural features on private property is covered in the buffer area
- Kirk: Eminent Domain was brought up at another meeting and staff is looking into what protections we can build into these 1041 regs.
- Nina: When will the next full version of the draft regulations be available?
 - Kirk: the full draft will be included in the packet for the Planning Commission packet: January 25th.
 - P&Z puts forth a recommendation prior to a city Council hearing. So providing comments ahead of the P&Z meeting are beneficial.

Date: 1/11/2023

Topic: Water Provider Group 1041 Regulations Discussion

Duration: 60 minutes

Participants: Kirk Longstein (City), Miriam McGilvray (Logan Simpson), Kathryn Marko (Fort Collins), Brian Zick (Box Elder), Jason Graham (Fort Collins), Randy Siddens (ELCO), Sandra Bratlie (FCLWE/SFCSD), Tim G, Zachary White (NWCWD), Jesse Schlam (Fort Collins), Eric Reckentine (NWCV), Mike Scheid (ELCO), Sean Chambers (City of Greeley)

Introductions:

- Kirk Longstein – Senior Environmental Planner
- Miriam McGilvray – Logan Simpson (Consultant)
- Kathryn Marko
- Brian Zick
- Jason Graham
- Randy Siddens
- Sandra Bratlie
- Tim G
- Zachary White
- Jesse Schlam
- Eric Reckentine
- Mike Scheid
- Sean Chambers

Summary:

1. The new 2,000 average daily flow definition is arbitrary and too low of a metric for these regulations. The metric should be applied differently for domestic water and wastewater, too.
2. Regulations should clarify process for when routine maintenance/repair becomes a replacement, which is often not known until they open it up. Consider a linear foot threshold for what a replacement is versus a repair, and clarification that replacement of aging infrastructure is a type of maintenance.
3. Water/sewer plant capacity should maybe be considered as part of the definitions.
4. The process is rushed and doesn't adequately allow for review and revisions before Council hearings.

Action:

1. Request to share the website for the DIC mapping and CPW critical habitat maps: https://teeo-cdphe.shinyapps.io/COEnviroScreen_English/

Meeting Notes:

- PC Public Hearing will be on January 25, 2023. Staff is committed to having the draft ready for that meeting. The packet will likely be available the Friday before. PC will hear public comment before they deliberate and provide a recommendation to City Council.
 - The next draft will also be presented to the Water Commission on Jan. 19.
- First reading with the City Council will be February 7, 2023. Would need comments by January 23 if sent ahead of time.
- Based on recent feedback, there was not wholesale support for the geographic limitations. This new draft recommends updating the definitions to include project size thresholds similar to Larimer County regulations. Previously proposed geographic based thresholds should be applied as review criteria to the FONAI determination.
 - Brian: Who determines the adverse impact to a natural feature, historical resource or DIC in the first bullet of exclusions?
 - Kirk: This would be discussed in the preliminary review.
 - Brian: Currently we don't ask the City for a permit for maintenance or repair as long as they are in an existing easement.
- Mike: Who makes the determination of how many gallons of day is the average flow in the definition? Do we submit every project for the City to make the determination, or can we make that determination?
 - Kirk: Yes, assuming the other permitting is correct.
 - Sandra: Did the 2,000 gallons come from another community? It doesn't make sense and is arbitrary. May not know at the beginning of the project.
 - Kirk: Yes, it came from another community.
 - Sandra: Thanked the City for narrowing down the scope and bringing in exclusions.
 - Sean: The 2,000 gallon metric will be different between sewer and domestic water.
 - Randy: This could be a 20 home subdivision. This catches even 6" waterlines. Seems too low and maybe shouldn't even be in there.
- Sean: Sometimes a repair becomes a replacement. Is there a linear foot threshold for what a replacement is versus a repair?
 - Kirk: If it is like for like, that seems pretty straightforward. When it becomes an enlargement, bigger pipe diameter, or larger easement/disturbance area, then it would need to be assessed.
 - Sean: sometimes we don't know until we have already ripped up. Do we have to shut down the transmission line until we get a 1041 permit or just replace the 50' of pipe?
 - Sandra: The new lead and copper regulations where we need to go into a project unknown for replacement is a good example.
 - Kathyne: Routine replacement of aging infrastructure is a type of maintenance. Need to clarify this in the regulations.
 - Sandra: A lot of this process is duplicative of what is already in place already with Natural Areas and Parks.
 - Randy: If easement is considered permanent property right acquisition, what is the threshold of how large that easement is or what is considered an expansion?
- Randy: "Adjustment" needs better definition. Is nebulous.

- Sandra: Will new water/sewer as part of an approved Development Review project by City of Fort Collins still be excluded from 1041?
 - Kirk: Yes, if your project is already part of another development proposal (like a subdivision), then a 1041 permit is not required. It is another exclusion.
- Kathrynne: Water/sewer plant capacity should maybe be considered as part of the definitions.
- Kirk: Project must be within or partially within city limits. Jurisdiction ends at city limits.
 - Sandra: Foothills tank (FCLWD) it's a parcel they own but surrounded by natural areas. If it needs to go through SPAR, would we be released from that process?
 - Kirk: If the fork is between SPAR or 1041, then the 1041 permit process is required. If it gets a FONAI, then it may go through SPAR.
- Sean: "Adverse impacts" presumably has a definition, does the analysis of adverse impacts for a project like a treatment plant or potable tank include a review of environmental impacts?
- Pre-Application Submittal Process:
 - How long would it take to go through the Conceptual/Preliminary Design Review, Pre-application activity and neighborhood meeting?
 - Kirk: This would largely depend on the client.
 - Mike: Are there going to be clear expectations for this?
 - Kirk: yes, there will be.
- FONAI Criteria:
 - Randy: clarify where to find a map of these geographic areas
 - Sandra: Can you expand on the "natural habitat corridor" - item 6? Is this the last map provided from last meeting?
 - Kirk: Adverse Impact is a nebulous term, but yes, it would be the Nature in the City Plan. If there is enough detail in the mitigation plan, then we can take that into consideration and potentially determine a FONAI.
 - Sandra: Can a whole program be brought in?
 - Kirk: we can work with you to get one approval/1041 permits, could be brought forward as a package. Outlined in the decision procedures.
 - Sandra: Does Council know how many projects are expected? There are a lot.
- Brian: How do we plan for the fees?
 - Kirk: Not recommending a new permit fee. FONAI review will be staff and a contractor. Not sure how that will be billed yet. The full permit now doesn't include both a permit fee and a contractor fee. A third-party review cost will be defined in through the process. \$15,000-\$35,000 is an estimate for the full permit process fees.
 - Brian: Intuitively thought about \$50,000 for that consultant costs and then internal hiring to complete the analysis or develop the mitigation plans.
- Mike: We feel this is still a rushed process.
 - Sandra: Agree - the rush doesn't give time to present to either agency boards.
 - Eric: Agree that it doesn't feel like a fair time to review.
 - Mike: Would like city staff to deliver this comment to leadership.

Date: 1/6/2023

Topic: Boards and Commissions Group 1041 Regulations Discussion

Duration: 80 minutes

Participants: Kirk Longstein (City), Miriam McGilvray (Logan Simpson), Ted Shepard (PZ), Karen Artell (AQAB), Stephanie Blochowiak (Transportation Board), Ross Cunniff (LCSB), Barry Noon (NRAB)

Introductions:

- Kirk Longstein – Senior Environmental Planner
- Miriam McGilvray – Logan Simpson (Consultant)
- Ted Shepard, Planning Commission
- Karen Artell, AQAB
- Stephanie Blochowiak (Transportation Board)
- Ross Cunniff, LCSB
- Barry Noon, NRAB

Summary:

1. Show the justification of how the new project definitions were reached.
2. Like addition of cumulative impact analysis, especially as it relates to impacts on DIC.
3. “Adverse impacts” must be contemplated beyond city-owned property and beyond just the footprint of the project.
4. There was confusion about if modifications or variances are allowed through this process.
5. Would be helpful to have a 1041 handbook.

Actions:

1. Kirk to follow up on how eminent domain powers could be used by water/sewer providers.
2. Kirk will look into whether the PC hearing is quasi-judicial or not.
3. Kirk to clarify new names of the relevant boards and commissions (is the Land Use Review Commission the old ZBA?)

Meeting Notes:

- PC Public Hearing will be on January 25, 2023. Staff is committed to having the draft ready for that meeting.
- Based on recent feedback, there was not wholesale support for the geographic limitations. This new draft recommends updating the definitions to include project size thresholds similar to Larimer County regulations. Previously proposed geographic based thresholds should be applied as review criteria to the FONAI determination.
 - Karen sent follow-up email articulating why she doesn’t support the geographic thresholds (see attached)

- New definitions are generally from Larimer County 1041 regs, but there's confusion about where the numbers come from (how they were initially identified).
- Barry: Consider using percentage of flow vs. what's available instead of absolute amounts.
- Kirk: some jurisdictions have used equivalent household usage for water instead, but city decided not to go that route.
- Ted: Requested graphic that shows the comparison with other jurisdictions on these project-based definitions.
- Karen: could the water providers share what types of projects would fall within these new definitions?
- Stephanie: limits of construction (easement width) are really important.
- Ross: Pipe size makes a lot of sense because there's a nexus with the impact if there were a breakage.
- Process Updates – brought back in the Conceptual/Preliminary Design Review in the Pre-Application Submittal Process. There's also a neighborhood meeting earlier in the process before staff make a determination of a FONAI. And the FONAI can be appealable.
 - Barry: Likes the cumulative impact analysis addition, but mitigation assumes that those cumulative impacts can be mitigated. Need to be clear that something could be fundamentally reversible.
 - Kirk: Mitigation will be focused on restoration of land disturbance resulting from the project.
 - Kirk: Clarified that the permit review process does not include cumulative impacts or temporal impacts.
 - Stephanie: CDOT projects may have more long-term impacts than the water projects, especially with regard to air quality and DIC.
 - Kirk: please submit more information about what the guardrails should be for the cumulative impacts.
 - Stephanie: Economic analysis over time with development along the river – we would find the full economic strata living along the river, not just DIC. And are we hearing from these disproportionately impacted communities.
- In last draft, the FONAI was evaluated against the common review standards. This new draft uses criteria that is separate from the common review standards.
 - Karen would like geographic thresholds removed completely, not just pulled into the FONAI criteria.
 - Ted requested a process diagram.
 - Ross: Main concern is that “adverse impacts” are contemplated beyond city-owned property and beyond just the footprint of the project.
 - Kirk: the analysis will look within 1 mile of the project area
 - Karen: if this incentivizes projects to go through private property, worry that this could result in eminent domain.
 - Ted: Even with eminent domain, there is still monetary compensation.
 - Stephanie: Doesn't think this would necessarily incentivize projects to avoid city property.
 - Kirk: some of this may be built in as approval conditions with the city council.

- Kirk plans on including the CPW High Importance wildlife areas in the overall review criteria.
- Ted: recognized Karen's question about modifications/variances would not apply in a 1041 permit. Should build in a release valve or flexibility.
- Ted: These regulations are long overdue.
- Ross: Good progress but cautious.

Karen's Email (submitted 1/5/2023)

I felt like I wasn't explaining my thoughts clearly at our December 2022 meeting. Here are my thoughts regarding the City's 1041 draft regulations. I'll send the comments to City Council too.

First, eminent domain is the right of the government to take property, including private property for public use.

Examples of entities that have eminent domain powers:

Northern Water, like other water providers, stores and delivers water for irrigation, municipal, domestic and industrial purposes. Northern Water is a public agency that contracts with the U.S. Bureau of Reclamation to build and maintain the Colorado-Big Thompson Project.

<https://www.northernwater.org/about-us>

The East Larimer County Water District is a political subdivision of the State of Colorado. ELCO has the authority to condemn property. <https://www.elcowater.org/about-us>

CDOT is a Colorado state government agency. <https://www.codot.gov/about>

All Fort Collins residents and property should be protected under the City's 1041 regulations. I would like to see the City adopt 1041 regulations without geographic limitations.

Using regulations with geographic limitations that only protect City interests such as existing or planned future City natural areas or parks, City owned right of ways, existing or potential future buffer zones for natural habitat or feature and historic resources puts City residents and their property at risk for the following reasons:

- Property owners are left to their own resources to deal with monied, powerful entities that have eminent domain powers.
- Because 1041 regulations must be followed in addition to all other City development codes, applicants may be incentivized to develop their project outside of geographic areas protected by 1041 regulations, in other words outside of City owned property and on private property owners' land.
- The specific purposes listed in the draft regulations, and below, are almost wholly gutted by limiting the regulations to geographic locations of City owned land, natural area or park, anticipated City building sites, buffer zones of natural habitats and historic resources. 1-102 (A)
 - (1) protect public health, safety, welfare, the environment and historic and wildlife resources;
 - (2) Implement the vision and polices 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 5.6.1; 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, 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.
- Geographic limitations creates confusion and uncertainty for applicants and residents and property owners. There are two different sets of regulations for land within and without proposed geographic limitations.

The draft regulations attempt to address disproportionately impacted (DI) communities. According to the draft regulations, DI community 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 CRS § 24-4-109(2)(b)(II) and as amended. (Bold added by me).

I recommend using Colorado's EnviroScreen https://teeo-cdphe.shinyapps.io/COEnviroScreen_English/ to better characterize the Fort Collins community as to low income, minority or housing cost burdened greater than 40%. I think how DI communities will be addressed needs to be expanded in the regulations.

I appreciate that air quality, emissions and leak prevention are addressed in the regulations. I'm hoping air quality measures, including limiting GHG emissions, are in place and enforced for both the construction phase and operational phase of any development.

I agree the modification of standards, variances and appeal form administrative decisions to the land use review commission of the land development code should not be applicable to the 1041 regulations.

Karen Artell

Date: 1/12/2023

Topic: Economic/Municipal Group 1041 Regulations Discussion

Duration: 90 minutes

Participants: Kirk Longstein (City), Miriam McGilvray (Logan Simpson), Joe Rowan (Chamber), Keith Meyer (Diesco), Keith Martin (Northern Water), Randy Siddens (ELCO), Zachary White (NWCWD), Kim Emil (Windsor), Sean Chambers (Greeley)

Introductions:

- Kirk Longstein – Senior Environmental Planner
- Miriam McGilvray – Logan Simpson (Consultant)
- Joe Rowan
- Keith Meyer
- Keith Martin
- Randy Siddens
- Zachary White
- Kim Emil
- Sean Chambers

Summary:

1. Participants aren't convinced that there is a problem that having 1041 regulations would fix. Current regulations and permitting processes cover the projects adequately. SPAR is not broken.
2. Using an average daily flow of 2,000 gallons in the definition is not an appropriate metric. It encompasses projects too small to be considered of statewide interest.
3. New 12" pipe size in the definition is not appropriate because transmission lines are at a minimum of 24".
4. New definition of 1,320 linear feet is not appropriate; to capture large projects the metric should be closer to 5 miles.
5. FONAI is seen as a lower bar than a FONSAI and doesn't feel like a legitimate off-ramp for good projects.
6. This is fundamentally flawed, and it would be worth rolling out as a pilot process to really understand how this works in practice.
7. Hope staff considers taking a pause and if you want to get it done right there's no need to rush.
8. If there IS a problem, and it's because of growth, then the City needs to look internally in the planning and zoning process.

Actions:

- In staff memo, it might be helpful to highlight any deficiencies to the current regulatory process.
- Asking water providers to send Kirk example projects that would fit or should fit under 1041 regulations.

Meeting Notes:

- PC Public Hearing will be on January 25, 2023. Staff is committed to having the draft ready for that meeting. The packet will likely be available the Friday before. PC will hear public comment before they deliberate and provide a recommendation to City Council.
 - Joe: Do you feel that staff will have all the feedback by the PC meeting?
 - Kirk: Yes, we're working hard to get these regulations ready
- First reading with the City Council will be February 7, 2023. Would need comments by January 23 if sent ahead of time.
- Based on recent feedback, there was not wholesale support for the geographic limitations. This new draft recommends updating the definitions to include project size thresholds similar to Larimer County regulations. Previously proposed geographic based thresholds should be applied as review criteria to the FONAI determination.
- Keith Meyer: What is staff trying to solve with these regulations?
 - Kirk: This is a council directive, not led by staff. Want to make a regulatory framework for projects that would normally go through SPAR – so that the staff has more control over the decision.
 - Joe: Some council members wanted to halt NISP.
 - Kirk: It's not staff's role to stop projects. This is a program to make better projects.
 - Keith Martin: Is the intent of the regulations to identify environmental issues and mitigation strategies?
 - Keith Meyer: We've taken half a dozen projects through the SPAR process. It's not a broken process in practice. Even with these new definitions, we're regulating much more than what would go through the SPAR process.
 - Joe: In staff memo, it might be helpful to highlight any deficiencies to the current regulatory process.
- New Definitions:
 - Randy: if 2,000 gallons is in the final regulations, this will include small lines too that would serve a group of new homes or a single commercial establishment.
 - Keith Meyer: This has gotten worse, not better. A regular garden hose flows between 8-10 gallons per minute. So we're regulating to a garden-hose size pipeline. Not appropriate for this scale and intent of 1041 regulations.
 - Kirk: the definitions are intended to filter out smaller projects. Three of these come from Larimer County's regulations. The 2,000 gallons a day flow comes from Adams County to help determine how water/wastewater treatment plants would fit into this.
 - Joe: Is the gallon threshold even necessary with the pipe size?
 - Keith Meyer: 94 gallons per capita per day – 35 gallons per day per house. So this is less than 10 homes.
 - 12" pipe isn't a transmission lines. Distribution serve neighborhoods. Transmission lines serve cities and is usually 24" or larger.
 - Randy: We grid system on mile or half mile dimensions depending on density with a minimum 12" pipes. Anything under 24" is a distribution line.
 - Keith Martin: every single water utility is associated by new development. We do not drive new development and feel like we are penalized by zoning actions by the city.

- Keith Martin: there is a gray area of whether the City has the legal authority to manage growth in other municipalities through these regulations.
- Kirk: We should define what a transmission line actually is. The intent is to combine #2 and #3 to have the pipe size and length linked.
- Joe: where did 1,320 linear feet come from?
 - Kirk: from Larimer County. Intent is to be consistent with neighboring jurisdictions.
 - Randy: That's a quarter mile and isn't anything to what we need to do for new development.
 - Keith Meyer: this would trigger a small permit with the state and may be appropriate for Larimer County but not Fort Collins.
- Kirk: do you support the project-based threshold approach, and if so, what changes would you suggest for the definitions?
 - Randy: We don't support these at all. We don't believe that there is a problem that we need to solve. It will just create more problems and more headaches.
 - Eliminate #1 (gallon flow)
 - Larger than 24" pipe
 - Length needs to be 5 miles
 - Size of easement is irrelevant. Eliminate.
 - Kirk: Would ELCO be able to provide any example projects of what that might be look like?
 - Randy: 2nd Phase of the NEWT project. 42" new pipeline (10 years ago) hit 5 miles. Nobody heard any complaints from property owners.
 - Joe: None of these are statewide interest thresholds, but maybe we shoot for regional interest thresholds. {*Joe is not suggesting that the draft policy should lower the threshold to regional impact, rather he is pointing to the fact that the *draft policy* is lowering the threshold}.
 - Keith Martin: will ask Peggy what Northern Water projects would fall within these.
- Exemptions
 - Kirk: any eminent domain or permanent property acquisition is not intended to go through this. The first two sub-bullets would be removed.
- Pre-Application Process
 - Kirk: This process is intended to provide clearer requirements for applicants.
 - Joe: A mile diameter is too far and just opens it up to more people to rally against a project. Needs to be clear that it's a half mile above the project and half mile below.
- FONAI determination and criteria
 - Joe: New adverse impact on DIC – needs definition. Is it a static geographic area or will it change over time?
 - Kirk: CDPHE has a program (Enviroscreen) at the Census Block level.
 - Joe: Accepts this if it's at the Census Block level
 - Keith Martin: Does this look at the secondary impacts or impacts off the construction site?
 - Kirk: No, this is just looking at the disturbance area of the surface activity.

- Keith Martin: FONAI decision is an administrative process, but giving it an appealable decisions. Should check legality.
- Keith Martin: What's the rational between the FONAI and FONSAI.
 - Kirk: "significant" was too hard to define.
 - Joe: This just moves from one subjective impact to another.
 - Keith: This used to be similar to a NEPA standard and that felt like a better high standard.
 - Sean: Greeley shares that concern. Seems to increase the threshold to adverse impact. "Significant" is a higher threshold. Is described as an off-ramp that you really can't get off of.
 - Kirk: The FONAI is the go/no for a full permit but once a project goes through full permit process the common review standards would be the bar.
- Sean: a water project path that didn't have any nexus to these geographic areas is very rare. Would like to better understand how the mitigation would be reviewed.
 - Kirk: Mitigation requirements are prescriptive and established based on best practices and industry standards.
 - Sean: If it's just a matter of identifying issues, a mitigation plan to resolve those issues, then why is a 1041 process necessary.
 - Kirk: the decision-maker can approve or deny with conditions.
- Sean: could the process include a way work through Council's issues without having to go back through a full process again or appeal.
 - Kirk: 2.1.6 Land Use Code, there is an optional pre-application hearing. No determination but really just a worksession with Council before the hearing. After P&Z and before Council hearing.
 - Kirk: If the applicant makes changes to the application without the public feedback loop, doesn't give due process.
 - Keith Martin: there should be a process to avoid a legal battle, and there should be a process to allow the permit to be approved later with City Council's conditions identified during the hearing even if the applicant didn't agree to those conditions at the time of the hearing.
- Joe: Where does this include a project that benefits the public interest?
 - Kirk: FONAI level and neighborhood meeting should give that opportunity.
- Closing Thoughts
 - Don't think this is going to get done in time
 - This is fundamentally flawed and it's worth rolling this out as a pilot process to really understand how this works in practice.
 - Hope staff considers taking a pause and if you want to get it done right there's no need to rush.
 - If there IS a problem, and it's because of growth, then the City needs to look internally in the planning and zoning process.

