# Fort Collins City Council Agenda

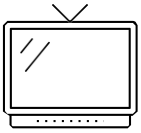
Regular Meeting
6:00 p.m., Tuesday, April 16, 2024
City Council Chambers at City Hall, 300 Laporte Avenue, Fort Collins, CO 80521
Zoom Webinar link: https://zoom.us/j/98241416497

**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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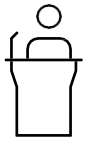
City of Fort Collins

Meeting agendas, minutes, and archived videos are available on the City's meeting portal at https://fortcollins-co.municodemeetings.com/

**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/agendas.
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.

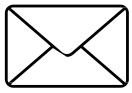
Join the online meeting using the link in this agenda to log in on an internet-enabled smartphone, laptop or computer with a speaker and microphone. Using earphones with a microphone will greatly improve audio experience.

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

**April 16, 2024 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
Melanie Potyondy, 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

Heather Walls
Interim City Clerk

**PROCLAMATIONS & PRESENTATIONS**
**5:00 PM**

**A) PROCLAMATIONS AND PRESENTATIONS**

PP 1. **Declaring April 21 through 27, 2024 as National Crime Victims' Rights Week.**

PP 2. **Declaring April 21 through 27, 2024 as National Volunteer Week.**

PP 3. **Declaring April 2024 as National Donate Life Month.**

PP 4. **Declaring April 2024 as Asian American, Native Hawai'ian, and Pacific Islander Heritage (AANHPI) Month.**

**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** - None.

**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 their 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 City's Development Review Center page 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 March 19, 2024 Regular Meeting.**

The purpose of this item is to approve the minutes of the March 19, 2024 regular meeting.

2. **Second Reading of Ordinance No. 049, 2024, Reappropriating Funds Previously Appropriated in 2023 but Not Expended and Not Encumbered in 2023.**

This Ordinance, unanimously adopted on First Reading on April 2, 2024, reappropriates monies in 2024 that were previously authorized by Council for expenditures in 2023 for various purposes. The authorized expenditures were not spent or could not be encumbered in 2023 because:

- There was not sufficient time to complete bidding in 2023 and therefore, there was no known vendor or binding contract as required to expend or encumber the monies; or

- The project for which the dollars were originally appropriated by Council could not be completed during 2023 and reappropriation of those dollars is necessary for completion of the project in 2024.

Additionally, there may have been sufficient unspent dollars previously appropriated in 2023 to carry on programs, services, and facility improvements in 2024 for those specific purposes.

In the above circumstances, the unexpended and/or unencumbered monies lapsed into individual fund balances at the end of 2023 and reflect no change in Council policies.

Monies reappropriated for each City fund by this Ordinance are as follows:

| | |
|---|---|
| General Fund | $2,498,249 |
| Cultural Services Fund | 55,000 |
| Recreation Fund | 251,064 |
| Museum Fund | 61,265 |
| Transportation Service Fund | 1,288,625 |
| Water Fund | 52,500 |
| Date & Communications Fund | 390,600 |
| Total | $4,597,303 |

3. **Second Reading of Ordinance No. 050, 2024, Approving the Conveyance of a Temporary Construction Easement for the Construction of Permanent Stormwater Improvements on City Property to DHIC-Enclave, LLC.**

This Ordinance, unanimously adopted on First Reading on April 2, 2024, approves an Ordinance that would permit the conveyance of a Temporary Construction Easement (the "Easement") on approximately 4.36 acres (189,996 sf) of City property known as the Redwood Detention Pond and the Redwood Channel (collectively, the "City Property") to DHIC – Enclave, LLC ("Developer"), in exchange for the construction of permanent stormwater master plan improvements on the City Property.

Please note that this Second Reading Agenda Item Summary has been amended to address concerns brought up by Councilmember Ohlson at First Reading (see below).

4. **Second Reading of Ordinance No. 051, 2024, Approving the Conveyance of a Permanent Easement for Stormwater Drainage, a Temporary Construction Easement for the Construction of Stormwater Drainage Improvements, and a Temporary Construction Easement for the Construction of Sewer Facilities on City Property to PS-Poudre River, LLC.**

This Ordinance, unanimously adopted on First Reading on April 2, 2024, approves an Ordinance that would permit the conveyance of one permanent drainage easement (the "Drainage Easement"), one temporary construction easement (the "Drainage TCE") for the modification of current drainage facilities, and one temporary construction easement (the "Sewer TCE") for the installation of public sewer facilities to PS-Poudre River, LLC ("PSPR"), on City Property located at 101 1st Street, which is the current location of Buckingham Park ("Buckingham Park"). Construction pursuant to the Drainage TCE will modify existing floodplain boundaries, and the Drainage Easement will allow PSPR to store additional stormwater on a portion of Buckingham Park. The Sewer TCE is for the installation of public sewer facilities required by the City so that PSPR may proceed with the development of the adjoining lands. The actual conveyance of the easements will be conditional upon PSPR, or its successors and assigns, obtaining City development approval of the contemplated work within the easements.