Kirk Longstein

From: Ray Watts <wattsray@comcast.net>
Sent: Monday, January 9, 2023 2:22 PM
To: Kirk Longstein; mmcgilvray@logansimpson.com
Cc: Gary Wockner; Vicky McLane; lopez.apclass@gmail.com
Subject: [EXTERNAL] Comments for 1041 regulations

Hi Kirk,

I think that the movement of the list of geographic areas of concern to a different point in the process (FONAI determination, Section 2-304) is helpful. I have two suggestions:

- Specifically state that this is a minimum set of places where impacts will be evaluated
- Specifically state the inclusion of areas where citizens have expressed concerns about potential adverse impacts on private property (and this might include degraded environmental quality, enhanced risk exposure, or reduced access to nature), in the neighborhood meeting or other avenues of public comment

My thinking goes to this: the awkwardness of telling a citizen that their concerns could not be addressed because they did not fit into one of the currently listed geographic areas. It places a burden on the citizen to express their concerns, and it places a burden on staff to evaluate whether those concerns are well founded and to document the City's reasoning if it finds the concerns not to be well founded, and therefore excluded.

Is risk exposure well covered? Projects that would change hydrology, not only in rivers and streams but also across hillslopes can raise flood risks. Here I am remembering the July flash flood of 1997—which was a huge sheet-flow event, and not a rising-river event. This is an example similar to the Eagle River case, where the City would be wise to regulate projects on CSU (State) and Horsetooth (Federal) land along the western margin of the City.

You mentioned the question of Fort Collins' right to regulate projects where construction would not occur within City Limits. My understanding of court decisions is that local governments' efforts to protect local natural resources with 1041 regulations have generally prevailed when challenged by lawsuits. The case of Colorado Springs v Eagle County is the most relevant case that I am aware of (but many years have passed since then). Colorado courts found that Eagle County had the right to protect wetlands on federal lands by regulating construction projects on federal lands, when the applicant/sponsor of those projects was another Colorado local government. The only structural difference between that case and NISP is that the Eagle river construction activity and anticipated environmental impacts were both within Eagle County boundaries. In the case of NISP, most (not all) construction would be outside the City, but impacts would happen within the City. I believe that the City should be fully willing to claim 1041 regulatory authority and, if necessary, defend that authority in court. I alluded today to the City Attorney's aversion to litigation, and I suspect that the City Attorney will recommend that the City not claim the authority to apply 1041 to projects constructed primarily outside City limits, as a way to avoid litigation. That is not in the best interests of the City or its citizens. I will lend support to all efforts to include such authorities in our regulations.

We have not yet seen the Record of Decision (ROD) for NISP from the Corps of Engineers. If the ROD says that the Mulberry diversion is a necessary part of NISP, then the City clearly has regulatory authority over that

ment of NISP, and that handle gives the City full rights to consider all adverse impacts of NISP, not just the surface impacts associated with the Mulberry diversion component. Northern Water would disagree, and the City must be willing to take the matter to court. Our regulations must be written to strongly support these actions.

You can see that I look at the 1041 regulatory effort largely through the lens of its application to NISP.

That raises another issue: cumulative impacts. There is no rational justification for considering only developments of the last decade. I illustrate with a well-known principle: covering more than about 15% of a watershed's surface with impervious surfaces will initiate significant hydrologic changes. So, permitting the first, second, or third project that paves and roofs 5% of the watershed is defensible. But the application for paving and roofing the next 5% should be rejected (or accepted only with extensive mitigations)—and it does not matter how long this comes after the first three projects. Cumulative impacts are forever. They do not go away after ten years. Ten years is a criterion that I will vociferously object to.

I look forward to seeing the next draft regulations.

Ray

Kirk Longstein

From: Ray Watts <wattsray@comcast.net>
Sent: Wednesday, December 7, 2022 5:27 PM
To: Kirk Longstein
Subject: [EXTERNAL] Re: UPDATE: 1041 regulations

As I promised, here are some specific points that I noted on the draft regs.

- Perhaps I missed it (searching the forest for one tree): who is Director?
- I noted during the Zoom call that Natural Area easement regulations are adopted administratively. There is nothing wrong with their content; rather, it is the possibility of their abrupt change (under pressure, perhaps) that gives me pause. There could also be question about this from an applicant, if they made plans working with one version and then the City changed them.
- The previous bullet suggests that the process of changing 1041 regulations and documents referenced therein should be codified.
- Buffer zone is a risky term because it can be drawn from historical documents rather than from fresh and thorough analysis. I suggest a longer, admittedly more cumbersome, construction, such as "areas of foreseeable impacts." This places a foresight burden on the applicant and on the City for qualified review of the analysis.
- The Planning and Zoning Commission has quasi-judicial authorities that are not held by other City Advisory Boards. Nevertheless, other Boards have expertise relevant to 1041 matters of state interest. For example, what does the PZC know about river flows, which can be seriously affected by water projects, such as NISP, and flow changes in turn can (will) have detrimental effects in Natural Areas. So, I think that the Land Conservation and Stewardship Board (LCSB) and the Natural Resources Advisory Board (NRAB), and possibly others, be given specific authority to recommend to City Council matters of state interest. The initial two activities being designated probably cover the majority of concerns, but natural resource and hazard areas are clearly in the wheelhouse of these Boards. The charters of these boards include responsibility to make policy recommendations to City Council, so recommendations with respect to 1041 designations are within their scope.
- One aspect of the drafts that was not much discussed, which I fully support, is the interim step of determining completeness of an application. This gives staff and advisory boards opportunity to request (demand) analyses that are missing or incomplete, while not shutting the process off with a permit denial. Is the 60-day period sufficient to engage contractors to assist with the determination?
- Every reference to wetland should be changed to "wetland and riparian area." Both depend on water levels which, for wetlands, sometimes are above ground; equally important, though, are the water levels below ground that support riparian communities. Most people in Fort Collins do not think about it, but our riparian forests (primarily along the Poudre River) are the only native forests in the City. All other trees live because they are irrigated. In our environment, clarity of protection of riparian areas is essential.
- Neighborhood meetings are mentioned without definition of the geographic extent of the relevant neighborhood. This affects the City requirements for notification of the meeting. What would be the neighborhood for a project that affects a Natural Area, in which no one lives but which is visited by thousands from across the City? This question suggests to me that "neighborhood" should not be used in this context. Perhaps simply "public meeting."
- Review standard J refers to groundwater quality. Groundwater levels are equally, perhaps more, important. Standard K mentions riparian areas with wetlands and later drops riparian areas. Lower

Item 20.

water levels will shrink riparian areas (trees near outer limits of these will die first). There is a lot of good stuff in the review standards, and if some of the criteria currently in geographic limitations are incorporated into review standards, they will be even stronger. As my specific comments indicate, they will need detailed review and editing so that they do not inadvertently leave out important factors.

That's all I have for now.

Ray

From: Kirk Longstein <klongstein@fcgov.com>
Sent: Wednesday, December 7, 2022 4:01 PM
To: Miriam McGilvray <MMcGilvray@LOGANSIMPSON.COM>; Dawson Metcalf-Contact <dawson.metcalf@colostate.edu>; Doug Henderson <dhender@gmail.com>; Gary Wokner <gary@garywockner.com>; Hattie Johnson <hattie@americanwhitewater.org>; lopez <lopez.apclass@gmail.com>; Mark Houdashelt-Contact <mark.houdashelt@gmail.com>; Ray Watts <wattsray@comcast.net>; Vicky McLane <vmhmclane@gmail.com>; K A Wagner <kaswagner@me.com>; John McDonagh <johnamcdonagh@mac.com>
Subject: RE: UPDATE: 1041 regulations

Hi everyone!

Thank you again for joining our meeting yesterday and providing such thoughtful feedback. As a follow up, please take a look at the attached meeting notes and let me know if we heard you correctly! I also want to acknowledge my mistake by not including Save the Poudre comments within the City Council packet ahead of the November 7 work session. I recognize the limited opportunities that groups have to provide public comment related to 1041 regulations and would like to offer a few additional opportunities to provide direct feedback to decision makers: 1.) reach out to their Councilmember(s) directly to request a meeting. 2.) draft a formal letter of your comments to send to Council, in addition to the summary that staff will produce as a part of the February 7 public record. Cityleaders@fcgov.com 3.) send comments ahead of first reaching, and speak publicly <https://www.fcgov.com/council/councilcomments>

if you feel like it would be a good use of your time, I'd like to offer another time to meet after the first of the year to dive deeper into a particular area of interest. Due to the capacity of the City Attorney's office, it's unlikely that a third version of the 1041 regulations will be released before the February 7 council packet. However, and if its helpful, I can create another cross walk that highlights the changes and areas where we made changes based on stakeholder feedback.

Thank you again for meeting and continued to stay engaged with this important work

Kirk

.....
Kirk Longstein, AICP
(he/him/his)
Senior Environmental Planner
City of Fort Collins
Direct: 970-416-2865

From: Miriam McGilvray <MMcGilvray@LOGANSIMPSON.COM>
Sent: Wednesday, November 23, 2022 2:25 PM
To: Kirk Longstein <klongstein@fcgov.com>; Dawson Metcalf-Contact <dawson.metcalf@colostate.edu>; Doug Henderson <dhender@gmail.com>; Gary Wokner <gary@garywockner.com>; Hattie Johnson <hattie@americanwhitewater.org>; lopez <lopez.apclass@gmail.com>; Mark Houdashelt-Contact <mark.houdashelt@gmail.com>; Ray Watts <wattsray@comcast.net>; Vicky McLane <vmhmclane@gmail.com>; K A Wagner <kaswagner@me.com>; John McDonagh <johnamcdonagh@mac.com>
Subject: [EXTERNAL] RE: UPDATE: 1041 regulations

Hello everyone,

Please follow the Doodle Poll link below to share your availability for a meeting in early-mid December (12/6 – 12/22). We are hoping to meet at least once before the end of the year. There may be some flexibility to meet a second time in early January, if needed.

<https://doodle.com/meeting/participate/id/ejZPzYRe>

Thanks and have a great Thanksgiving,

~~R n r r & h l r o w f ~ E F N H U %~~
F x x t h r f y j U q f s s j w %
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~~r r h l r o w f ~ E q l f s x r u x t s 3 t r %~~
~~m y u 7 4 | | 3 t l f s x r u x t s 3 t r %~~

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Sent: Monday, November 21, 2022 3:35 PM
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Cc: Jeremy Call <JCall@LOGANSIMPSON.COM>; Miriam McGilvray <MMcGilvray@LOGANSIMPSON.COM>
Subject: UPDATE: 1041 regulations

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello everyone,

As we move into the holiday season, I wanted to provide a brief update on version-two of the draft 1041 regulations and the intention to reconvene stakeholder groups before the end of the year. Supporting me with outreach is the team at Logan-Simpson (cc'd). In the coming days look for a doodle poll with potential times to meet and discuss the outcomes of the City Council Work Session, November 7; and, specific feedback related to geographic-based thresholds, adding a "Natural Resources" definition, and the 1041 permit application approval process with City Council as the sole decision maker.

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- [November 7 Work Session Summary](#)
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I will be out of office November 24 & 25, but if you have a light week and would like to connect, please do not hesitate to reach out.

Warm regards,
Kirk

Item 20.

.....
Kirk Longstein, AICP
(he/him/his)
Senior Environmental Planner
City of Fort Collins
Direct: 970-416-2865

Kirk Longstein

From: Peggy Montano <pmontano@troutlaw.com>
Sent: Tuesday, January 10, 2023 4:56 PM
To: Kirk Longstein; Brad Yatabe
Cc: Keith Martin
Subject: [EXTERNAL] 1041 regulations follow up
Attachments: PEM comments to 2022-11-02 1041 Draft With Geotations for mitigation review 32-38.pdf; Boulder_County_Land_Use_-_Conditional_Approval_of_the_SWSP_II_1041_Permit_Application_-_July_16,_2012[1].pdf

Kirk and Brad,

Attached please find two items pertinent to your work on the proposed 1041 regulations. The second is the permit issued by Boulder County for a Northern Water pipeline crossing Boulder County open space lands. I mentioned this to Brad and he requested that I send it to him.

The second is a series of comment bubbles on the 11-02-2023 draft that are on the Common Review Standards. Rather than try and rewrite what the author intended, or to try and clarify where they are vague or appear to be reaching beyond the footprint of the construction or facility, I opted to send in these comments knowing that a version 3 will be out soon and some may be superseded by a new draft.

It seems to me there are two key legal basis that raise my concern as I read this extensive list of common standards. Those are, that the regulations can't prevent the exercise of the water rights per the statute and, the impacts must be on the land on which the development occurs.

Some of these may be affected by adoption of the CDOT approach to wetlands as well.

Please take these into consideration as you move forward.

Kind Regards,
Peggy

Peggy E. Montano



Montano • Freeman • Sinor • Thompson P.C.

1120 Lincoln Street, Suite 1600

Denver, Colorado 80203

tel: 303.339.5833

mobile phone: 303.868.7628

fax: 303.832.4465

email: pmontano@troutlaw.com

Item 20.

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From: [Peggy Montano](#)
To: [Kirk Longstein](#); [Ian Mccargar](#); [Joe Rowan](#); [Keith Martin](#); [Keith Meyer](#); [Kevin Jones](#); [Sean Chambers](#); [Keith Meyer](#); [Mike Scheid](#); [Randy Siddens](#); [Kim Emil](#)
Cc: [Jeremy Call](#); [Miriam McGilvray](#)
Subject: [EXTERNAL] RE: UPDATE: 1041 regulations-suggestions attached
Date: Thursday, December 22, 2022 12:00:42 PM
Attachments: [image001.png](#)
[revision suggestions.pdf](#)

Hello All,

Following our call Monday I gave some thought to some of the discussion and have attached suggestions in three areas. One is the idea of adding to the process an opportunity for the applicant to hear the city council concerns and respond to them if there is a denial that is pending. Kirk is correct that the applicant will have the benefit of the other review and recommendations, but at times that may not translate into the city councilors concerns completely- for that reason see the italics which are added to section 2-313 on the attached.

Second, we discussed the concern that a consultant may be more of an advocate for the city and go outside the responsibility to facilitate the pre application review so I added a measure of transparency in the process. That is being notified that a consultant will be used, who is the consultant and a line of open communication with the applicant and the Director. See the italics which are my suggested additions.

Lastly, there have been many discussions about the “development” definition. While this third suggestion may implicate more of a legal question, I suggest that the definition of what is a “development” is given in the law creating 1041 and that definition should be reflected in the regulations. I have included that in the attachment as well. The italics in this definition are in the law but I italicized the words here to emphasize them.

I would welcome feedback from any of you on my comments attached.

Kind regards,
Peggy

Peggy E. Montaño



1120 Lincoln Street, Suite 1600
Denver, Colorado 80203
tel: 303.339.5833
mobile phone: 303.868.7628
fax: 303.832.4465
email: pmontano@troutlaw.com

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From: Kirk Longstein <klongstein@fcgov.com>
Sent: Wednesday, December 21, 2022 4:37 PM
To: Ian Mccargar <imccargar@windsorgov.com>; Joe Rowan <joerowan63@gmail.com>; Keith Martin <kmartin@h-mlaw.net>; Keith Meyer <keith.meyer@ditescoservices.com>; Kevin Jones <kjones@fcchamber.org>; Peggy Montano <pmontano@troutlaw.com>; Sean Chambers <Sean.Chambers@Greeleygov.com>; Keith Meyer <keith.meyer@ditescoservices.com>; Mike Scheid <mikes@elcowater.org>; Randy Siddens <randys@elcowater.org>
Cc: Jeremy Call <JCall@LOGANSIMPSON.COM>; Miriam McGilvray <MMcGilvray@LOGANSIMPSON.COM>
Subject: RE: UPDATE: 1041 regulations

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Also, one of our members has notified me that the December 5 slides provided includes a discrepancy.

- Slide 11 indicates “Exempt projects previously approved through the SPAR process by Planning and Zoning” Under this NEWT3 would be exempt from 1041.
- Slide 28 indicates NEWT3 is subject to 1041.

Slide 28 is intended to provide example projects being discussed under “activities of State wide interest” this slide was created ahead of the November work session. As discussed during the November work session and included within the Council summary notes ([November 7 Work Session Summary](#)) there is general support for the exemption.

I truly hope everyone has a wonderful holiday season and I look forward to picking up our conversation after the new year.

Best,
Kirk

.....
Kirk Longstein, AICP
(he/him/his)

Senior Environmental Planner
City of Fort Collins
Direct: 970-416-2865

From: Kirk Longstein

Sent: Monday, December 5, 2022 2:45 PM

To: Ian Mccargar <imccargar@windsorgov.com>; Joe Rowan <joerowan63@gmail.com>; Keith Martin <kmartin@h-mlaw.net>; Keith Meyers <keith.meyer@ditescoservices.com>; Kevin Jones <kjones@fcchamber.org>; Peggy Montano <pmontano@troutlaw.com>; Sean Chambers <Sean.Chambers@Greeleygov.com>

Cc: Jeremy Call <JCall@LOGANSIMPSON.COM>; Miriam McGilvray <MMcGilvray@LOGANSIMPSON.COM>

Subject: RE: UPDATE: 1041 regulations

Colleagues:

looking forward to our continued dialog about version-two of the draft 1041 regulations. The intent of our time together is to capture feedback on the questions outlined below. During these meetings your feedback will be noted, consolidated into themes, and presented to city council during first reading of the ordinance, February 7.

Please come prepared to our meeting by reviewing the resources bulleted below. Also, I'm including a copy of the slides I intend to share (Attached), so if you think that I am missing something or have specific questions that you'd like answered, feel free to send me a note ahead of time.

Thank you in advance for your time commitment to discuss these regulations and for your continued engagement throughout this process.

Kirk

1041 working group meeting:

Key questions:

1. Do you have feedback on the proposed scope to focus on the greatest areas of impacts rather than major projects?

Geographic Thresholds:

- Parks, natural areas, and other city-owned properties
- Natural habitat buffer zones
- Historic and cultural resources

2. Councilmembers asked Staff to explore adding the definition of "Natural Resources".
 1. After Geographic thresholds are applied, what additional areas are not covered?
 2. What review standards should staff consider adding related to "Natural Resources"?
3. General feedback and areas of concern within version-two of the draft 1041 regulations

Read-Before Homework

- [Nature in the City](#) Strategic Plan, Vision and Goals
- Nature in the City Wildlife Connectivity Map (Attached)
- [Colorado Parks and Wildlife High Priority Habitat maps](#)
- [Colorado Environmental Justice Mapping Tool](#)
- [3.4.1 Land Use Standards – Natural Habitat Features](#)
- [Natural Habitat and Features inventory](#)

.....
Kirk Longstein, AICP
 (he/him/his)
 Senior Environmental Planner
 City of Fort Collins
 Direct: 970-416-2865

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To: Ian Mccargar <imccargar@windsorgov.com>; Joe Rowan <joerowan63@gmail.com>; Keith Martin <kmartin@h-mlaw.net>; Keith Meyers <keith.meyer@ditescoservices.com>; Kevin Jones <kjones@fcchamber.org>; Peggy Montano <pmontano@troutlaw.com>; Sean Chambers <Sean.Chambers@Greeleygov.com>
Cc: Jeremy Call <JCall@LOGANSIMPSON.COM>; Miriam McGilvray <MMcGilvray@LOGANSIMPSON.COM>
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Item 20.

I will be out of office November 24 & 25, but if you have a light week and would like to connect, please do not hesitate to reach out.

Warm regards,
Kirk

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Kirk Longstein, AICP
(he/him/his)
Senior Environmental Planner
City of Fort Collins
Direct: 970-416-2865

From: [Peggy Montano](#)
To: [Kirk Longstein](#)
Cc: [Keith Martin](#); [Brad Yatabe](#)
Subject: [EXTERNAL] RE: UPDATE: 1041 regulations-suggestions attached
Date: Sunday, January 8, 2023 2:57:15 PM
Attachments: [image001.png](#)

Thank you Kirk for your response below to suggested edits. Keith Martin is added to this email as he will participate in your workshop this week but I will be away at a long-delayed family wedding. I also added Brad Yatabe to this email.

First, some time ago you sent me a link to the CDOT wetlands regulation framework at <https://www.codot.gov/programs/research/pdfs/2009/facwet>. Our team has reviewed the CDOT regulation and the team is fine with Fort Collins adopting that wetlands approach in the 1041 regulations.

Now to answer your question below.

2-314 as I understand it, allows the City Council to add conditions to a Permit. Those conditions, in theory, should allow a permit to go forward and be approved. In 2-313, however, the language says a permit shall be denied unless the Council decides that conditions can allow the permit to be approved.

In practice, there may be reasons that the council denies a permit for reasons neither the staff nor the applicant can foresee. The language I suggested says the council in a denial would give detail about what criteria was not met and what an applicant would have to do to receive an approval. For the councilors voting no, it may be that each councilor has separate reasons. Until a denial vote by Council happens, with explanations of what an applicant may need to do to get an approval, neither staff nor an applicant may know the outcome was going to be denial. The timing of this would be at the end of a linear process where both the city staff and applicant would have worked over the months before the council vote to meet the code requirements. The language I suggested is in effect, a reconsideration of the council denial without an applicant having to go back and begin the process anew. I agree that an applicant can make changes and resubmit again. However, it may well be that the applicant may be willing to make the changes councilors describe to garner a positive vote. I hope this explanation is helpful.

Keith and I also had a discussion with Brad last week in which we suggested

that a stand-alone section in the regulations for a major extension of existing a domestic water system or site selection and construction of a major new domestic water system would provide a great deal of clarity to the draft regulations. The Common Review standards create confusion rather than clarity as applied to the water issues. As a side note, I believe on page 36 in Common review Standards (M) which applies to plant life, the word “animal” should be “plant” in the second line.

I am hopeful to also provide limited additional detailed edits to you on the language of the regulations early in the week.

Kind Regards,
Peggy



1120 Lincoln Street, Suite 1600
Denver, Colorado 80203
tel: 303.339.5833
mobile phone: 303.868.7628
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email: pmontano@troutlaw.com

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From: Kirk Longstein <klongstein@fcgov.com>
Sent: Saturday, January 7, 2023 3:47 PM
To: Peggy Montano <pmontano@troutlaw.com>
Subject: RE: UPDATE: 1041 regulations-suggestions attached

Hi Peggy,

I think your comments related to third party consultant are reasonable and I am proposing the revision within version three of the draft regs.

I'm reviewing your comments related to 2-313 Approval or Denial of Permit Application. Can you help me understand how your suggested revision would be different from 2-314 Issuance of Permit;

Conditions?

If an applicant's permit is denied by City Council and the entity wants to resubmit, the applicant can always make changes and resubmit through a pre-application submittal procedure Sec 2-303.

Thank you again for your thoughtful comments.

Kirk

.....
Kirk Longstein, AICP
(he/him/his)
Senior Environmental Planner
City of Fort Collins
Direct: 970-416-2865

From: Peggy Montano <pmontano@troutlaw.com>
Sent: Thursday, December 22, 2022 11:59 AM
To: Kirk Longstein <klongstein@fcgov.com>; Ian Mccargar <imccargar@windsorgov.com>; Joe Rowan <joerowan63@gmail.com>; Keith Martin <kmartin@h-mlaw.net>; Keith Meyer <keith.meyer@ditescoservices.com>; Kevin Jones <kjones@fcchamber.org>; Sean Chambers <Sean.Chambers@Greeleygov.com>; Keith Meyer <keith.meyer@ditescoservices.com>; Mike Scheid <mikes@elcowater.org>; Randy Siddens <randys@elcowater.org>; Kim Emil <kemil@windsorgov.com>
Cc: Jeremy Call <JCall@LOGANSIMPSON.COM>; Miriam McGilvray <MMcGilvray@LOGANSIMPSON.COM>
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- [Natural Habitat and Features inventory](#)

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Kirk Longstein, AICP
 (he/him/his)
 Senior Environmental Planner
 City of Fort Collins
 Direct: 970-416-2865

From: Kirk Longstein
Sent: Monday, November 21, 2022 3:35 PM
To: Ian Mccargar <imccargar@windsorgov.com>; Joe Rowan <joerowan63@gmail.com>; Keith Martin <kmartin@h-mlaw.net>; Keith Meyers <keith.meyer@ditescoservices.com>; Kevin Jones <kjones@fcchamber.org>; Peggy Montano <pmontano@troutlaw.com>; Sean Chambers <Sean.Chambers@Greeleygov.com>
Cc: Jeremy Call <JCall@LOGANSIMPSON.COM>; Miriam McGilvray <MMcGilvray@LOGANSIMPSON.COM>

Subject: UPDATE: 1041 regulations

Hello everyone,

As we move into the holiday season, I wanted to provide a brief update on version-two of the draft 1041 regulations and the intention to reconvene stakeholder groups before the end of the year. Supporting me with outreach is the team at Logan-Simpson (cc'd). In the coming days look for a doodle poll with potential times to meet and discuss the outcomes of the City Council Work Session, November 7; and, specific feedback related to geographic-based thresholds, adding a "Natural Resources" definition, and the 1041 permit application approval process with City Council as the sole decision maker.

If you did not have a chance to review version-two of the draft regulations I'm including a few links that may be helpful:

- [November 7 Work Session Summary](#)
- [Work Session Recording - Video](#)
- Version-two draft regulations - <https://www.fcgov.com/planning/1041-regulations>

I will be out of office November 24 & 25, but if you have a light week and would like to connect, please do not hesitate to reach out.

Warm regards,
Kirk

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Kirk Longstein, AICP
(he/him/his)
Senior Environmental Planner
City of Fort Collins
Direct: 970-416-2865

Fort Collins Regulations Suggestions

This suggestion will facilitate review and understanding between the applicant and the city council and make for a more efficient process.

Division 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 demonstrated 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. *Whenever City Council determines that a permit will be denied, the denial must specify the criteria used in evaluating the proposal, the criteria the proposal fails to satisfy, the reasons for denial, and the action the applicant would have to take to satisfy the permit requirements. The denial document will be served upon the applicant and the applicant may, within sixty (60) days of such service, be allowed to modify the proposal. The City Council will then re- consider the proposal with such modifications.*
- (C) If City Council finds that there is insufficient information concerning any of the applicable standards, City Council may deny the permit, may approve the permit with conditions which if fulfilled, would bring the development plan into compliance with applicable standards, 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 unless agreed to by City Council and the applicant.
- (D) City Council shall approve the permit application if the proposed development plan satisfies all applicable review standards in consideration of proposed mitigation measures, of these Regulations. City Council may also impose additional considerations pursuant to Section 2-314 on any permit.
- (E) 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

- (F) 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 resolution is not required.

Third Party Consultant

Section 2-302 provides for a third-party consultant review at the applicant's cost. The consultant may favor the City as they were hired by the City and seek to substitute their judgement for that of the applicant. Section 2-302 can and should outline the consultant's responsibilities and provide transparency. For example, a consultant is not to generate siting and design alternatives nor to seek to generate conditions to impose on the proposal. To guard against that outcome, I suggest the following:

Section 2-302 Application fee; financial security waiver.

- (A) Each pre-application area of activity review application and development application for a permit submitted must be accompanied by the fees established pursuant Section 2.2.3(D). The Director may determine 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(D). *The consultant shall not act as an advocate for either the City or the applicant.*
1. *If the Director determines that a third party consultant will be used, the applicant shall be notified within 3 working days of such decision including the name and contact information for the consultant.*
 2. *The Director shall schedule an initial meeting with the applicant and the consultant to facilitate the pre-application review including scope of review and anticipated time line.*
 3. *All communications of the consultant shall be simultaneously sent to both the Director and the applicant, including any analysis or evaluation of the application by the consultant.*
- (B) A referral agency may impose a *reasonable* fee for the review of a development application and the applicant shall pay such fee *which shall detail the basis for the fee imposed*. No hearings by the Permit Authority will be held if any such referral agency's reasonable fee has not been paid.

Definition of Development

During the course of stakeholder meetings there have been numerous discussions about the definition of development. The following is the definition is the 1041 statute. I suggest this be the definition used in the regulations.

“Development” means any construction or activity which changes the basic character or the use of the land *on which the construction or activity occurs*. CRS 24-65.1-102

I suggest this be the definition used in the regulations.



Land Use

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

July 16, 2012

Southern Water Supply Enterprise
Attn: Carl Brouwer
220 Water Avenue
Berthoud, CO 80513

Dear Applicant:

This letter certifies that a hearing of the Board of County Commissioners, County of Boulder, State of Colorado, was duly called and held on January 10, 2012 continued to April 17, 2012 and June 21, 2012, in consideration of the following request:

Docket SI-11-0001: SOUTHERN WATER SUPPLY PIPELINE II

Request: Areas and Activities of State Interest (1041) for the construction of a water pipeline which would deliver Windy Gap and Colorado-Big Thompson water from Carter Lake to the project participants which include the City of Boulder, Left Hand Water District, Longs Peak Water District, and the Town of Frederick. The project consists of a north-south pipeline which will serve the City of Boulder and Left Hand Water District and an east-west pipeline that will branch from the north-south alignment to serve the Longs Peak Water District and the Town of Frederick.

Location: Northeastern Boulder County, the proposed pipeline enters the County at the north approximately 1.0 mile west of N 83rd St. and runs south past the City of Longmont to Boulder Reservoir; the eastern branch of the pipeline is proposed along Vermillion Road beginning approximately 0.5 mile west of N 87th St running east to County Line Road, in Sections 1,12,13,25,36, of Range 3N, Township 70W, and Sections 1,12,13,24,23,26,34,35 of Range 2N, Township 70W, and Section 3 of Range 1N, Township 70W, Sections 7,13,14,15,16,17,18,19, 20, 21, 22, 23, 24, 30, 31 of Range 3N, Township 69W, and Section 6 of Range 2N, Township 69W.

Zoning: Estate Residential (ER), Rural Residential (RR) and Agricultural (A) Zoning Districts

The Board of County Commissioners has determined that the request is CONDITIONALLY APPROVED, subject to the terms in the attached resolution.

Your approval may have included certain conditions that must be met. Please contact the planner who processed your docket for more information on any requirements that will need to be met. If you have any additional questions, please feel free to contact me at (303) 441-3930 or via email at hhippely@bouldercounty.org

Sincerely,

Hannah Hippely, AICP, Senior Planner
Planning Division

c.c. Rosi Dennett, Strategic Planning, Inc.

RESOLUTION 2012-70

A RESOLUTION CONDITIONALLY APPROVING BOULDER COUNTY LAND USE DOCKET #SI-11-0001 ("SOUTHERN WATER SUPPLY PIPELINE II"): A REQUEST FOR AN ACTIVITIES OF STATE INTEREST ("SI" OR "1041") REVIEW FOR THE BOULDER COUNTY PORTION OF A NEW PIPELINE TO BE CONSTRUCTED TO DELIVER WINDY GAP AND COLORADO-BIG THOMPSON WATER FROM CARTER LAKE TO THE PROJECT PARTICIPANTS (CITY OF BOULDER, LEFT HAND WATER DISTRICT, LONGS PEAK WATER DISTRICT, AND TOWN OF FREDERICK), CONSISTING OF A NORTH-SOUTH ALIGNMENT TO SERVE THE LEFT HAND WATER DISTRICT AND THE CITY OF BOULDER, AND AN EAST-WEST ALIGNMENT BRANCHING FROM THE NORTH-SOUTH PIPELINE TO SERVE THE LONGS PEAK WATER DISTRICT AND TOWN OF FREDERICK, ON PROPERTY LOCATED IN NORTHEASTERN BOULDER COUNTY (ENTERING BOULDER COUNTY FROM THE NORTH APPROXIMATELY ONE MILE WEST OF N. 83RD STREET AND RUNNING SOUTH PAST THE CITY OF LONGMONT TO THE BOULDER RESERVOIR, WITH THE EASTERN PIPELINE BRANCHING TO EXTEND ALONG VERMILLION ROAD BEGINNING APPROXIMATELY 0.5 MILE WEST OF N. 87TH STREET AND EXTENDING EAST TO COUNTY LINE ROAD), IN SECTIONS 1, 12, 13, 25, AND 36 OF RANGE 3N, TOWNSHIP 70W; SECTIONS 1, 12, 13, 23, 24, 26, 34, AND 35 OF RANGE 2N, TOWNSHIP 70W; SECTION 3 OF RANGE 1N, TOWNSHIP 70W; SECTIONS 7, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 30, AND 31 OF RANGE 3N, TOWNSHIP 69W; AND SECTION 6 OF RANGE 2N, TOWNSHIP 69W, UNINCORPORATED BOULDER COUNTY

WHEREAS, the Board of County Commissioners of the County of Boulder ("the Board") has duly approved and adopted regulations to designate areas and activities of state interest and to govern the administration of any designated activities and areas of state interest in unincorporated Boulder County pursuant to Article 65.1 of Title 24, as amended, commonly referred to as House Bill 1041 ("the 1041 Regulations"), which are codified as Article 8 of the Boulder County Land Use Code ("the Land Use Code"); and

WHEREAS, the 1041 Regulations designate the following activities of state interest which require application for and approval of a County permit, all as further set forth in the Regulations:

- (1) Site selection and construction of major new domestic water and sewage treatment systems, and major extension of existing domestic water and sewage treatment systems, as defined in Sections 25-9-102(5) ("wastewater treatment plant"), 25-9-102(6) ("water supply system"), and 25-9-102(7)

("water treatment plant"), C.R.S. (see Sections 24-65.1-104(5) and 24-65.1-203(1)(a)); and

(2) Efficient utilization of municipal and industrial water projects (see Section 24-65.1-203(1)(h)); and

WHEREAS, the 1041 Regulations also designate areas of state interest constituting flood hazard and geologic hazard areas, which portions of the subject project/activity of state interest involved here will cross; and

WHEREAS, the Northern Colorado Water Conservancy District, acting by and through the Southern Water Supply Project Water Activity Enterprise ("Applicant"), has applied to the County for a 1041 ("state interest") permit to construct a buried raw water pipeline ("Southern Water Supply Pipeline II"), to transport Windy Gap/Colorado-Big Thompson supplies from Carter Lake in Larimer County, into and through unincorporated Boulder County, to serve the project/enterprise participants (City of Boulder, Left Hand Water District, Longs Peak Water District, and Town of Frederick) for the purposes of improving water quality, providing year-round supply, and meeting increased demand; and

WHEREAS, the Boulder County portion of the new pipeline is proposed to run along the Applicant's preferred alternative route which is generally described in the caption to this Resolution, above, and affects unincorporated lands located in the Estate Residential, Rural Residential, and Agricultural Zoning Districts; and

WHEREAS, the proposed project is the second such pipeline to be constructed in Boulder County by the Applicant, with the original Southern Water Supply Pipeline having been built in 1995, though the original pipeline was not reviewed under the County's 1041 Regulations since the Board of County Commissioners ("the Board") determined that the project was substantially initiated before the 1041 Regulations' effective date in January, 1994; and

WHEREAS, the proposed project consists of a main north-south pipeline route, along with the so-called "Eastern Turnout" which is a smaller pipeline branching off from the main route to head east to the Boulder County-Weld County line; and

WHEREAS, the City of Boulder would own 25 of the total 45 cubic feet per second (cfs) capacity of the new pipeline, with the Left Hand Water District to own 11 cfs, the Longs Peak Water District to own 3 cfs, and the Town of Frederick to own 6 cfs; and

WHEREAS, in order to convey the 45 cfs capacity required by the project participants, a 45-inch-diameter pipe will generally be necessary, though as water is diverted from the main pipe the size of the pipe required would diminish; and

WHEREAS, where the proposed pipeline enters Boulder County at the northern County line a 45-inch-diameter pipe would be installed, and extended south to the point where the Eastern Turnout diverts water from the main pipeline, with a 36-inch-diameter pipe then being run south from the Eastern Turnout to the Left Hand Water District's Dodd Water Treatment Plant, from which the point south to the City of Boulder's water treatment plant the pipeline would be 30 inches in diameter; and

WHEREAS, the Eastern Turnout is proposed to be constructed using 24-inch to 26-inch-diameter pipe; and

WHEREAS, construction of the project requires not only that the Applicant secure a permanent easement for the pipeline and its appurtenances, but also that enough of a construction corridor be obtained to provide adequate space for the various components of the construction, with the total construction corridor to be made up of a combination of permanent easements, temporary construction easements, and use of existing rights of way; and

WHEREAS, the alternatives analysis provided by the Applicant for the southern portion of the main pipeline route (which, unlike the northern portion, does not use the existing easement of the original Southern Water Supply Pipeline), considers three potential alternative alignments, in addition to the Applicant's proposed (preferred) alignment for this pipeline portion; and

WHEREAS, construction of the pipeline is anticipated to begin between 2014 and 2015, with construction generally proceeding from north to south, though seasonal constraints may require some construction to be done out of sequence; and

WHEREAS, the pace for pipeline construction likely will range between 200 to 400 feet per day, with the rate significantly slowing in areas where the corridor is constrained by features such as stream crossings (where construction is expected to take 7-14 days), or at other locations (such as highway or road crossings)

where boring methods rather than trenching methods may be required; and

WHEREAS, the success of long-term surface restoration following construction depends in large part on the care taken during the excavation process, to separate topsoil from subsoil and stockpile the layers so that they may be replaced in their proper order during the backfill portion of the project, so that the mixing of less productive soils with productive soils can be avoided; and

WHEREAS, the above-described water pipeline project was processed and reviewed as Boulder County Land Use Docket #SI-11-0001 ("the Docket"), all as further set forth in the written memoranda and recommendations of the County Land Use Department Planning Staff to the Board dated January 10, May 24, and June 21, 2012, with their attachments (collectively, "the Staff Recommendation"); and

WHEREAS, on January 10, 2012, as continued to April 17 and June 21, 2012, the Board held a duly-noticed public hearing on the Docket ("the Public Hearing"), at which time the Board considered the Staff Recommendation as well as the documents and testimony presented by the County Land Use Department Planning Staff, representatives of the Applicant and the project participants, a representative of the City of Longmont, and several members of the public, all as reflected on the official record of the Public Hearing; and

WHEREAS, based upon the Public Hearing, the Board finds that the Docket (specifically, as proposed by the Applicant, including its preferred alternative ("Alternative 1") for the southern portion of the main pipeline route), meets the applicable criteria for a permit pursuant to the 1041 Regulations, and can be approved, subject to the conditions imposed below which the Board finds are reasonable conditions capable of effectively mitigating the impacts of the proposed water pipeline project as identified on the record of the Public Hearing; and

WHEREAS, in reaching this conclusion, the Board finds, based on the entire record of the Public Hearing, that given the conditions of approval proposed in the May 24 and June 21 Staff Recommendation, as reviewed and revised by the Board at the June 21, 2012 Public Hearing, the project can satisfy the applicable 1041 criteria regarding preservation of productive agricultural land and compliance with the Boulder County Comprehensive Plan, and finds further that the project participants possess the requisite financial capability to undertake the project; and

WHEREAS, the proposed project thus meets the above-referenced 1041 requirements, which the initial January 10 Staff Recommendation had found were not fulfilled, and the Docket is authorized to proceed in accordance with the conditions of this approval.

NOW, THEREFORE, based upon the findings made in this Resolution, above, as supported by the record of the Public Hearing, **BE IT RESOLVED** that the Docket is hereby approved, subject to the following conditions:

General Approval Conditions:

1. The Applicant shall be subject to the terms, conditions, and commitments of record and in the file for the Docket, including but not limited to the prevention of degradation to environmental resources, the restoration of the surface to preconstruction conditions, the minimization of impacts to recreation facilities, and the preservation of cultural resources.
2. The Applicant shall provide the public with means to find information about the project and have questions answered by the Applicant. The Applicant shall create a website related to the project and shall notice that website to impacted property owners, County agencies, and Fire Districts. An updated schedule and construction phasing plan shall be maintained on this website. In addition, the Applicant shall create a hotline where the public may raise concerns or ask questions and expected a response within 24 hours.
3. Engineering and construction plans for 50% and 95% project completion must be submitted for review and approval by the County Land Use, Parks and Open Space, and Transportation Departments prior to permit issuances. Final plans shall include, but not be limited to, a staging plan, temporary and permanent erosion control plans, stormwater management plan, and fugitive dust control plan.
4. All phases of construction shall be done in compliance with applicable federal, state, and local statutes and regulations, including fulfilling all legal obligations to identify, protect, and re-establish public and private survey markers and monuments that exist within proximity to the construction area, and these conditions of approval. Prior to any construction-related activity associated with any individual phase of pipeline construction, the Applicant shall meet with County Land Use, Transportation and Parks and Open Space personnel to ensure all the necessary conditions related to

each phase of construction have been completed and all permits have been obtained.

Easements, Permissions, and Other Permits:

5. Prior to any construction activities or issuance of any permits, the Applicant shall obtain all easements or other property rights and approvals necessary for the proposal, including crossing agreements or otherwise satisfying the requirements of all ditch companies impacted by the pipeline construction. The Applicant shall provide the County Land Use, Parks and Open Space, and Transportation Departments with GIS shapefiles showing the finalized full length of the pipeline route. The Applicant shall provide detailed information (on a parcel/property specific basis or pipeline segment basis) regarding the associated easement widths and types (permanent versus construction) and shall identify the linear footage of pipeline construction that will parallel Boulder County road rights-of-way, as well as identify any areas where the construction will encroach into the rights-of-way.
6. Any activity involving existing Public Service Company right-of-way will require Public Service Company approval. Encroachments across Public Service Company's easements must be reviewed for safety standards, operational and maintenance clearances, and liability issues, and be acknowledged with a Public Service Company License Agreement to be executed with the property owner.
7. Development within mapped floodplains will require a separate floodplain development permit, when the Applicant proposes an open cut to place the pipeline across the stream channel, or install permanent structures that extend above the current ground surface within the floodplain boundaries.
8. Prior to any construction activities, the Applicant must obtain federal Endangered Species Act clearances for threatened and endangered species, including Preble's meadow jumping mouse, *Spiranthes diluvialis* (Ute ladies' tresses orchid) and *Gaura neomexicana coloradensis* (Colorado butterfly plant), through the entire length of the pipeline. Any necessary *Spiranthes* field surveys should follow USFWS protocols as to timing windows.
9. The U.S. Army Corps of Engineers shall be consulted to ensure that construction of the project is in compliance with applicable federal regulations. Wetland delineations, defined and required by the US Army Corps of Engineers, may be needed on some properties; such delineations shall be completed in the proper season. Additionally the Applicant shall review

Colorado SB 40 (regarding wildlife certification from the Colorado Division of Wildlife (DOW) when an agency of the state plans construction in any stream or its bank or tributaries) and ensure that certification requirements are being met as applicable.