This Second Reading Agenda Item Summary has been amended to address questions raised by Councilmember Ohlson at First Reading regarding review by Boards and Commissions (see below).

5. **Second Reading of Ordinance No. 052, 2024, Approving the Conveyance of One Permanent Easement and One Temporary Construction Easement for the Construction of a Portion of Phemister Trail on City Property to Colorado State University.**

This Ordinance, unanimously adopted on First Reading on April 2, 2024, approves an Ordinance that would permit the conveyance of one (1) permanent easement (the "Trail Easement") and one (1) temporary construction easement (the "TCE") to Colorado State University ("CSU"), for the construction, operation, and maintenance of a public multi-modal trail (the "Phemister Trail") on City Property located at 2145 Centre Street, which is the current location of The Gardens on Spring Creek (the "Gardens on Spring Creek").

Please note that this Second Reading Agenda Item Summary has been amended to address concerns brought up by Councilmember Ohlson at First Reading. Specifically, amendments to address Tree Restoration and Council/Board approvals. Kim Manajek from Cultural Resources has also been added as a staff resource.

6. **First Reading of Ordinance No. 053, 2024, Appropriating Prior Year Reserves in the Natural Areas Fund and the Sales and Use Tax Fund for the Purpose of Land Conservation, Visitor Amenities, Restoration and Other Related Natural Areas Stewardship Activities Not Included in the 2024 Adopted City Budget.**

The purpose of this item is to appropriate $7,924,969 in prior year reserves in the Natural Areas Fund and $269,466 in prior year reserves in the Sales and Use Tax fund to be transferred to the Natural Areas Fund. These appropriations are for land conservation, resource management, planning, construction of trails and other visitor amenities, restoration of wildlife habitat, and other Natural Areas Department programs and activities to benefit the residents of the City, in accordance with the Natural Areas Master Plan.

7. **First Reading of Ordinance No. 054, 2024, Appropriating Philanthropic Revenue Received by City Give for FC Moves to Fund an Asphalt Art Installation.**

The purpose of this item is to request an appropriation of $25,000 in philanthropic revenue received by City Give for FC Moves, a department within the City's Planning Development and Transportation Service Area, for an asphalt art installation as designated by the grant award. This installation is consistent with the City's Active Modes Plan.

In 2019, the City of Fort Collins launched City Give, a formalized enterprise-wide initiative to create a transparent, non-partisan governance structure for accepting and appropriating charitable gifts.

8. **Resolution 2024-059 Supporting the Grant Application for the United States Department of the Interior, Bureau of Reclamation's WaterSMART Grants: Planning and Project Design for the Poudre Flows Project and Authorizing the City Manager to Execute Agreements Regarding Such a Grant.**

The purpose of this item is to obtain support for the City to apply for funds under the United States Department of the Interior, Bureau of Reclamation's ("Reclamation") WaterSMART Planning and Project Design ("WaterSMART") Grant Program for the Poudre Flows Project. The Reclamation requires a resolution demonstrating (1) Council's support of the City's request for funds under the WaterSMART Grant Program and, assuming the City is selected to receive funding, (2) the City's commitment to work with Reclamation in finalizing an agreement that, among other things, demonstrates the City's adherence to meet financial obligations as represented in the grant application.

9. **Resolution 2024-060 Approving Fort Fund Program Support Disbursements.**

The purpose of this item is to approve Fort Fund grants from the Cultural Development and Programming Account and the Tourism Programming Account for the selected community events in the Program Support Grant – March Deadline category, based upon the recommendations of the Cultural Resources Board.

10. **Resolution 2024-061 Finding Substantial Compliance and Initiating Annexation Proceedings for the I-25 & Mulberry Annexation.**

The purpose of this item is to determine substantial compliance and initiate annexation proceedings for voluntary annexation of the I-25 & Mulberry Annexation, located at the northeast corner of East Mulberry Street and Interstate 25. The Applicant has submitted a written petition requesting the annexation and proposed zoning. The I-25 & Mulberry Annexation totals 46.9216-acres in size.

The requested zoning for this annexation is General Commercial (C-G) and Industrial (I), which is in alignment with the City of Fort Collins Structure Plan designation for this area. No project development plan proposal was submitted in conjunction with the annexation application; however, it is anticipated that the landowner will submit an application to construct public infrastructure to prepare the site for future users and development.