10. All practicable methods (including watering, re-vegetation, synthetic cover, and/or chemical stabilization) shall be used to minimize fugitive particulates. The contractor will be responsible for developing and implementing a fugitive dust control plan. The plan shall be submitted and approved by Boulder County Health and/or the Colorado Division of Public Health and Environment prior to construction-related activities.
11. The Applicant shall obtain a storm water discharge and construction dewatering permit from the Colorado Department of Public Health and Environment for construction at drainage crossings. These permits will include the preparation of a Storm Water Management Plan (SWMP) and Best Management Practices (BMPs) to prevent storm water runoff and sediment in disturbed areas from reaching nearby waterways or otherwise leaving the site. BMPs will be consistent with the Urban Drainage and Flood Control District's Urban Storm Drainage Criteria Manual, Volume 3. Typical measures employed may include detention basins, silt fences, hay bales, wattles, and hydro mulch. These measures will deflect runoff, collect sediment, and allow infiltration. Storm water and erosion control measures will be carefully monitored during construction and examined after each storm event to ensure their effectiveness. All project access points shall incorporate vehicle-tracking devices to prevent tracking onto adjacent roads.
12. Prior to construction-related activities and through project completion, the Applicant shall comply with all adopted fire codes, and in addition shall provide the final route alignment and schedule to the Fire Districts. The Applicant shall communicate with the Fire Districts regarding potential impacts to emergency response routes, including but not limited to road or lane closures. The Applicant shall ensure that a contact person is designated with whom the representatives of the Fire District may communicate during the construction of the project.

County Rights-of-Way:

13. When construction activity is taking place within Boulder County rights-of-way, a Utility Construction Permit is required. The Applicant shall abide by the Utility Construction Standards and comply with the conditions of the

Utility Construction Permit, including but not limited to restrictions on hours of operation. The Applicant should also note that when construction activity is parallel to Boulder County rights-of-way, the rights-of-way shall not be utilized for any construction-related activity including, but not limited to, stockpiling of material, staging construction materials, and parking for workers or construction vehicles, unless the use of the right-of-way has been approved under a Utility Construction Permit.

14. A preconstruction meeting is required prior to the commencement of construction activities. At this meeting, the hours of work, access points, snow removal in the construction zone, traffic management and traffic control and construction and inspection schedules will be finalized.
15. The Applicant shall submit a Traffic Control Plan and Traffic Management Plan for review and approval by the County Engineer prior to the initiation of any construction-related activity. The items addressed in these plans should include, but are not limited to, traffic control devices/personnel, i.e. warning signs, flaggers, traffic control supervisors, etc., any specific delay times, adjacent neighboring property owner notifications, use and placement of any message boards, and similar items.
16. As part of any Traffic Control Plan, the Applicant shall identify all proposed access points for ingress/egress to the project from County rights-of-way. Where possible, the Applicant should utilize existing roads, driveways and other access points. The Applicant will be required to submit a schedule of construction traffic detailing information that should include, but not be limited to, the amount of traffic trips generated during construction of the proposed facilities, type of equipment/vehicles accessing the County Road, anticipated haul routes, period of time (i.e. "x" number of days, weeks) it will take to bring in any and all equipment for construction of the proposed facilities, placement of excess haul material, and the like.
17. Heavy equipment traffic will be subject to any and all weight limit restrictions along adjacent roadways, and the Applicant will be responsible for repair of the adjacent roads should there be any damage as identified by the County Engineer. If necessary, the Applicant will need to obtain Oversize/Overweight Permits from the appropriate jurisdictions.

18. The Applicant should note that any construction within the rights-of-way or damage to the rights-of-way resulting from construction activities related to this project will require restoration to the pre-construction conditions. The pre-construction conditions shall be documented by photograph or video and submitted to the County Transportation Department. If photographic documentation of pre-existing conditions is not provided, restoration will be to the level specified by the County Engineer. Furthermore, any disturbance of the actual paved portion of the roadway, including the shoulders, will require a full-width overlay. Road closures should be avoided where possible and the Applicant will be required to provide emergency vehicle and residential access to adjacent properties at all times.
19. All crossings of paved roadways shall be bored beneath the roadway surface. Any proposed road crossings by open cut shall flow fill to a depth of 2-feet of the surface.
20. When crossing or encroaching into Boulder County rights-of-way, all existing utilities shall be identified, which will include the depth of each utility, type of utility, and proximity of proposed construction to all existing utilities. The Applicant will be required to locate, identify and show all existing utilities in the Boulder County rights-of-way.

Project Coordination and Oversight:

21. The Applicant will be required to fund a project overseer, retained by the County, to monitor and inspect the project and ensure compliance with permit conditions and county requirements. This overseer must be both independent of the primary construction contractor and project engineer and have the authority to alter, direct and/or stop any activity that will result in adverse environmental or safety conditions or violates the conditions of the permit, County approval, or accepted construction standards. The project overseer shall not exercise its authority arbitrarily, and, prior to ordering any work stoppage, shall consult with the Applicant's construction manager in an attempt to obtain corrective action. The Applicant may request that the Land Use Director, in consultation with applicable County departments, review any work stoppage ordered by the project overseer.

The project overseer/inspector shall provide reports to the Land Use and Transportation Department on a weekly basis during construction activity. Weekly reports shall consist of a diary of observations throughout the construction process and progress.

22. In Addition, the Applicant shall fund an individual retained by the Boulder County Parks and Open Space Department (POS), to represent the County as landowner during construction and reclamation on County open space lands (including fee-owned, conservation easement-encumbered, trail easement areas, etc.) to ensure that the Applicant addresses any construction and reclamation issues promptly and adequately to the County's satisfaction.

Natural Resource, Land, Wildlife, and Agricultural Protection:

23. The Applicant shall route the pipeline within or along road rights-of-way in areas where the County open space lands have critical wildlife habitat, agricultural lands of high productivity, or other important characteristics identified by the County that may be compromised by pipeline construction. The Applicant shall work cooperatively with the Parks and Open Space and Transportation Departments to route the pipeline through any affected County open space properties in such a way as to minimize impacts to those properties.
24. The Applicant shall use cutoff trenches and cutoff walls wherever the pipeline will cross under or near any water, such as any irrigation ditch, stream, river, wetland, pond or other water body.
25. The Applicant shall design construction windows and plan construction schedules around sensitive times for agricultural and open space lands. For example:
 - a. Work on County agricultural open space lands should only occur from September to the following mid-late March to minimize impacts on crops and the growing season. The Applicant shall notify POS each year before August regarding which properties the Applicant will be working on during that year's September-to-March window. This will enable POS to alert agricultural lessees before they make fall and winter investments in those properties. (For example, POS will need to notify dry land farmers not to plant winter wheat in August and September in areas that will be affected by the Applicant's activities.) This will also give POS the opportunity to provide the Applicant with any necessary, specific requirements to protect and restore the affected properties.
 - b. Work on ecologically important lands should likewise only occur between September and the following mid-late March. This will give POS the opportunity to provide the Applicant with specific requirements to protect and restore the affected properties.
 - c. Work should also only occur outside of nesting and migratory bird seasons, e.g., the osprey platform on the

south side of Lagerman Reservoir (if that route is approved) should only occur during the window from September 1st to March 14th, and work at the Lohr and Bragg-Spangler properties should only occur during the window from July 16th to May 14th.

26. The Applicant shall meet these general requirements from POS on County lands:
- a. The Applicant shall follow specific POS requirements for restoring agricultural lands and ecologically valuable lands, which have separate protocols. General guidelines are attached as Exhibit A to this Resolution. POS staff will provide specific requirements for specific properties when the Applicant's site-specific planning is underway. Specific requirements may include, but may not necessarily be limited to, seed mix requirements appropriate for restoring the affected properties, if POS deems that necessary.
 - b. The Applicant shall obtain POS approval for reclamation and restoration procedures for all affected County open space properties. The Applicant shall also allow for POS oversight of the Applicant's maintenance and weed control activities following reclamation and restoration.
 - c. The Applicant shall pay POS for damages if restoration work does not restore the affected properties to their original conditions (or better) within a period of time acceptable to POS, in its sole discretion.
 - d. The foregoing requirements (a-c) shall be incorporated into any new easements the Applicant may need across any County open space lands to be affected by the pipeline, and the Applicant shall compensate the County for those easements.
27. The Applicant shall provide POS with up-to-date GIS shapefiles showing the proposed full length of the pipeline route from the north Boulder County line to the terminus of the pipeline and along the eastern portion of the pipeline before beginning negotiations with POS about easements across County open space properties, and at regular intervals during negotiations to keep POS informed of the intended specific pipeline route through County open space properties. The data shall show existing easement lengths and widths, as well as new temporary and permanent easements needed and their respective widths. The County's granting of new easements over County open space, including through private properties covered by County-held conservation easements, shall be contingent upon compensation to POS and shall be subject to property-specific conditions to minimize damages and produce prompt restoration.

28. The Applicant shall work with the Boulder County Parks and Open Space Department on the timing, location, and phasing of construction of sections of the pipeline that coincide with the trail corridors shown in the approved Lagerman-Imel-AHI Open Space Complex Management Plan. In general, these sections are located between Nelson Road and Oxford Road. Since the timing of pipeline construction is unknown, if the trail is constructed prior to installation of the pipeline, the Applicant shall replace the trail to the same or better pre-installation conditions following pipeline installation. If the pipeline is constructed before the trail is constructed, the Applicant shall make every effort possible to construct the pipeline within these corridors and then shall build the trail on top of the pipeline. The Applicant shall construct or reconstruct these trail sections to the Parks and Open Space Department's specifications and satisfaction.
29. In order to ensure existing and new active raptor nests are not disturbed, raptor surveys shall be conducted prior to construction and recommended seasonal and spatial buffer zones shall be established and maintained.
30. Black tailed prairie dog colonies exist throughout Boulder County. If the route requires construction through prairie dog colonies, the prairie dogs should either be: (1) passively relocated or dispersed (i.e., temporarily removed from the construction zone by fencing, barriers, or other appropriate measures, so that the prairie dogs may return to their original habitat when construction/reclamation is concluded), with this option being acceptable so long as prairie dogs are not temporarily dispersed into new territory/habitat; (2) permanently moved to another location alive; or (3) humanely euthanized before onset of construction. A permit must be obtained from the Colorado Division of Wildlife prior to implementation of any trap/transplant effort. Burrowing owl surveys are required if destruction or poisoning of prairie dog burrows will occur between March 15 and October 31 of any year.
31. The removal of large mature trees shall be avoided, and other trees removed in construction shall be replaced at a 3 to 1 level. A tree removal and replacement plan shall be provided with the 90% construction drawings: this plan shall be reviewed and approved by the Land Use Department prior to any construction activities.
32. A reclamation plan shall be developed on a site-specific basis so that lands disturbed by the construction of the pipeline shall be fully restored to pre-construction

conditions. The reclamation plan shall include a description of the current condition of the lands to be disturbed sufficient to enable an assessment of adequate post-project restoration. Documentation of pre-disturbance conditions for agricultural lands shall include a detailed description of the agricultural operations/practices, irrigation and drainage systems, soil composition and profiles, and any other features pertinent to agricultural productivity. The Specifications for Soil Handling and Reclamation provided by Parks and Open Space for County properties (see Exhibit A to this Resolution) may be used for guidance on private properties, in addition to the Sample Reclamation Plan in the application materials; however, the final plan should reflect the unique nature of the individual property and the goals of the property owner.

Invasive Species:

33. If heavy equipment to be used for the project has previously been used in another stream, river, lake, reservoir, pond, or wetland, appropriate disinfection practices are necessary prior to construction to prevent the spread of New Zealand mud snails, zebra mussels, quagga mussels, whirling disease, and any other aquatic invasive species into the drainage. These practices are also necessary after project completion, prior to this equipment being used in another stream, river, lake, reservoir, pond, or wetland.
34. The application materials describe the plan for preventing the spread of noxious weed species. The Applicant shall work with Boulder County's weed specialist when developing and implementing any containment or revegetation work to ensure that noxious weeds do not spread from the project site, or become established in areas disturbed by construction.

A motion to approve the Docket (#SI-11-0001), subject to the conditions stated above, was made by Commissioner Toor, seconded by Commissioner Gardner, and passed by a 3-0 vote of the Board.

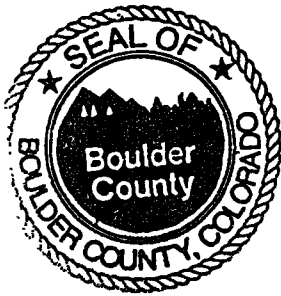
Adopted as a final decision of the Board on this 12th day of July, 2012.

**BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF BOULDER**

Cindy Domenico
Cindy Domenico, Chair

Will Toor
Will Toor, Vice Chair

Deb Gardner
Deb Gardner, Commissioner



ATTEST:

Mike Ryde
Clerk to the Board



Parks and Open Space

5201 St. Vrain Road • Longmont, Colorado 80503
303.678.6200 • Fax: 303.678.6177 • www.bouldercounty.org



Reclamation

Of primary concern to the Parks & Open Space Department is the long-term impact of the project on the composition and productivity of the plant community within the chosen pipeline alignment. Parks & Open Space has reviewed the Reclamation section of the 1041 permit application (pages 11-14 of Attachment 2-1041 Application Addendum, dated August 2011) and appreciates NCWCD's recognition of these impacts and willingness to reclaim and revegetate the site to its pre-existing condition. In particular, Parks & Open Space supports the following terms as committed to by NCWCD and outlined in the application:

1. Hiring an independent revegetation contractor that will be involved in project planning, construction meetings, revegetation efforts, and remedial actions.
2. Preparing and following a site specific revegetation/reclamation plan that is prepared with the help of and receives final approval of the relevant property owner.
3. Commitment to taking necessary remedial actions following construction and reclamation to the satisfaction of the landowner

Parks & Open Space also generally supports the "Sample Reclamation Plan", which is provided in the 1041 application. This plan would need to be completed for each County-owned property managed by the department and approved by the Parks & Open Space Department. Each site will have its own unique pre-existing conditions including plant species composition, soil types and conditions, water management and infrastructure, and land uses, and each will have its own unique reclamation needs and desired post-reclamation conditions. At the appropriate time following project approval, Parks & Open Space is willing to work with NCWCD and their revegetation contractor on preparation of these site-specific reclamation plans.

Attached we provide some general specifications for reclamation/revegetation that will be required on all County-owned land. These specifications may also be applicable to other lands within the pipeline corridor. Please note site-specific reclamation details will be worked out in the above mentioned site-specific reclamation plans.

**Specifications for Soil Handling and Reclamation
On Boulder County Parks & Open Space Properties
Including Irrigated Cropland, Dryland Cropland, and Rangeland**

**For the Northern Colorado Water Conservancy District's
Southern Water Supply Project II**

October 2011

This document addresses procedures for soil handling and reclamation following any impacts of the Northern Colorado Water Conservancy District's Southern Water Supply Project II. The specifications are requirements for work on Boulder County Parks & Open Space properties, but may also be adopted for private properties within the project alignment.

The following procedures are general and provide the minimum requirements for reclamation. Specific reclamation procedures shall be developed in site-specific Reclamation Plans completed for each property within the approved alignment. The Reclamation Plans will be prepared in conjunction with and approved by Parks & Open Space.

The following procedures can be summarized into the following categories:

1. Topsoil Removal and Storage
2. Backfilling, Grading, and Ripping
3. Relieving Compaction
4. Topsoil Redistribution
5. Seedbed Preparation
6. Seeding
7. Mulch
8. Post- Reclamation Weed Control
9. Timeframe and Success of Reclamation

An Inspection Personnel funded by NCWCD and hired by Boulder County will oversee and be involved with the entire reclamation process.

To ensure compliance with all reclamation requirements, a pre-construction meeting will be held with the contractor prior to each phase of the project.

Before any construction activities proceed, the construction area should be delineated with a temporary, orange construction fence on the boundary between the construction easement and remaining Parks and Open Space land, and silt fencing to serve as a visual reference for the construction area. All traffic and construction activity shall be restricted to within the easement area only. Areas impacted outside of the easement area shall be restored to the Inspection Personnel's specifications. The orange construction fence and silt fence shall remain until the project is finished.

1.0 Topsoil Removal

After the construction area and its access have been delineated, the vegetation should be mowed to a maximum height of 4 inches over the area to be disturbed. If the amount of vegetation exceeds what can be incorporated into the soil without interfering with establishing a proper seedbed, then excess vegetation shall be removed.

Topsoil should be removed by a front-end loader (preferred method) or grader. **Under no circumstances should topsoil be removed under wet soil moisture conditions.** The County's Inspection Personnel can provide assistance in determining topsoil depth and proper removal. The depth of the topsoil layer may vary. Topsoil may be delineated from the subsoil by a higher organic matter content (usually, but not always, indicated by a darker color) and a relatively loose and friable soil structure. The Inspection Personnel should be present at the site as topsoil removal is initiated to determine average topsoil depth. Typically, topsoil is between 4 and 8 inches in depth. Topsoil should be placed to one side of the construction area and demarcated with a silt fence to avoid impacts.

Any subsoil removed should be placed separate from the topsoil. **Under no circumstances shall subsoil be mixed with topsoil, and subsoil shall not be placed on top of the topsoil.** The topsoil shall be protected from contamination by subsoil material, weeds, etc. and from compaction by construction equipment and vehicles.

2.0 Backfilling and Grading

Contractor shall replace backfill material as close as possible to the depth from which it was removed. Compaction of the backfill must prevent settling that will cause the profile of the disturbed areas to be significantly lower than the grade of undisturbed adjacent land. Also, overall compaction of the top 24" of the disturbed area should not be restrictive to root growth of plants.

3.0 Relieving Compaction

Following compaction of the backfill, the Inspection Personnel will determine if ripping and chiseling is necessary to relieve soil compaction in the root zone to accommodate root growth and soil water storage capacity. If it is deemed necessary, the contractor must rip and chisel the soil to relieve compaction. Contractor must rip the entire length of the pipeline that is compacted to a minimum depth of 18 inches (deeper is desirable) with no more than 20 inches between ripped intervals. Contractor shall follow ripping with chiseling to a minimum depth of 12 inches, with no more than 10 inches between chiseled intervals. At this point, depending upon the size of soil clods left after ripping, discing, culti-packing or other operations may be required to reduce the size of the clods. Contractor shall consult with the Inspection Personnel to inspect the site at this time to make that determination.

Final grading of areas that are irrigable cropland is of particular importance. The overall grade of land to be irrigated must provide for uniform coverage by flood irrigation.

4.0 Redistribution of Topsoil and Application of Amendments

The salvaged topsoil should be redistributed uniformly over the disturbed areas, minimizing compaction by equipment. **Topsoil redistribution shall not occur under wet soil conditions.** If topsoil is contaminated, compacted or otherwise improperly handled, topsoil should be amended with compost at a rate of 3 cubic yards per 1000 square feet of disturbed area to provide a suitable seedbed. Compost shall consist of at least 40 % organic matter, with a pH not to exceed 8.0, and soluble salts not greater than 10 Mmhos/cm. The carbon to nitrogen ratio of the compost shall be between 10:1 and 20:1. Compost shall be incorporated evenly throughout topsoil.

5.0 Seedbed Preparation

Following redistribution of topsoil and application of amendment, the disturbed areas shall be chiseled again to a minimum depth of 10 inches, with no more than a 10 inch interval between chiseled furrows.

On disturbed areas, further seedbed preparation such as discing, harrowing and/or firming operations will be necessary to reduce soil clods that are greater than 4 inches in diameter, and to provide a seedbed that is firm and friable.

Irrigated and Dryland Cropland

On cropland, final grading and seedbed preparation will be performed by the agricultural tenant on the property. NCWCD shall reimburse the tenant at a negotiated hourly rate to cover equipment and operator time. Reimbursement shall be made upon presentation of an invoice to NCWCD by the agricultural tenant.

6.0 Seeding

Irrigated and Dryland Cropland

The agricultural tenant will perform seeding operations on irrigated and dryland cropland. NCWCD shall reimburse tenant for any seed that has been planted prior to disturbance by NCWCD's construction activities and for seeding operations at a negotiated hourly rate. All other seed on cropland will be provided by Boulder County or tenant. Reimbursements for seeding operations shall be made upon presentation of an invoice to NCWCD by the agricultural tenant.

Rangeland

Seed mix and planting rates for rangelands will vary amongst sites. An example seed mix and planting rate specification are provided below. Seed should be provided by NCWCD or its contractor according to specifications for each property. Each bag of seed must have its original seed tag attached at the time of delivery and should remain attached until the seed is used. All seed tags must be saved and provided to the Inspection Personnel.

Seed shall be drilled with a drill that is capable of placing the specified seed at the specified rate, at a 1/2" - 3/4" depth. The drill should have an 8" or less drill row spacing and be equipped with packer wheels to firm the soil over the drill row. Dragging chains behind the drill to cover seed is not an acceptable substitute. Seed drills must be clean of seed from previous seeding jobs prior to any seeding on County-owned lands.

Seeding should be completed between October 1 and March 31. In between these dates a cover crop may be used, until the appropriate time to seed specified mix. Seeding shall not occur in extremely windy conditions, or when the soil is frozen or wet.

Areas that cannot be drilled may be broadcast seeded. Hydroseeding is not acceptable. The specified seeding rate in these areas shall be doubled. Broadcast seed shall be raked, harrowed or otherwise covered by soil to a depth of 1/2" to 3/4".

Example Rangeland Seed Mix

Species	Common Name – Variety	PLS/ Acre
Bouteloua gracilis	Blue grama, Native	0.48
Bouteloua curtipendula	Sideoats grama, Vaughn	2.33
Buchloe dactyloides	Buffalograss, Native	3.73
Elymus trachycaulus	Slender wheatgrass, Pryor	4.11
Pascopyrum smithii	Western wheatgrass, Arriba	8.32
Stipa viridula	Green Needlegrass, Lodorm	2.31
Total PLS/Acre		21.27

PLS lb/ac = Pure Live Seed pounds per acre

7.0 Mulch

Irrigated and Dryland Cropland

Mulching is not necessary on irrigated or dryland cropland.

Rangeland

After seeding has been completed, mulch should be applied within 24 hours after seeding to all rangeland seeded areas to protect the seed and conserve soil moisture, which will aid in seedling germination and establishment. The following types of mulch are recommended for 3:1 slopes or flatter. Slopes steeper than 3:1 will need additional erosion control.

- A. Colorado Certified Weed Free Hay or Straw Mulch: Applied evenly at a rate of 3000 to 4000 lbs. per acre over the seeded areas. Hay or straw may be crimped in or sprayed with a tackifier according to the project plans. Guara gum tackifier is recommended.

B. Wood fiber hydromulch with guara gum tackifier: A standard rate of 2000 lbs. per acre of hydromulch and 80 lbs. per acre of guara gum tackifier will be appropriate for most projects unless otherwise specified on the project plans. The operator shall spray apply the slurry of wood fiber mulch according to the manufacture's specifications in a uniform manner over the designated seeded areas. **Seed shall not be incorporated and applied simultaneously with the hydromulch slurry.**

8.0 Post-Reclamation Weed Control

To prevent damage to young seedlings, no herbicides will be used through the first growing season following seeding. Reclaimed areas with slopes not exceeding 3:1 will be mowed to prevent flowering and weed seed development. Hand methods will be implemented on steep slopes. Mowing will be undertaken no more than twice during each growing season to prevent desiccation of the grass seedlings with an ideal mowing height of 6 to 8 inches.

9.0 Timeframe and Success of Reclamation

Irrigated and Dryland Cropland

The reclamation success of irrigated and dryland croplands largely depends on the soil condition post-reclamation and is determined by the level of productivity of the crop grown within reclaimed area versus the crop productivity within surrounding undisturbed areas. If the site is properly reclaimed, then reclamation success should occur in year-1 or 2 following reclamation.

Each year the site will be reviewed by Parks & Open Space's Resource Management and/or Agricultural Staff, at which time NCWCD will be advised as to the management practices that are expected to ensure reclamation success. If within that time period the reclamation process is deemed successful by Parks & Open Space, the obligation incurred by the responsible party will be released. Reclamation success is defined by the level of crop productivity compared to surrounding undisturbed locations. Reclamation will be considered a success if the difference in productivity between disturbed and undisturbed locations is less than 10%.


Rangeland

Reclamation with native and some non-native species requires three to five years to determine stand establishment and productivity. It should be expected that early successional species (such as summer and winter annuals) will occupy the area before the desired perennial stand dominates.

Each year the site will be reviewed by Parks & Open Space's Resource Management and/or Agricultural Staff, at which time NCWCD will be advised as to the management practices that are expected to ensure reclamation success. If within that time period the reclamation process is deemed successful by Parks & Open Space, the obligation incurred by the responsible party will be released. Reclamation success is defined by the percentage of desired species compared to weedy annual broadleaf species (which usually requires no less than three years). Reclamation will be considered a success if there is 75% cover of the desired species present.


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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  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~~  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.  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  ologic 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



MEMORANDUM
NATURAL RESOURCES ADVISORY BOARD

DATE: January 19, 2023
TO: Mayor and City Council Members
FROM: Natural Resources Advisory Board
SUBJECT: Recommendations Regarding 1041 Regulations Draft

Dear Mayor and Councilmembers,

On December 15, 2022, Kirk Longstein, Senior Environmental Planner, presented on the updated draft of 1041 Regulations. The purpose of this memo is to express considerations and recommendations regarding the potential future adoption of 1041 Regulations. As a Board that prioritizes the conservation of natural resources and the impact they have on the future of our community, the Board views the 1041 Regulations as a legal method to offer the City greater authority over public development projects, specifically those that deal with *Highways and Interchanges* and *Water Projects*, that qualify as areas or activities of statewide interest.

In the most recent draft of the 1041 Regulations, the change of threshold definition from “Finding of No Significant Impact” (FONSI) to “Finding of No Adverse Impact” (FONAI) is supported by the Board. Additionally, the Board further strongly advocates for the consideration of cumulative impacts as it pertains to environmental degradation and disproportionately impacted communities. To assess short, and long-term effects of projects evaluated under the umbrella of 1041 Regulations, the Board recommends adoption of a monitoring program. A defensible monitoring program that includes measurable indicators of project impacts, both positive and negative, and how these metrics change over space and time. By analyzing the cumulative effects and monitoring project impacts, potential long-term environmental, social, and economic impacts can be more adequately understood. Utilizing the *Considering Cumulative Effects Under the National Environmental Policy Act* is one recommended starting point for consideration for creating a system on monitoring and cumulative impacts.



Environmental Services
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Additionally, the Board recommends an adoption of 1041 Regulations that do not impose geographic limitations as a filter at the front end of the review process (as currently defined and proposed in “Version 2 of the Draft 1031 Regulations”). Ecological systems, and their social impacts, are open systems that do not recognize ownership or political boundaries.

Further, the Board advocates for the addition of a definition of “Natural Resources” in the 1041 Regulations. The Board would recommend considering the existing definition for “Natural Habitats and Features” that can be found in the *Land Use Code*, but with the intentional addition of ecological corridors, including waterways, to incorporate not only habitat protection but also to secure the connectivity patterns that Northern Colorado flora and fauna need to thrive. Habitat protection, corridors, and connectivity as defined in the Nature in the City’s Habitat Corridor Analysis and through Colorado Parks and Wildlife’s classification of High Priority Habitats.

The Board is concerned that currently proposed development projects will have permanent and pronounced reductions in the integrity of the Cache la Poudre River ecosystem and various Natural Areas within the bounds of Fort Collins. Through the adoption of 1041 Regulations with the aforementioned considerations, proactive efforts can minimize adverse impacts to natural features, historical cultural resources, and disproportionately impacted communities.

The Board views the 1041 Regulations as instrumental in achieving Our Climate Future goals, particularly as it pertains to the “Big Move 3: Climate Resilient Community,” “Big Move 11: Healthy Natural Spaces,” and additional environmental health goals outlined in the City’s strategic plan.

Thank you for your time and consideration on this issue and its future implications for the community.

Very Respectfully,

Dawson Metcalf, MS
Chair, Natural Resources Advisory Board



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November 11, 2022

Fort Collins City Council
300 Laporte Ave.
Fort Collins, CO 80521

To: Mayor Arndt, Mayor Pro Tem Francis, and Council Members Gutowsky, Pignataro, Canonico, Peel and Ohlson;

As a business community, we take great interest in matters that impact the economic vitality of not just Fort Collins, but the entire region. After all, our employees, customers, suppliers and partners are not strictly limited to political boundaries. Preserving the character of our region and the integrity of our precious natural resources is a vital component of our collective success. Often overlooked is the fact that businesspeople also live here, raise families here, and make significant investments that advance our collective well-being.

What the business community doesn't do is build water treatment facilities, diversion pipelines or reservoirs. We don't expand highways (though we have successfully lobbied for such projects). Rather, these type projects are undertaken by government and quasi-governmental entities that exist for the purpose of delivering vital services to the public. As such, there are very concrete and deliberate processes under which significant infrastructure improvements are analyzed, designed and implemented through the benefit of public input.

The product of this existing framework is evident. Environmental disturbances that result from infrastructure placement are remediated to a level that is equal to or superior to pre-existing conditions. We fail to see how introducing a whole new process under 1041 Powers provides any tangible benefit to the community – unless it's assumed the community is better off with higher utility costs, slower processes for meeting basic needs, or dictating the terms under which other jurisdictions across the region are allowed to function.

The Fort Collins Area Chamber of Commerce strongly encourages Council to reconsider imposition of 1041 Powers. Should you feel compelled to move forward, the next best option is to extend the current moratorium at least 90 days while City staff and Council recommit to an engagement process that was short-circuited by special interests. In the haste to stop a single project, the collateral damage was made to appear inconsequential. We now recognize that to be a false narrative.

Thank you for your consideration of our concerns and we welcome the opportunity to bring greater clarity to this issue while demonstrating the commitment of the business community to strengthen and preserve a verdant, healthy environment upon which we can all thrive.

Sincerely,
Fort Collins Area Chamber of Commerce



Ann Hutchison, CAE
President & CEO

cc: Kelly DiMartino



225 S Meldrum • Fort Collins, CO 80521
(970) 482-3746
www.FortCollinsChamber.com

January 10, 2023

Kirk Longstein
City of Fort Collins
Fort Collins, CO 80521

RE: 1041 Regulations

Kirk -

The Fort Collins Area Chamber of Commerce continues to express tremendous concern about the timeline for the local 1041 regulations. As currently designed, Council members and the community would have four days to read, study and understand incredibly complex policy that will have far reaching regional impacts. We contend that such an aggressive schedule serves no one.

Additionally, we remain concerned that these regulations are out of place in our community. All the projects that would come under these regulations already have expansive and demanding layers of regulation and review at the local, regional, state and national level.

Should the City charge ahead with these regulations, we are very supportive of the suggestions that Peggy Montano of Trout Raley has made regarding permit denial, criteria and timeline for appeal. Her observations and recommendations for change are important and pragmatic should we adopt such regulation in Fort Collins. She has submitted for consideration the following changes:

- *Whenever City Council determines that a permit will be denied, the denial must specify the criteria used in evaluating the proposal, the criteria the proposal fails to satisfy, the reasons for denial, and the action the applicant would have to take to satisfy the permit requirements.*
- *The denial document will be served upon the applicant and the applicant may, within sixty (60) days of such service, be allowed to modify the proposal.*

We would very much like to see this process allow for ample opportunity for external stakeholders, the community and the Council to analyze this final draft and provide constructive feedback.

Sincerely,

Fort Collins Area Chamber of Commerce

A handwritten signature in black ink that reads "Ann Hutchison". The signature is written in a cursive style with a large initial "A".

Ann Hutchison, CAE

President & CEO

cc: Caryn Champine; Paul Sizemore; Rebecca Everette; Kelly DiMartino, Carrie Daggett, Peggy Montano

Fort Collins City Council
City Hall West, 300 LaPorte Ave.
Fort Collins, CO 80521

November 7, 2022

Re: 1041 Regulations Concerns

Dear Mayor Arndt and City Council members:

The undersigned environmental organizations, with members who reside, recreate, and otherwise utilize developed and undeveloped lands and resources within the City of Fort Collins, write to express our significant concerns regarding both the adoption process and substantive contents of the draft City of Fort Collins Colorado Guidelines And Regulations For Areas And Activities Of State Interest (hereafter, the “1041 Regulations”). We respectfully request the City Council to postpone further action pertaining to the 1041 Regulations’ adoption to allow time for additional public input and for discussion and resolution of the issues raised below.

Substantive Concerns: In our view, the latest revised draft falls far short of the Council’s prior commitment to utilize the C.R.C. § 24-65.1-101 *et seq.* regulatory process to avoid or mitigate negative impacts of uncoordinated and uncontrolled development upon public health, safety, and welfare, the environment and wildlife resources, and the City’s operations and projects. *See*, City Ordinance No. 122, 2021. Although, as of this letter’s date, the Council has not released an official revised draft for public review, the pre-release briefing materials provided by City staff indicate that the revised version differs significantly from the earlier draft provided for public review. These major changes reduce the document’s coverage and weaken its substantive provisions to the point where the document bears scant resemblance to either the prior draft or the public commitments expressed in Ordinance No. 122, 2021. Several of the most serious substantive deficiencies in the revised draft are summarized below:

Coverage Scope: Consistent with Ordinance No. 122, 2021, the prior draft asserted the City’s 1041 authority over Water and Sewer System Activity and Highway Activity (hereafter, the “Designated Activities”) throughout the *entire geographical limits* of the City of Fort Collins. However, the revised draft limits 1041 authority to City Parks, Natural Areas, Natural Habitat Buffer Zones, and Cultural Resources. This unjustified scope reduction excludes the vast majority of City lands and resources from the Regulations’ protective coverage and denies Fort Collins citizens their rightful voice in the siting, design, and approval of Designated Activities that affect their daily lives and well-being. In addition, as discussed below, the proposed scope reduction fails to comply with the terms of Ordinance No. 122, 2021. We urge the City Council to retain the full-City coverage of the prior draft regulations.

Financial Security Requirement: The revised regulations discard the Financial Assurance Requirement contained in the prior draft. Financial assurance requirements are critical to ensuring that Designated Activities (including where applicable, infrastructure decommissioning) are conducted in compliance with project specifications, public commitments, and applicable legal requirements. While one can certainly engage in a legitimate policy discussion over the nature and extent of financial assurance that is appropriate for any project or project category, the City’s fundamental ability to require an appropriate level of financial

assurance should never be forfeited. We urge the City Council to retain a meaningful financial assurance requirement.

FONSI vs. FONAI: The revised draft alters the standard for evaluating Designated Activities impacts from a “Finding of No Significant Impacts” (FONSI) to a “Finding of Negligible Adverse Impacts” (FONAI). While seemingly trivial linguistically, this change, which was apparently made at the behest of development interests, significantly weakens the 1041 Regulations. The FONSI concept is well established as a widely-used standard in environmental law and practice. Over the decades, it has been well defined through practical application, regulatory interpretation, and case law. In contrast, FONAI, is a nebulous concept that is neither well-established, widely-used, nor well-defined. The effect will be a weakening of environmental and community public-interest protections, while allowing developers and City decisionmakers to construe undefined “negligible adverse consequences” in an arbitrary and ad hoc fashion. We urge the City Council to retain the prior draft’s FONSI evaluation standard.

Procedural Concerns: In addition to above-noted examples of substantive weakening, the City’s process leading to the 1041 Regulations’ adoption raises significant concerns:

Last-minute major revisions: As discussed above, the pre-release briefing materials provided by City staff indicate that the revised version of the 1041 Regulations significantly weakens the language of the prior draft. However, the public, including the undersigned environmental organizations, have not been provided an opportunity to view the actual revised draft’s language. The extent to which development interests have been engaged in, and made privy to, the revised draft’s revisions remains, of course, unclear. However, the revised draft’s one-way, pro-development weakening certainly raises the specter of significant (and quite effective) behind-the-scenes involvement. While all legitimate interests are entitled to a full and fair role in the regulation development process, the City Council should strive to ensure the process, and opportunities for involvement, are even-handed. In this case, the substantially modified, and substantially weakened, draft will be released with only minimal time for public review and input prior to the Council’s First and Second reading. Moreover, this limited time frame falls squarely during the busy Holiday period where residents are often absent or occupied with Holiday preparation and engagements with families and friends. Sound public process entails meaningful opportunities for input from *all* affected stakeholders – not simply the segments that are the best-financed and the most vested in minimizing the Regulations’ coverage. We urge the City Council to delay the First and Second readings to allow sufficient time for meaningful and effective public import on these significant regulatory changes.

Non-Compliance with City Ordinance No. 122, 2021: Perhaps the revised draft 1041 Regulations’ most problematic deficiency is their failure to comply with the express terms of City Ordinance No. 122, 2021. Ordinance 122, 2021 states, in multiple locations, that the 1041 Regulations “shall apply” to Designated Activities “located partially or entirely within the boundaries of the City.” *See, e.g.,* Ord. 122, 2021 at §§ 2(2), 2(4), 2(5), 3(2), 3(4), 3(5). In contrast, where the City Council chose to limit the Regulations’ geographical scope, such as in the areas subject to the moratoria, it did so expressly. *See, e.g., Id.* at § 4(3)(ii). In short, the Ordinance’s express language mandates that the Regulations shall apply throughout the City’s geographical boundaries except for the limited exceptions stated therein. The revised

regulations' non-compliance with the Ordinance, coupled with the draft's significant last-minute weakening changes and the limited opportunity provided for public input on those changes, vastly increases the potential for legal challenges by aggrieved members of the public under Colorado Rule of Civil Procedure 106(a)4)¹. Challenges such as these may often arise at the most inopportune times of a project's development cycle; and, even if unwarranted or ultimately unmeritorious, may result in a project's delay or economically-driven cancellation. This can occur even where the project is in the broader public interest and enjoys strong public support. No legitimate public interest, whether development or environmental, is served in rushing through a regulation that exhibits a glaring process deficiency that subjects it to potential challenge. Rather, the City Council should take the time necessary to address and cure the deficiency -- and minimize the attendant risks of subsequent litigation and project delay -- prior to finalizing the 1041 Regulations. We urge the City Council to take the time necessary to effectively and publicly address this deficiency prior to final passage.

We appreciate the extensive effort City staff and City Council have expended on the 1041 Regulations development process. We recognize the potential value the Regulations provide in assuming and maintaining local control over critical Designated Activities. We look forward to working constructively with the Council, City staff, and all affected stakeholders to ensure a publicly-responsive and legally sound resolution.

Thank you for your efforts on behalf of the residents and environment of Fort Collins.

Respectfully,

Sierra Club, Poudre Canyon Group

By: Doug Henderson, Elena M. Lopez

Larimer Alliance for Health Safety and the Environment

By: John McDonagh

Fort Collins Sustainability Group

By: Mark Houdashelt

¹ C.R.C.P. 106(a)(4) provides that an aggrieved party may seek judicial relief in Colorado district court, "Where, in any civil matter, any governmental body or officer or any lower judicial body exercising judicial or quasi-judicial functions has exceeded its jurisdiction or abused its discretion, and there is no plain, speedy and adequate remedy otherwise provided by law....".



Boxelder Sanitation District

MEMORANDUM

3201 E. Mulberry Street, Unit Q
P.O. Box 1518
Fort Collins, CO80522
Phone 970 498-0604

To: Kelly Smith, City of Fort Collins
From: Brian Zick
Date: July 28, 2022
Re: City of Fort Collins Draft 1041 Regulation Review

General Comments

1. Boxelder Sanitation District has made an initial review of the draft regulations and looks forward to subsequent meetings where the City can provide more information on the background and intent of the regulations and how they would apply to District projects.
2. The regulations appear to be specific to land use type projects with significant reference to growth and impacts from growth. The District is only a service provider and does not get involved in land use decisions and does not initiate development activity, so it is unclear how the regulations affect the District.
3. The purpose and findings of regulations are to protect public health, which the District is already doing at a high level.
4. The timing of those capital projects that will be subject to these regulations is not triggered by a specific development project, but stems from long-term planning done in a comprehensive manner.
5. The draft regulations will need further legal review and presentation to the District's Board of Directors, which may impact the proposed timeline established by the City. We would like to understand, since this is a Council-initiated measure, whether the Council will be reaching out our Board of Directors to explain its intent and expectation of working with a fellow utility and sister local government.
6. Currently we are regulated by state and federal agencies include NPDES permitting.
7. We actively work with the regional 208 planning agency (NFRWQPA) on water quality planning issues.
8. The cost of compliance with these regulations will have to be borne by the District's customers through monthly service charges. Some of the District's customers are City of Fort Collins residents and a portion of those are disadvantaged; those persons would be impacted by rate increases, which would directly affect housing affordability and other social equity issues.
9. The District is interested in determining how it can be exempt from the regulations.
10. Understanding of the master plans of all the utilities could be a better approach for the City than trying to have regulations that duplicate existing stringent public health regulations by higher levels of government and which will likely cause hardship for the District and its customers.



November 17, 2022

Fort Collins City Council
City Hall West
300 LaPorte Ave.,
Fort Collins, CO 80526

Dear Mayor Arndt and City Council Members:

The League of Women Voters of Larimer County is deeply concerned regarding the contents of the draft City of Fort Collins Guidelines and Regulations for Areas and Activities of State Interest (the "1041 Regulations").

The League strongly urges Council to postpone any decisions concerning the revised Regulations for several months, allowing time for public input and discussion, and urges Council to allow time for input from the appropriate advisory committees involved in this issue. The Council should aggressively seek out and provide multiple and varied opportunities for public comment.

The League of Women Voters believes that governmental bodies must protect the Citizens' right to know by giving adequate notice of proposed actions, holding open meetings, and making public records accessible. We have very serious concerns that recent revisions to the proposed 1041 regulations have been made without those actions.

The pre-release briefing materials indicate that the revised version differs significantly from the earlier draft provided for public review and seems to weaken several essential regulations designed to protect the city and public interest. Changes this substantive must not be made without extensive public review and input.

We appreciate the work by City Staff and Council on the expanded 1041 Regulations and urge you to open the review process to the citizens of Fort Collins.

Sincerely,

Jane Hamburger

Jane Hamburger, Spokesperson
League of Women Voters of Larimer County
mjbhamburger@gmail.com
(970) 689-3663



January 20, 2023

Honorable Jeni Arndt, Mayor
P.O. Box 580
Fort Collins, CO 80522
jarndt@fcgov.com

Fort Collins City Council
P.O. Box 580
Fort Collins, CO 80522
cityleaders@fcgov.com

Re: 1041 Regulations Comments

Dear Mayor Arndt and Councilors Gutowsky, Pignataro, Canonico, Peel, Ohlson, and Francis:

These comments are submitted on behalf of the Northern Colorado Water Conservancy District (“Northern Water”), the many constituents who receive water from existing facilities within the boundaries of the City of Fort Collins, and the NISP Participants. These comments apply solely to the issue of the development of domestic water systems under 1041. The designation of highways, interchanges, and sewerage are not addressed in these comments.

Initially, Northern Water wants to acknowledge the open and transparent process of the City staff in drafting regulations. Hosting the many stakeholder meetings and listening to the various groups with numerous interests is a difficult task and was done with great professionalism throughout the past several months.

The focus of the comments below is to propose changes to the draft regulations of November 2, 2022, which appear to create confusion or run afoul of existing authority, including being inconsistent with the statute which created the authority for 1041 regulations, and the law as interpreted through primarily case law; and to make Council aware of concerns of neighboring cities, towns and water districts regarding the potential consequences of the regulations.

As you consider our and other comments, we ask that Council seek to find a middle ground with these regulations which allow water projects to go forward without unduly burdensome provisions. We ask that you reduce costly criteria which require the use of numerous experts, particularly when state or federal permits already cover certain issues, and we ask that you seek to avoid expensive and time-consuming litigation while protecting the interests of the City as allowed under the 1041 statute.

Overview of the Scope of 1041

The thrust of the 1041 statute when passed in 1974 was to provide local governments a measure of land use permitting authority which did not previously exist. Prior to this time transportation projects could be constructed such as airports, highways and interchanges or actions taken such as building power plants or substations within the boundaries of a local government with no input from that government.

Initially, it is critical to bear in mind what is “*a matter of state interest*” under the law and, which elected body is to identify such matters. The scope of the 1041 law was created 50 years ago by the 1974 state legislature which created 1041 to identify a certain category of land uses “of state interest” to be regulated by both counties and municipalities if they so choose. The list of “*matters of state interest*” is now set by statute, and no new “areas or activities” are within the jurisdiction of the regulating county or city to add. While some constituents may ask for a broader list, it is not within the purview of the City to do so. The published designation addresses two of the statutory activities concerning domestic water: “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” which are the two activities “of state interest” by statute.

A second area that is critical to bear in mind is the land use/water use interface of the 1041 law. The legislative history, which is testimony of bill sponsors and witnesses recorded at the time the law was passed, is available through Colorado State Archives and has been studied to support these comments. Excerpts of that history are provided to you in the *Legislative History Summary* attached. The designation was about regulation of land use (it was titled the “Land Use Act”) and made clear that water rights and the use of water was protected. The legislative declaration provides that the “*Protection and utility, value and future of all lands ... is a matter of public interest.*”¹ This law is about regulation of facilities; not denial of the use of water. The legislative history makes clear that no veto was provided or intended.

For example, during the house reading Representative Dittmore (one of the bill’s sponsors) quoted the water rights savings clause in the 1041 statute and said that Colorado’s bill goes “further” than similar federal legislation, noting that the bill:

“speaks to an issue that is so very important to every individual in the state of Colorado. And that is the right of water.... [water rights] are protected by the bill and are protected by the United States Constitution.”²

And as one testifying representative stated, this is not for local government to

“use as an excuse for a club to simply arbitrarily prevent some developer they don’t like, they have to make a disposition and come up with some guidelines.”³

¹ C.R.S. 24-65.1-101 (a)

² House Second Reading (Feb. 27, 1974, approximately 30:00)

³ House Second Reading (Feb. 28, 1974, approximately 13:00)

In plain language, the right to use water is outside the authority of local governments to deny and the 1974 legislature included a specific section protecting water rights in 1041.

“Nothing in this article shall be construed as: (b) Modifying or amending existing laws or court decrees with respect to the determination and administration of water rights.”⁴

This also applies to groundwater:⁵

“mineral does not include surface or groundwater subject to appropriation for domestic, agricultural or industrial purposes, nor does it include geothermal resources”.

Lastly, in the general definitions a key portion of the 1041 law states, “Development” means any construction or activity which changes the basic character or *the use of the land on which the construction or activity occurs.*”⁶

In the face of this legislative history one might reasonably ask, how does this fit with the several reported cases which uphold the denial of 1041 permits over the last decades? In the most recent case, *City of Thornton v. Larimer County* issued in September of 2022, the Court of Appeals made it clear that Thornton can reapply for a permit.⁷ The denial therefore may be temporary and both governments will again face the cost and struggle for a balanced solution. In the *Eagle County v. Colorado Springs* litigation of the 1990’s,⁸ the parties ultimately negotiated a settlement; and in other counties, such as Adams concerning Aurora’s Prairie Waters Project, a balance through an agreement was reached. The challenge here is how to balance the reasonable regulation of land use within City boundaries with the protected right under state law to divert and use water for domestic purposes either through a major expansion of a domestic water system or a development of a new domestic water system.

We ask that Council provide a method within the regulations for an applicant to obtain a permit and build its project without the need to engage in repeated permit applications as a result of contested denials and appeals. This can be done by adopting some of the process suggestions made during the stakeholder engagement meetings.

⁴ C.R.S. 24-75.1-106

⁵ C.R.S. 24-65.1-104 (10)

⁶ 24-65.1-102 (1)

⁷ “As for the Board’s criticism of Thornton for failing to provide a “Shields Street” siting alternative, the court concluded the request was outside the Board’s power. Again, Thornton had reason to believe that this proposal would require it to degrade its water source by running it through Fort Collins vis-a-vis the Poudre River before collecting, cleaning, and transporting it to Thornton. In addition to the fact that this would require modification of the water decree, the court concluded that such a request was not part of the Board’s power to regulate the “siting and development” of domestic water pipelines. See Land Use Code § 14.4(J); § 24-65.1-204(1)(a), C.R.S. 2021. For these reasons, the Board could not justify its denial of Thornton’s application on this aspect of the application —*or require it to include such a route in future applications.*” (*emphasis added*) Thornton slip opinion at 26-27.

⁸ 895 P.2d 1105 (1994)

Selected Comments concerning and proposed refinements to the Standards affecting water facilities in the regulations

Create a set of Standards solely applicable to Major New Domestic Water and Major Extension of Domestic Water Systems. To provide clarity for the water community and the City, we request the City enact a stand-alone section of standards for regulation of water projects. Currently there are two separate sections of standards; Common Review Standards for all applications and second section of Review Standards for Major new Domestic Water and Major Extensions of the same. Many of the Common Standards do not seem applicable, but we are not sure. It would make the process cleaner and more efficient for both the Applicant and the City if the Applicant does not have to try and sort through the Common Review Standards and add those to the specific water standards to discern what the City's intended standards are in total for domestic water supply projects. For example, included within Common Review standards are "changes to view sheds; quality of recreation fields or courts; changes in access to recreational resources". These appear to be more focused on the highway designation, but it is quite unclear.

Include Standards supported by the plain language of the statute and interpretive case law. The litigation of the last decades is instructive that requiring an Applicant to evaluate certain alternatives to a water project is not supported by law. Those include regulations that require the applicant to degrade its domestic water quality and includes requests to run the water down the river to a lower point of diversion that is not included in a water court decree.⁹ We believe that an applicant's engaging with staff prior to coming to council can be very useful to seek detailed on-the-ground alternatives to a proposal and the regulations should require this be done as a part of the overall project permitting. The language concerning alternatives can be modified to provide that alternatives protect water quality and align with water court decrees.

Avoid attempted regulation of augmentation plans, exchanges and substitutions of water supplies. These are singularly regulated and administered by the State and Division Engineer and also subject to frequent changes. In a year of relative water abundance, no augmentation may occur for a domestic water user while in a drought year, the State Division of Water Resources may permit exchanges during specific days or months under certain conditions to meet a temporary need. It is highly doubtful that the City may regulate these unique water supply activities which are allowed by water court decree or administratively through the substitute water supply plan statute. We suggest modification of Regulation 1-110 to eliminate these words in the City's definition of major new domestic water system.

Exercise regulatory authority so that City regulations acknowledge and work in concert with County regulatory authority. The City can regulate within the authority set forth under the 1041 statute but so can the County. The basis of the authority is identical in for both governments. In addition to the City and County, permit applicants also may be required to comply with a plethora of state and federal laws. We request that the regulations expressly seek to work in concert with the county 1041 regulations and recognize the scientific work done by an applicant for state and federal permitting. It may well be that you or your staff disagree with some of those studies but,

⁹ See City of Thornton v. Larimer County slip opinion at 26 and 27.

recognizing them allows for a reasoned discussion of City concerns. If no coordination exists, an applicant may be caught between conflicting levels of government to the detriment of water users.

Set realistic baselines for evaluation under the standards and avoid vague language. Regulations 2-401 (F)(G)(H)(I)(J)(K)(L)(M)(O)(P) and (Q) encompass hiking, fisheries, reservoir levels, quality of horseback riding trails, microclimates, soil deterioration, biomass, terrestrial food webs and many more items. While the 1041 statute in its section 402(3) allows the guidelines to be “more stringent” those more stringent requirements are to be related to the statutory criteria. This result was set out in the *Eagle County* litigation discussed above. We have submitted requests for clarification to many of these sections of the draft regulations in attempt to have clear objective science-based standards so all parties can understand the requirements and subjectivity can be minimized. While the City may now look at the regulations as to be applied to others, in the future the City may likely be an applicant subject to these regulations as well.

Ensure that the statutory definition of “development” is included in the regulations and is applied to a permit request. The 1041 statute regulates the basic character of limited lands, not all lands within a jurisdiction. The definition is: “any construction or activity which changes the basic character or use *of the land on which the construction or activity occurs*”.¹⁰ Including the statutory definition will ensure that the regulations will not inadvertently be applied outside of these parameters. The definition of Impact Area in the regulations at 1.110 (...”shall mean the geographic areas, including the development site, in which any adverse impacts are likely to be caused by the development”) appears to be inconsistent with the statutory definition and could be modified to be consistent.

Before concluding this comment letter, we also want to take the opportunity to outline an often-overlooked portion of the work of Northern Water; the environmental programs as set out below.

Northern Water’s Environmental Stewardship

In addition to water collection and distribution, in 2018 Northern Water created an Environmental Services Division that has continually expanded since that time. Northern Water understands that operating and managing large scale water supply projects comes with an environmental footprint. We take very seriously our responsibility to protect and manage the natural resources affected by our operations and infrastructure. We also deem ourselves an integral part of the communities that surround our systems, on both sides of the continental divide and are vested in their overall well-being and the protection of the resources that they depend on for economic vitality, quality of life and recreation. As a raw water provider on whom over one million people rely for their drinking water supply, protecting watersheds is of utmost importance, and we take pride in providing strong leadership in watershed protection and restoration. These commitments are embodied in the breadth and scope of our programs and initiatives as well as an organization-wide attention to environmental matters.

- This Division is responsible for managing water quality, water efficiency, environmental regulatory compliance and planning, and environmental data collection and dissemination.

¹⁰ C.R.S. 24-65.1-102 (1)

Additionally, the Division provides guidance on operational environmental stewardship, including but not limited to, environmental impact avoidance and minimization, and water conservation. As a part of its environmental services, Northern Water maintains ongoing water quality monitoring that is publicly available on the Northern Website including general water chemistry, metals, nutrients, physical parameters, chlorophyll a, zooplankton, phytoplankton and approximately 150 emerging contaminants such as pharmaceuticals and cosmetics.

- Northern Water spearheaded a regional Source Water Protection Plan in 2019, which encompasses all watersheds adjacent to our facilities and is focused on safeguarding the highest water quality possible. In the wake of the catastrophic 2020 wildfires, Northern Water agreed to sponsor the post-fire watershed restoration for the East Troublesome Fire and has worked in tight partnership with the Cities of Greeley and Fort Collins, and the Coalition for the Poudre Watershed to leverage Federal and State resources for the benefit of the communities affected by fire-impacts from these burn scars and the wildlife and aquatic resources that depend on these watersheds. In addition, Northern Water has partnered with the National Park Service, U.S. Forest Service, U.S. Bureau of Land Management, and others to reestablish vegetation and ecosystem functions in the headwaters of the Colorado River within and around Rocky Mountain National Park.
- Northern Water is a signatory to the Colorado-Big Thompson Project (C-BT) Headwaters Partnership Memorandum of Understanding, and broadly engaged in forest health management and protection initiatives in all watersheds connected to the C-BT, Windy Gap and NISP projects. Northern Water is a founding member of the Kawuneeche Valley Ecosystem Restoration Collaborative whose mission to restore the headwaters of the Colorado River. Northern Water is actively pursuing other watershed restoration projects through Learning By Doing in the Fraser and Colorado Rivers, as well as via the Windy Gap Firing Environmental Fund established in 2021, which will distribute \$15 million towards river restoration projects over the next five years.
- Northern Water has for many years participated in the aquatic nuisance species boat inspection programs to keep nuisance species from becoming established in the water bodies that form the C-BT system and serve much of the front range including the City of Fort Collins.
- Northern Water is a national leader in water conservation and has received the EPA Partner of the Year Award four years in a row (2019, 2020, 2021, and 2022). Northern Water is deeply committed to continuing to enhance our water efficiency programs in service of our constituents and allottees in Northern Colorado. We also look within when examining environmental impacts and have evaluated ways to improve our facilities and operations to reduce adverse effects to wildlife. Northern Water has installed wildlife crossings to protect elk, deer, moose and other animals from being trapped in water collection and delivery canals. Northern Water completed the Watson Lake Fish Bypass project on the Poudre River, which allows for aquatic life movement through a formerly impassible barrier.

Re: 1041 Draft Regulations Comments

- For over two decades, Northern Water has played a critical role in the recovery of endangered species on both sides of the Continental Divide through the Upper Colorado River Endangered Fish Recovery Program and the Platte River Recovery and Implementation Program.
- Finally, as a part of both the Windy Gap Firing Project and the NISP Project, many environmental improvements will be implemented, including but not limited to, reconnecting portions of the Upper Colorado River, restoring and enhancing wildlife habitat, improving water quality, releasing flows to enhance ecological health and boating opportunities, and providing new recreation sites, in a partnership with Larimer County, at the Chimney Hollow and Glade Reservoir sites.

In conclusion, we recognize the authority of the City to regulate water supply activities as set forth in 1041 but ask that it be done in an efficient and predictable manner for the benefit of the residents of the region, including those within Fort Collins, who, as water customers, ultimately pay for the permit program adopted by the City. We appreciate the opportunity to provide these comments to you.

Sincerely,



Peggy E. Montañó

For Trout Raley,

General Counsel to Northern Colorado Water Conservancy District

Enclosure: Summary of HB74-1041 Legislative History

CC:

City of Dacono

City of Evans

City of Fort Lupton

City of Fort Morgan

City of Lafayette

Fort Collins Loveland Water District

Left Hand Water District

Morgan County Quality Water District

Town of Eaton

Town of Erie

Town of Frederick

Town of Severance

Town of Windsor

Weld County Water District

SUMMARY OF HB 74-1041’s LEGISLATIVE HISTORY, FOCUSING SOLELY ON WATER RIGHTS/WATER SUPPLY PROJECTS

Attached to January 20, 2023 comment letter to Fort Collins

BACKGROUND AND OVERVIEW OF C.R.S. § 24-65.1-101 *et seq.* Colorado’s “Land Use” Bill

Repeatedly throughout the 1974 hearing testimony, the legislators emphasized that H.B. 74-1041 was meant to be an “effective and sensible land use package.” House Second Reading (Feb. 27, 1974, approximately 05:00). The problem the bill was intended to address was the fact that local governments were not making uniform decisions when approving or disapproving land use/development projects with respect to those projects’ impacts on areas and activities of statewide interest. House Local Government Committee (Feb. 4, 1974, approximately 1:32).

As set forth in the statute, the legislators were concerned with land development activity that would impact things like mineral resource development and natural hazard areas – including floodplains, mining, wildfire and geological hazards – or public health dangers in areas surrounding key facilities. *See* C.R.S. §§ 24-65.1-201 -202. The original concept of H.B. 1041 (as enacted and amended in 2005) was to establish a state permitting agency for zoning and land-use issues concerning these areas of statewide importance and eliminate the problem of disparate land-use decisions that were occurring on a county-by-county and municipality-by-municipality basis. The statute does not directly address or contemplate 1041 regulations that would impede water distribution and supply beyond the confines of a given development project or its impacts on the immediate community.

The intent of the bill overall was to give local governments a growth management tool to work in tandem with technical and financial assistance from the State when identifying, designating, and regulating these “areas and activities of state interest,” but without giving local governments free

license to override other pre-existing resource regulatory frameworks in place. During hearings, the legislature shifted the permitting function from a central stage agency to local governments and then, at a late stage in the bill's lifecycle, the Colorado legislature determined that the "State Land Appeals Board," which was meant to be the arbiter of disputes between state agencies and local government decisions and other independent stakeholders, was both unfunded and unnecessary, and the appeals board was written out of the bill.

Despite the fact that intermediary disputes process was written out of the bill at a late stage (the disputes process is and remains the district court system) the legislative history makes clear that the legislators – both the sponsors and amendment drafters, as well as those speaking during the hearings – did not anticipate that the 1041 process of identifying, designating, and regulating areas and activities of state interest would allow local governments to "veto" the decisions of water districts (or other regulating bodies) with respect to developing, overseeing, and administering water issues or other resources. For example, in an earlier session, one legislator addressed the issue of RTD route site selection, and expressed the concern that 1041 might give local government the power to override RTD route selection, noting that

The question, that, that comes up is can local government prevent the RTD route from through its jurisdiction. I believe that there's language in [the bill] that prevents the local government from doing that. **And, I would defend strongly the idea that local governments should not be permitted to veto the RTD route.**

House Second Reading (Feb. 27, 1974, approximately 1:37).

Rather, throughout the bill cycle, the legislators were primarily concerned with impacts connected with the "footprint" of a given land use project. 1041 addresses development projects having a "significant impact" on resources of statewide importance. *See* C.R.S. § 24-65.1-101. The bill attempted to strike a balance between land and resource use and the decision-making process amongst competing state and local interests and stakeholders. Pursuant to the statute, local

governments are empowered (via permissive, but not mandatory, authority) to enact their own regulations and exert certain control over development in areas falling within the statute's purview. Certain of the statute's provisions concerning "areas and activities" relate to water project development. *See id.* § 24-65.1-203(a), (b), (h). The statutory scheme provides certain criteria for how these areas and activities should be administered, *see e.g., id.* §204(8), and also provides for notice and hearing procedures for designation as well as a permitting process for compliance with regulations once an area or activity has been designated, *id.* §§ 401 – 501.

BILL'S PURPOSE AND INTENT OVERALL

One legislator testified that the rhetorical question of "What do we intend this bill to do?" could be answered with "To me, the need for this bill, is because the local government has not been looking uniformly at what is state interests when they make their decisions." House Local Government Committee (Feb. 4, 1974, approximately 1:32). Sponsoring legislators noted that "the work of the interim committee ... was based upon the American Law Institute recommendations and some of the other bills that were passed in other states There have been very few states in the West at this time who have adopted any kind of meaningful land use legislation." House Second Reading (Feb. 27, 1974, approximately 09:00).

Although the bill granted local government certain powers in administering (including permitting) areas and activities of state interest, it was not meant, as one testifying representative stated, for local government to "use as an excuse for a club to simply arbitrarily prevent some developer they don't like, they have to make a disposition and come up with some guidelines." House Second Reading (Feb. 28, 1974, approximately 13:00). Late in the bill cycle a senator framed both the central goal of the bill and its central conflict as follows: "To me what we're trying to do in this land use thing is simply to determine what is the state's role in land use? What should the state be

doing what should the state not be doing.” Senate State Affairs Committee (April 10, 1974, approximately 25:00).

WATER RIGHTS AND DEVELOPMENT ISSUES

Regarding water issues, the Bill includes a savings clause providing that

Nothing in this article shall be construed as: ... Modifying or amending existing laws or court decrees with respect to the determination and administration of water rights.

C.R.S. § 24-65.1-106(b). When water issues or conflicts between water rights and potential 1041 regulations arose as hypotheticals during hearing testimony, the legislators frequently just referenced this savings clause without additional explication, clearly not envisioning that 1041 regulations would interfere with the existing system of water law in Colorado.

For example, during the house reading Representative Dittmore (one of the bill’s sponsors) quoted the water rights savings clause and said that Colorado’s bill goes “further” than similar federal legislation, noting that the bill

speaks to an issue that is so very important to every individual in the state of Colorado. And that is the right of water... **[water rights] are protected by the bill and are protected by the United States Constitution.**

House Second Reading (Feb. 27, 1974, approximately 30:00). Any time a legislator would bring up water, the response would be that it was clear in the bill that it did not have an effect on existing water law or decrees, without deeper analysis.

With respect to another provision directly addressing water systems¹ the legislators frequently raised the issue of what constituted “major” during the hearings and debated what precisely delineated “major” vs. “non-major” within the meaning of the statute. One senator in a committee hearing described “major” as “an activity that has a really significant impact on the present local patterns of the community.” Senate State Affairs Committee (Mar. 27, 1974, approximately 24:00). The senators recognized the inherent difficulty in measuring “major” by its impact on a community, as what might be “major” in a tiny town would be absolutely irrelevant under other circumstances. The senators attempted to determine what percentage of a water pipeline extension would become “major” but noted that number of different variables in a given project would make such baseline determinations unworkable. *See id.* One senator noted that some types of industrial activity and extension of water lines would have “virtually zero demographic” while other similar extensions might have an effect on highway congestion, road services,...

Earlier in the bill cycle, in the House, a representative raised the concern about the development of water resources, testifying in opposition to an amendment. He felt the development of the state’s water resources was adequately covered under existing law. House Second Reading (Feb. 28, 1974 Part 2, approximately 1:18).

In response, sponsor Representative Dittmore noted that “[c]oming back to the original contemplation of the committee ... we have very clearly stated that this bill does not modify or amend existing laws or court decrees with respect to the determination and administration of water rights.”

¹ “[A] local government may designate certain activities of state interest from among the following: (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; (b) site selection and development of solid waste disposal sites except those sites specified in section 25-11-203(1), sites designated pursuant to part 3 of article 11 of title 25, C.R.S., and hazardous waste disposal sites, as defined in section 25-15-200.3, C.R.S.” C.R.S. § 24-65.1-203(a), (b) (emphasis added).

LAW OFFICE OF
JOHN M. BARTH

P.O. BOX 409 HYGIENE, COLORADO 80533 (303) 774-8868 BARTHLAWOFFICE@GMAIL.COM

December 19, 2022

By email to: byatabe@fcgov.com

Brad Yatabe
Assistant City Attorney
City of Fort Collins
300 La Porte Avenue
Fort Collins, CO 80521

Re: Response to Trout Raley letters of August 30 and September 16, 2022 regarding Fort Collins Draft regulations on Area and Activities of State Interest, § 24-65.1-101 et seq.

Mr. Yatabe:

I am writing on behalf of my client, Save the Poudre, in response to two (2) letters dated August 30 and September 16, 2022 sent to you by the law firm Trout Raley on behalf of Northern Colorado Water Conservancy District (“Northern”) taking issue with language in the City’s draft 1041 regulations. We provide this response to the two letters.

August 30, 2022 letter

Northern’s letter of August 30, 2022 takes issue with two aspects of the City’s proposed 1041 regulations, namely section 2-201 (Intergovernmental Agreements) and section 3-201 (L)(water conservation mitigation measures).

a. Section 2-201 (Intergovernmental Agreements “IGA”)

Northern first argues section 2-201 of the draft regulations allowing an IGA in lieu of a 1041 permit is not authorized under the state 1041 enabling legislation. Save the Poudre agrees and suggests that any reference to an alternative IGA process be removed from the regulations prior to enactment. In addition to the reasons set forth in Northern’s August 30, 2022 letter, we also specifically take issue with the draft language of section 2-201 stating that “the approval of any intergovernmental agreement is a *legislative act*...” (emphasis added).

The state 1041 enabling legislation authorizes local governments to establish a 1041 permit process for regulation activities of state interest. Local government land use permit processes are “quasi-judicial” processes that guarantee public notice and due process rights of participation by the local citizenry. Any final 1041 land use permits are appealable by citizens

pursuant to Colorado Rule of Civil Procedure 106 and are governed by the standard of review outlined in that rule.

There is no support in the state 1041 statute allowing a local municipality to fundamentally change the legislature’s mandated 1041 permit process to a “legislative” act, thus depriving its citizenry of its quasi-judicial due process rights and ability to appeal under Rule 106. A change from a quasi-judicial process to a legislative process would also alter both the procedure and standard of review of any challenge to a local 1041 decision. Accordingly, we likewise request that section 2-201 be removed from the draft regulations prior to adoption and that all references to an IGA be eliminated.

b. Section 3-201 (L)- water conservation mitigation measures.

Northern’s August 30, 2022 letter also argues that the City may not impose water conservation mitigation measures on a water distribution system despite the fact that the water diversion would be located within the City limits. We strongly disagree and recommend that you adopt section 3-201(L) of the draft regulations.

Northern’s argument is based on a self-serving interpretation of the state 1041 law. Notably absent from Northern’s August 30, 2022 letter is any evaluation of Colorado Supreme Court case law interpreting the state 1041 law. Both the Colorado Supreme Court and federal U.S. District Court for the District of Colorado have stated that a local government’s power to supervise land use extends to matters that “may have an impact on the people of the state beyond the immediate scope of the land use project.” *City and County of Denver v. Bergland*, 517 F.Supp. 155 (D.Colo. 1981); *City and County of Denver v. Bd. of County Comm’rs*, 782 P.2d 753 (Colo. 1989 *en banc*). Northern’s letter ignores that Section 203(1)(h) of the state 1041 law specifically allows local governments to regulate “efficient utilization of municipal and industrial water projects.” C.R.S. § 24-65.1-203(1)(h). This is precisely what draft section 3-201(L) does—namely, it ensures that Northern’s diversion of historically agricultural waters in Larimer County is efficiently utilized as municipal water elsewhere. The Colorado Supreme Court has recognized that the state 1041 law is “designed to protect Colorado’s land resources and allocate those resources among competing uses.” *City and County of Denver*, 782 P.2d at 755. Further, the Court has also recognized that the “Land Use Act gives [local governments] the power to regulate...operation of extraterritorial waterworks projects.” *Id.* at 762.

We also disagree with Northern’s argument that the City cannot regulate “water diversions” within the City limits. The state 1041 law defines the term “water distribution system” to include definitions in “section 25-9-102(5), (6), and (7), C.R.S...” C.R.S. § 24-65.1-104(5). In turn, C.R.S. § 25-9-102(6) defines “water distribution system” to mean “any combination of pipes, tanks, pumps, or other facilities that delivers water from a source...to the consumer.” It is clear that the General Assembly gave local governments broad power to regulate water distribution systems anywhere from the “source to the consumer.” This includes any “water diversion” that is appurtenant to the water distribution system.

Accordingly, we believe there is strong legislative and case law support for section 3-

201(L) of the draft 1041 regulations and request that the City adopt the provision as written.

September 16, 2022 letter

The focus of Northern’s September 16, 2022 letter is a self-serving interpretation of the Court of Appeals decision in *City of Thornton v. Larimer County*. Importantly, the City should note that County’s decision to **deny** Thornton’s 1041 permit was upheld by the court. The City must remember that its future decisions regarding 1041 applications will carry a presumption of validity and the City’s interpretation of its own 1041 regulations will be given deference.

Second, none of the Thornton litigants brought an appeal of the decision to the Colorado Supreme Court. Thus, the highest court in the State has not validated any of the Court of Appeals findings in the *Thornton* decision. For the reasons stated below, we disagree with Northern’s reading of the Thornton decision and believe several of the Court of Appeals findings are inconsistent with prior overriding Colorado Supreme Court decisions and statutory language.

- A. Northern’s September 16, 2002 letter argues that local government regulation is “limited to the land area being disturbed by the project.” As noted above, this argument has been specifically rejected by the Colorado Supreme Court. See, *City and County of Denver v. Bergland*, 517 F.Supp. 155 (D.Colo. 1981); *City and County of Denver v. Bd. of County Comm’rs*, 782 P.2d 753 (Colo. 1989 *en banc*)(a local government’s power to supervise land use extends to matters that “may have an impact on the people of the state beyond the immediate scope of the land use project”).
- B. For the same reasons noted above, we disagree that a local government cannot consider “farm land dry up” in evaluating a 1041 permit application. The state 1041 law specifically allows local governments to consider “[t]he [protection of the utility, value, and future of all lands...” C.R.S. § 24-65.1-101(1)(a).
- C. The state 1041 law specifically allows local governments to consider impacts to “privately owned land.” C.R.S. § 24-65.1-101(1)(a). Thus, we disagree with Northern’s argument that consideration of eminent domain impacts to private property is beyond the consideration of local governments in a 1041 permit proceeding.
- D. As noted above, a local government’s ability to regulate the siting of “water distribution systems” extends from the “source to the consumer.” C.R.S. § 25-9-102(6). Thus, local governments may consider water distribution system siting alternatives that may differ from a water developer’s preferred alternative.
- E. Further, applying to NISP and Fort Collins, just because some of the construction of NISP occurs outside the City of Fort Collins’ annexed boundary, the City of Fort Collins still has state authority to regulate any impact that will occur within the City of Fort Collins including negative impacts to City property, wetlands and Natural areas, habitat and riparian forests, and aquatic resources in and surrounding the Cache la Poudre River in Fort Collins.

In summary, we urge the City to adopt strict and comprehensive regulations to

regulate matters of state interest, including development of water distribution systems that will have irreversible harm to the City's great resource...the Cache la Poudre River.

s/ John Barth
Attorney at Law
P.O. Box 409
Hygiene, CO 80533
(303) 774-8868
barthlawoffice@gmail.com

cc: Gary Wockner, Save the Poudre

1-5-2023

My comments regarding Version 2 of the City's Draft 1041 Regulations.

First, eminent domain is the right of the government to take property, including private property for public use.

Examples of entities that have eminent domain powers:

Northern Water, like other water providers, stores and delivers water for irrigation, municipal, domestic and industrial purposes. Northern Water is a public agency that contracts with the U.S. Bureau of Reclamation to build and maintain the Colorado-Big Thompson Project.

<https://www.northernwater.org/about-us>

The East Larimer County Water District is a political subdivision of the State of Colorado. ELCO has the authority to condemn property. <https://www.elcowater.org/about-us>

CDOT is a Colorado state government agency. <https://www.codot.gov/about>

All Fort Collins residents and property should be protected under the City's 1041 regulations. I would like to see the City adopt 1041 regulations without geographic limitations.

Using regulations with geographic limitations that only protect City interests such as existing or planned future City natural areas or parks, City owned right of ways, existing or potential future buffer zones for natural habitat or feature and historic resources puts City residents and their property at risk for the following reasons:

- Property owners are left to their own resources to deal with monied, powerful entities that have eminent domain powers.
- Because 1041 regulations must be followed in addition to all other City development codes, applicants may be incentivized to develop their project outside of geographic areas protected by 1041 regulations, in other words outside of City owned property and on private property owners' land.
- The specific purposes listed in the draft regulations, and below, are almost wholly gutted by limiting the regulations to geographic locations of City owned land, natural area or park, anticipated City building sites, buffer zones of natural habitats and historic resources. 1-102 (A)
 - (1) protect public health, safety, welfare, the environment and historic and wildlife resources;
 - (2) Implement the vision and polices 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 5.6.1; 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, 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.
- Geographic limitations creates confusion and uncertainty for applicants and residents and property owners. There are two different sets of regulations for land within and without proposed geographic limitations.

The draft regulations attempt to address disproportionately impacted (DI) communities. According to the draft regulations, DI community 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 CRS § 24-4-109(2)(b)(II) and as amended. (Bold added by me).

I recommend using Colorado's EnviroScreen https://teeo-cdphe.shinyapps.io/COEnviroScreen_English/ to better characterize the Fort Collins community as to low income, minority or housing cost burdened greater than 40%. I think how DI communities will be addressed needs to be expanded in the regulations.

I appreciate that air quality, emissions and leak prevention are addressed in the regulations. I'm hoping air quality measures, including limiting GHG emissions, are in place and enforced for both the construction phase and operational phase of any development.

I agree the modification of standards, variances and appeal form administrative decisions to the land use review commission of the land development code should not be applicable to the 1041 regulations.

Thank you for your consideration.

Karen Artell

Item 20.



Utilities
electric • stormwater • wastewater • water
700 Wood St
PO Box 580
Fort Collins, CO 80522
970.221.6700
970.221.6619 fax 970.224.6003 TDD
utilities@fcgov.com fcgov.com/utilities

MEMORANDUM

DATE: January 25, 2023
TO: Kirk Longstein, Senior Environmental Planner
FROM: Jason Graham, Director of Water Utilities
RE: Draft 1041 Regulations with Geographic Limitations Version 2

Thank you for this opportunity to provide comments and for all your efforts in engaging with Fort Collins Utilities' Water Utilities to provide clarifications and updates. Please see the following summary of comments from Water Utilities staff on Version 2 of the Draft 1041 Regulations. We have reviewed Draft 3 and all the comments except #9 have been addressed in some manner. Please let us know if you have any question or topics for further discussion.

1 Comment: It is our understanding that Draft Version 3 will be before Planning and Zoning Board on January 25th, 2023, and then a First Reading at City Council on February 7th, 2023. The turnaround time for review of the Draft Version 3 is not long enough to adequately provide proper analysis and comments for such a complicated and expansive regulation.
Ask: We ask that a reasonable timeframe be provided for all stakeholders to review the Draft Version 3 and provide comment on that draft language.

2 Comment: Draft Version 2 would apply the proposed 1041 regulations to many City projects, specifically ones that are small pipe projects, repairs, and aging infrastructure replacements. It is our understanding that the proposed 1041 regulations are intended to encompass only larger projects. Using appropriate thresholds will set clear expectations for project planning and reduce the number of maintenance, repair, and replacement jobs from having to go through these additional and, at times, duplicitous regulatory processes.
Ask: Similar to other local 1041 regulations, we ask that the applicable projects be limited to larger projects by setting size thresholds and exclusions.
Recommend: Please consider the following thresholds.
• Site selection and development of new or extended domestic water or sewer transmission lines with a running length greater than 1,320 linear feet that meet one or more of the following:

- New transmission lines contained within, regardless of direction, a new permanent easement(s) 30-feet or greater in width.
- New transmission lines contained within a new permanent easement(s) 20-feet or greater in width that are situated within 20-feet of a related easement(s);
- This designation shall not include the maintenance, repair, adjustment, or removal of an existing pipeline or the relocation, replacement, or enlargement of an existing pipeline within the same easement or right-of-way, provided no additional permanent property acquisitions are required.
- The designation shall also not include the addition, replacement, expansion, or maintenance of appurtenant facilities on existing pipelines.
- This designation shall not include the emergency repairs as a matter of health and safety.
- This designation shall not include pipe infrastructure 12 inches and smaller in water distribution system.
- This designation shall not include pipe infrastructure 15 inches and smaller in wastewater collector system.

3 **Comment:** Draft Version 2 would apply the proposed 1041 regulations to many internal facility projects that we do not believe are intended to be captured. Clear thresholds and boundaries are needed to for existing facilities.

Ask: We ask that the definitions of “Major extension of an existing domestic water treatment system” and “Major extension of an existing sewage treatment system” be amended to not include changes and modifications that do not increase the facilities’ capacity and stay within the existing permanent property.

Recommend: Please consider the following exclusions for “Major extension of an existing sewage treatment system” and “Major extension of an existing domestic water treatment system.”

- Any facility or lift station within existing permanent property that does not increase the rated capacity from the Colorado Department of Public Health and Environment (CDPHE).
- Any facility, pump station, or storage tank within existing permanent property that does not increase the rated capacity from CDPHE.

4 **Comment:** The definition of Material Change in section 1-110 of Draft Version 2 is confusing and subjective in its applicability. Further, it also promotes a circular reference. The definition of Material Change is defined as a change (scale, magnitude, nature, or adverse impact) in an approved permit (or FONAI if applicable) or in absence of an approved permit (where and existing development) where one would have been applied. When looking at the applicability section of this regulation to find where one would have been applied you are directed to see if your project is a Major Extension. In defining Major Extension (either water or wastewater definitions) one must look at the definition of Material Change. It appears that Section 2-304(A)(2) of Daft Version 2 covers the intent of any subsequent material changes (after the initial determination) potentially needing to go through the process again.

Ask: For clarity, we ask that the definition of Material Change be changed to avoid ambiguity and circular referencing by removing complex discussions as part of a separate section.

Recommend: Please consider the following definition of “Material Change.”

- *Material Change* shall mean to make different or undergo a modification, either by scale, magnitude, or nature. Examples would include structural modifications, change of use, change of operation, change of user, or change of location.

5 Comment: The use of the term “ditch” in the definition of Domestic Water System in Draft Version 2 is vague and lacks clarity between raw drinking water sources and those used solely for irrigation and/or stormwater conveyance.

Ask: We ask the language is clarified as it pertains to ditches to ensure that this term does not pull in more projects than what is intended. We ask that this language more closely aligns with Larimer County as recommended below.

Recommend: Please consider adding an exemption or definition explicitly stating that ditches comprised entirely of irrigation, or stormwater, are not to be included in the definition ditches as it applies to domestic water. We suggest the following code language.

- This designation shall not include the maintenance and operation of irrigation; ditches, canals, or laterals, including those used to fill a water irrigation storage reservoir, nor shall this designation include the maintenance and operation of an existing water irrigation storage reservoir.
- This designation shall not include the maintenance and operation of ditches or canals used for stormwater purposes.

6 Comment: Applicability, Section 1-104(A) of Draft Version 2, requires projects that would be applicable under both the standard development review process and 1041 Regulations to be held to the 1041 Regulations. Exemptions, Section 1-401(C), explains any site specific residential/commercial/industrial/mixed use development plan that directly necessitates work that meets 1041 applicability is excluded from 1041 process. This is confusing.

Ask: Please review to see if there is a way clarify applicability for private development projects.

7 Comment: Including geographic limits within the definitions of “Major new domestic wastewater treatment sewage system”, “Major new domestic water system” and “Site selection of arterial highways and interchanges and collector highways” are repetitive and add confusion to the definition.

Ask: Please pull these limits out of the definitions and place either in the applicability or exemptions areas to avoid confusion.

8 Comment: Section 3-201 of Draft Version 2 sets review standards that a facility must at or near operational capacity (for water distribution) and at a level requiring expansion (for sewage collection) before an upgrade. It also limits consideration of new facilities only if existing facilities cannot be upgraded. More than just operational capacity or ability to upgrade is considered when determining when new or expanded

systems are needed for the long term needs of the community and compliance with applicable regulations. Some of the other review criteria appear to be duplicative of itself and/or state requirements.

Ask: We ask that Domestic Water or Sewage Systems review criteria to be reduced to those that support the intent of the proposed 1041 regulations.

Recommend: Please consider keeping only the following review criteria.

- 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;
- Area and community development and population trends demonstrate clearly a need for such development;

9 Comment: Section 5-201 of Draft Version 2 relates to revoking or suspending this Permit. There should be clarification that revoking, or suspension of this Permit does not prevent the continued adherence and obligations of other Local, State or Federal regulations or permits (for example, the permit obligations under the USACE or CDPHE for wetland work, erosion control, and/or dewatering activities). Any revocation of this 1041 Permit should not interfere with compliance of another regulatory requirement.

Ask: We ask that the language be clarified to ensure continued compliance with other regulations and permits.

Recommend: Please consult legal to include something along the following.

- Suspension or revocation of a Permit under 5-201 will not interfere with compliance with all other applicable Federal, State, or Local regulations and permits.

10 Comment: It appears that any project within 200 feet of historic buildings to have to go through this process. A 200-foot boundary in old town would place the historic building including the sidewalk, street, and opposite sidewalk within the boundary allowing no area to work. There are many types of projects, such as replacement or repair of distribution or collection systems that are not expected to impact the historic building in old town but would be required to go through this process. We do not believe this is the intent of the 1041 regulations.

Ask: We ask that the code language be clarified to ensure only intended projects will be reviewed.

CC: Kendall Minor, Utilities Executive Director
 Caryn M. Champine, Director Of PDT
 Paul S. Sizemore, Deputy Director, PDT
 Kathyne Marko, ERA Manager
 Jesse Schlam, ERA Senior Environmental Regulatory Specialist



February 7, 2023

1041 Regulations

Local participation,
Transparency & Improved
Environmental Outcomes

Kirk Longstein
Senior Environmental Planner



City Comprehensive Plan

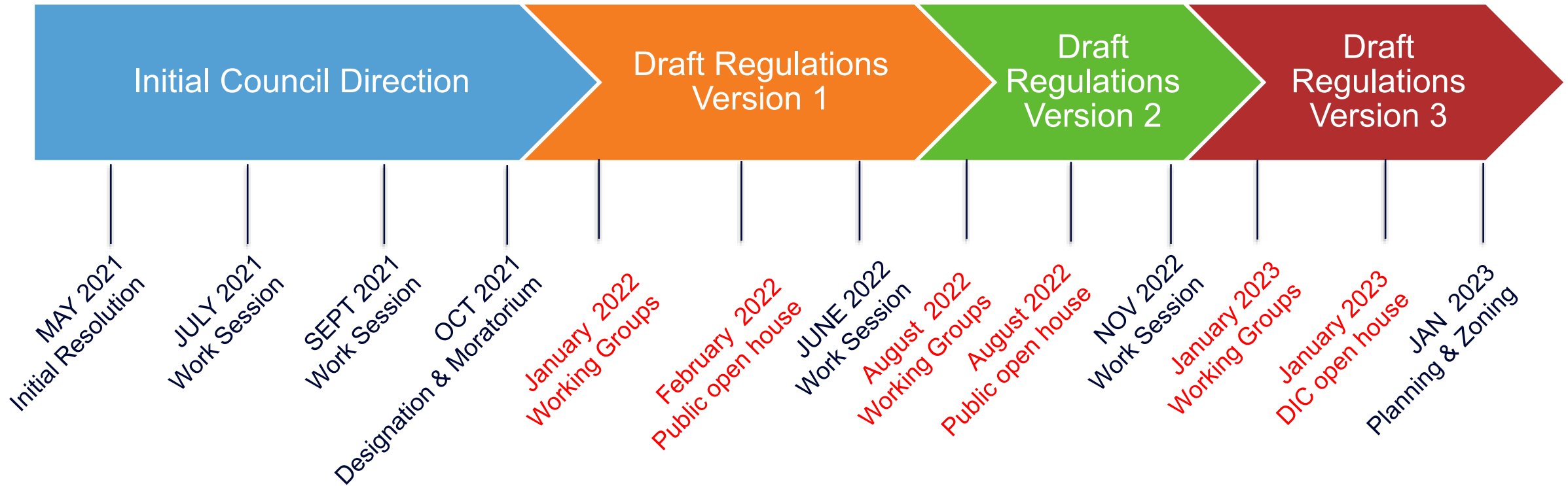
Conserve, protect and enhance natural resources and high-value biological resources throughout the GMA by directing development away from natural features to the maximum extent feasible.

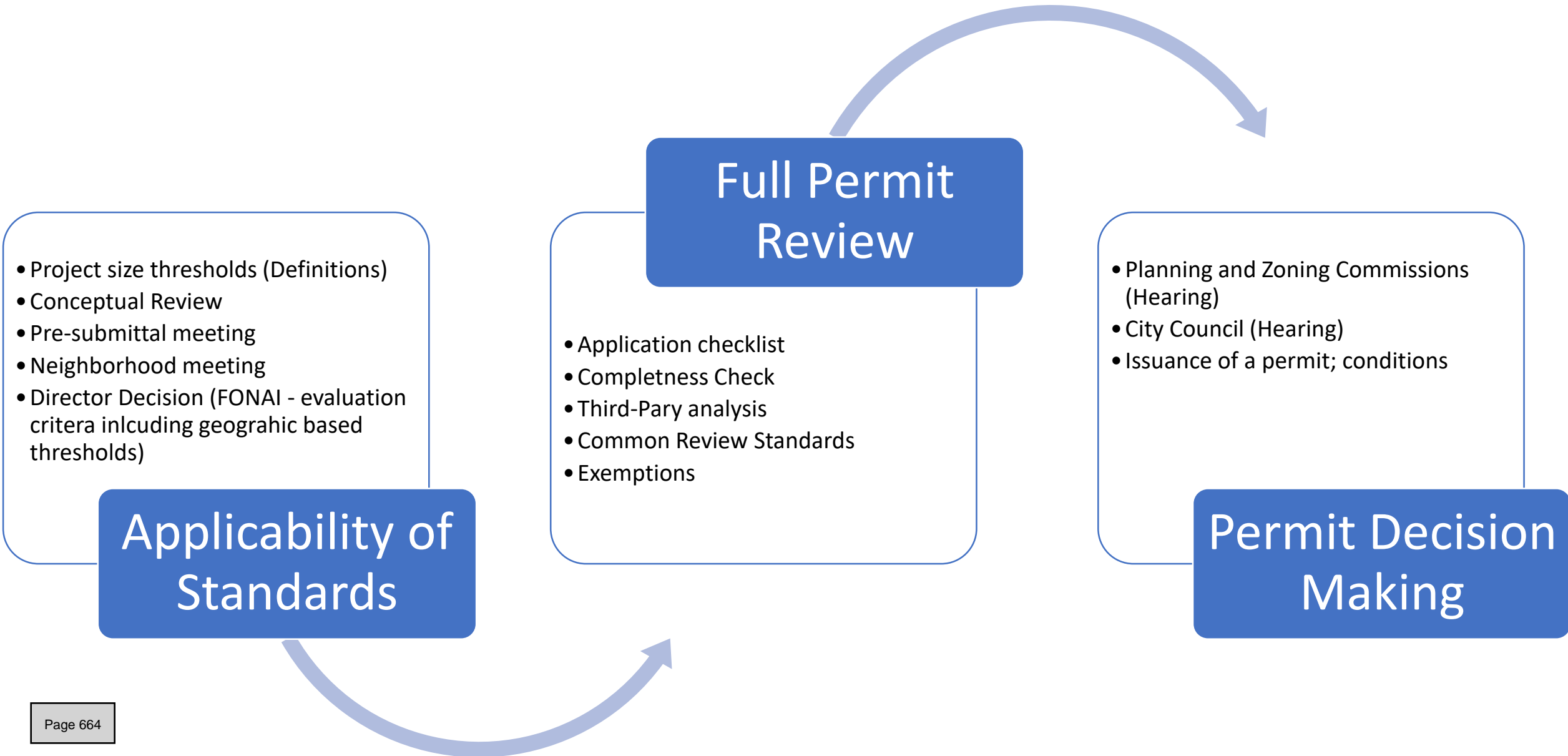
City Council Resolution

1041 Regulations may better allow the City to achieve its policy and regulatory goals in furtherance of the best interest of the citizens of Fort Collins.

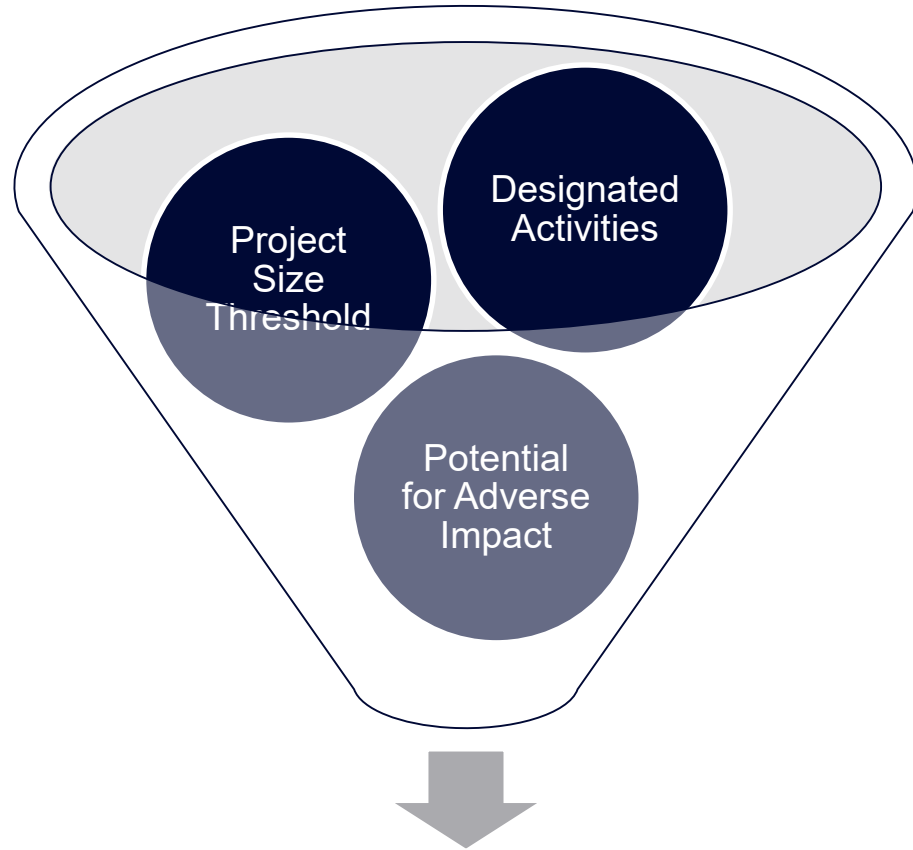
City Regulatory Goals

- ✓ Address deficiencies with the SPAR process
- ✓ Establish applicant predictability
- ✓ Establish a meaningful public process
- ✓ Incentivize project designs that avoid impacts to critical natural habitat and cultural resources.





Applicability of Standards



Is the project subject to a Fort Collins 1041 permit?

1. Is the project designated by the Fort Collins Code?
 - Major new (expansion) domestic water system
 - Major new (expansion) sewage system
 - Highways & Interchanges
2. Does the project meet the defined project size thresholds?
 - If yes; neighborhood meeting & FONAI review
 - If no; no additional action
3. Does the project intersect with one of geographic thresholds?
 - if yes; no FONAI without mitigation
 - if no; no permit

Finding of Negligible
Adverse Impact (FONAI) OR FULL PERMIT

Designated Activities and Defined Project Size



Domestic Water

- 12" diameter pipe and 1,320 linear feet
- new (or Expanded) easement of 30-feet or greater in width and 1,320 linear feet
- Increase the rated capacity from the Colorado Department of Public Health and Environment



Wastewater/Sewage

- 15" diameter pipe and 1,320 linear feet
- new (or Expanded) easement of 30-feet or greater in width and 1,320 linear feet
- Increase the rated capacity from the Colorado Department of Public Health and Environment

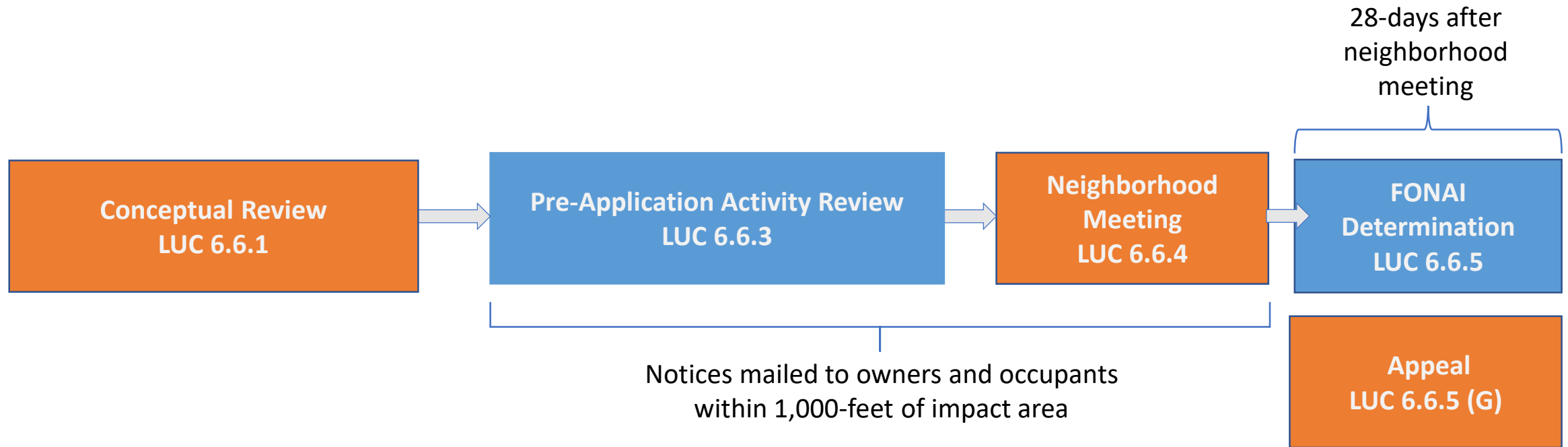


Highway Projects

- New Highways/ Interchanges/ Collector Highways
- Expansions by 1 Vehicular Lane
- Expansions of Interchanges or
- Bridges

****Excluded****

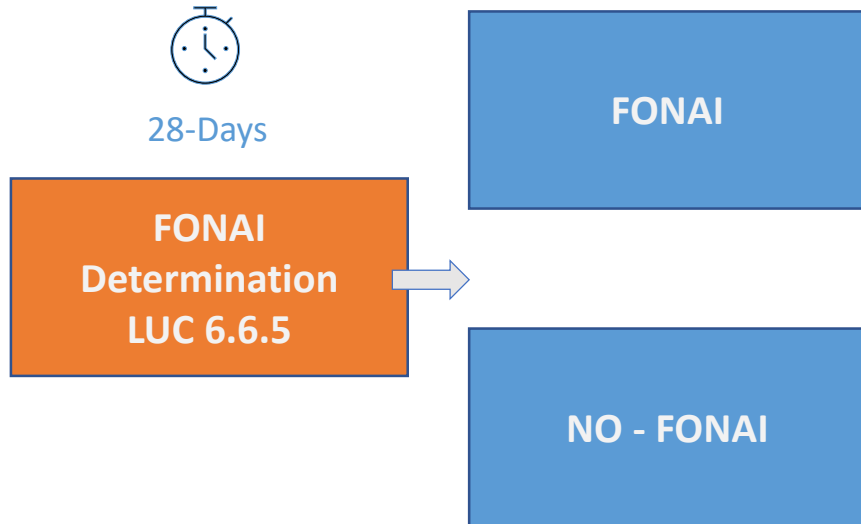
- (1) Any maintenance, repair, adjustment;
- (2) Existing pipeline or the relocation, or enlargement of an existing pipeline within the same easement;



Key Submittal Requirements

1. Three (3) siting and design alternatives (including feasibility)
2. Ecological Characterization Study (1/2-mile radius)
3. Cumulative Impacts Summary (1/2-mile radius)
4. Conceptual mitigation plans
5. Historic documentation pursuant to Chapter 14 of the Code

Finding of Negligible Adverse Impact Determination

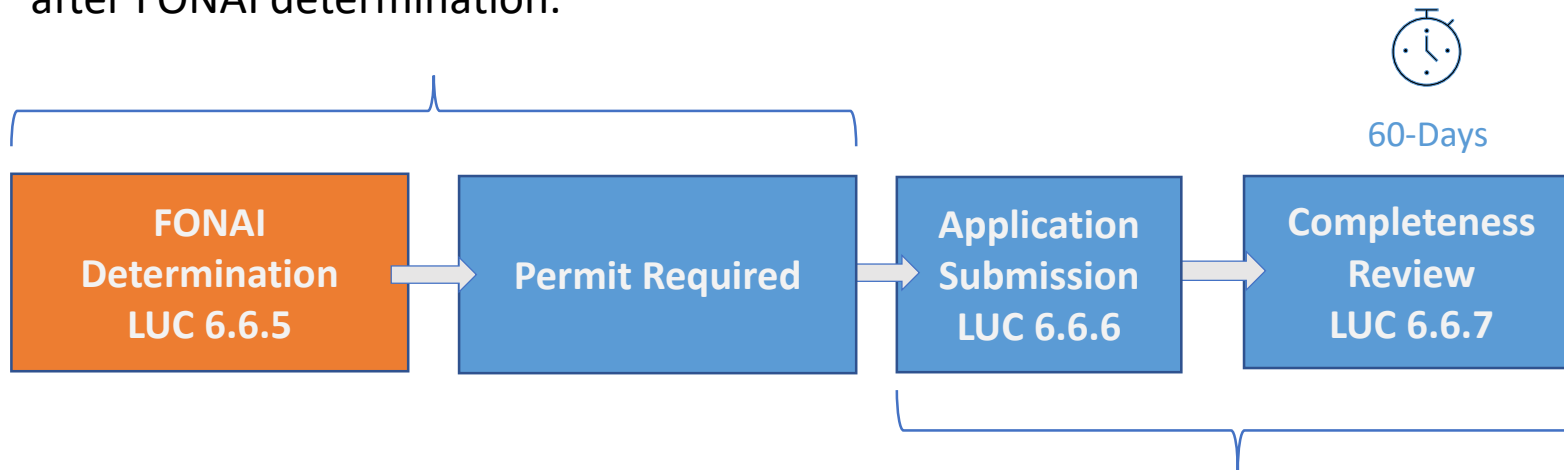


Has potential to adversely impact:

- City natural area or park
- City-owned property
- High Priority Habitat and Natural Habitat Corridors
- Natural habitat features and buffer zones
- Historic and cultural resources
- Disproportionally Impacted Communities

Completeness Check

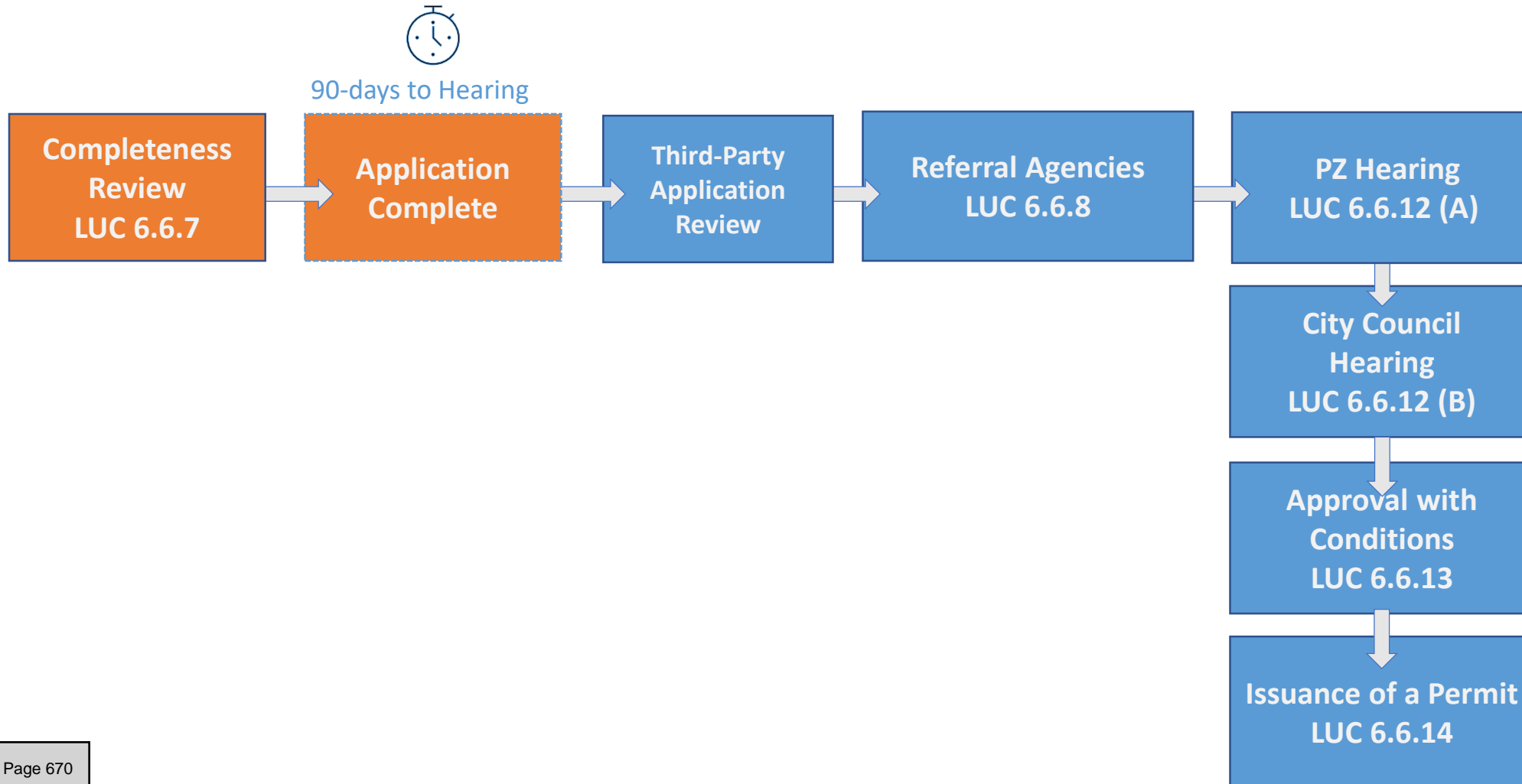
Permit Application Submittal 14-days after FONAI determination.



Administrative program design

- ✓ Submittal checklist provided by staff
- ✓ Additional analysis and third-party scope provided with FONAI determination

Full Permit Process



Back up Slides

Review Standards

- Consider anticipated adverse impacts + mitigation
- Conformance to City Plans and policies
- Natural hazard risk
- Nuisances
- Hazardous materials risk

Evaluate Impacts to:

- Local infrastructure and service delivery
- Recreational opportunities & experience
- Viewsheds & visual character
- Air quality
- Water quality
- Wetlands & riparian areas
- Terrestrial & aquatic animal life
- Terrestrial & aquatic plant life
- Other natural habitats & features
- Significant trees
- Historic & cultural resources
- Soils & geologic conditions
- Disproportionately impacted communities

1. Nonconforming Uses and Structures with the exception of enlargement or expansion of any such project
2. Any project previously approved by the Planning and Zoning Commission pursuant to the Site Plan Advisory Review (SPAR) process.
3. Proposed development plan otherwise subject to Development Review
4. Any proposed development plan issued a FONAI

- ✓ City Council is the sole decision maker (Including City projects)
- ✓ Project not covered by Article 6 may be subject to SPAR (including FONAI determination)
- ✓ Optional Pre-Application Area and Activity Proposal Review
- ✓ Cost of specialized consultants
- ✓ Notice required – 1000-foot mailer
- ✓ FONAI Appeal
- ✓ Definition of Development

2022 - 2023