The site is part of a county-approved metro district; however, this is not relevant to satisfying State statue but will be an important consideration during First Reading.

This annexation request is in conformance with the State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins City Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreement Regarding Growth Management.

11. **Resolution 2024-062 Approving a Purchase and Sale Agreement with Poudre School District to Acquire Land for the Southeast Community Center.**

The purpose of this item is to approve a Purchase and Sale Agreement between the City of Fort Collins and Poudre School District ("PSD") for the acquisition of approximately 10 acres at the southeast corner of Ziegler Road and Rock Creek Drive adjacent to Fossil Ridge High School. This acquisition is for the City to construct a new Southeast Community Center in accordance with the Intergovernmental Agreement (IGA), between the City of Fort Collins and PSD, previously approved by Council by Resolution 2023-112.

12. **Resolution 2024-063 Confirming and Approving an Appointment to the Board of Commissioners of the Fort Collins Urban Renewal Authority.**

The purpose of this item is to accept the Mayor's appointment to the Urban Renewal Authority (URA) Board.

**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**

**Staff Report: U.S. Fish and Wildlife Service Award to Natural Areas and Utilities.**

The purpose of this item is to give Council and the community an update regarding the U.S. Fish and Wildlife Service Award presented to Utilities and Natural Areas in acknowledgement of work supporting the reintroduction of the Black-footed Ferret, an endangered species. Along with an update on Natural Areas land management and recognition of the recent presentation of the Natural Areas Conservation Award to Linda Stanley.

**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.*

13. **Items Related to the Adoption of a New Land Use Code.**

A. First Reading of Ordinance No. 055, 2024, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt a Revised Land Use Code by Reference that Advances Adopted City Policy Goals and Incorporates Foundational Improvements and Separately Codify the 1997 Land Use Code as Transitional Land Use Regulations.

B. First Reading of Ordinance No. 056, 2024, Updating City Code References to Align with the Adoption of the Revised Land Use Code.

C. First Reading of Ordinance No. 057, 2024, Amending the Zoning Map of the City of Fort Collins to Rename All Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone Districts to the Old Town Zone District in Conjunction with the Adoption of the Revised Land Use Code.

The purpose of this item is to consider adoption of changes to the City's Land Use Code. The Land Use Code (LUC) Phase 1 Update implements policy direction in City Plan, the Housing Strategic Plan, and the Our Climate Future Plan. Regarding Ordinance No. 055, 2024, corrections to clean up inadvertent numbering in Article 4 are recommended, and a suggested motion to do so is on page 5.

Additionally, this item updates City Code references to match changes to the Land Use Code including updating section references and wording.

Finally, because the revised Land Use Code renames the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer zone districts to the Old Town zone district with corresponding subdistricts A, B, and C, updates to the zoning map to reflect the name changes are proposed. This change only affects the name of the zone districts and no changes to the boundaries are proposed.

14. **Appeal of Planning and Zoning Commission Approval of the Union Park Project Development Plan.**

The purpose of this quasi-judicial item is to consider an appeal of the Planning and Zoning Commission's decision on February 15, 2024, approving the Union Park Project Development Plan (#PDP230005) located on the west side of Ziegler Road between Front Range Village and The English Ranch neighborhood.

A Notice of Appeal was filed on February 29, 2024, alleging the Planning and Zoning Commission failed to conduct a fair hearing when it considered evidence relevant to its findings which was substantially false or grossly misleading and failed to properly interpret and apply relevant provisions of the Land Use Code, City Code, and/or Charter.

Participation in an appeal hearing is limited to persons who qualify as parties-in-interest as defined in the City Code. Time for presentation of argument for and against the appeal is limited and the appellant will determine who may speak during the time allocated for support of the appeal. Those parties-in-interest opposing the appeal must coordinate and share the time allocated for opposing the appeal.

## 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,** the Crime Victim Rights Act was passed in Colorado in 1992, followed by the Federal Crime Victim Rights Act passing in 2004; and

**WHEREAS**, the term "victim" is more than just a label and has legal standing and protections that go along with it; which guarantees victims the right to meaningfully participate in the criminal justice process. Victim service providers, advocates, law enforcement officers, attorneys, and other allied professionals can help survivors find their justice by enforcing these rights; and

**WHEREAS**, victims of repeat victimization who fail to receive support services are at a greater risk for long-term consequences. Intervening early with services that support and empower victims provides a pathway to recovering from crime and abuse; and

**WHEREAS**, the victim services community in Fort Collins, as well as throughout Larimer County, has worked for decades to create an environment for victims that is safe, supportive, and effective. Honoring the rights of victims, including the right to be heard and treated with fairness, dignity, and respect; and working to meet victims' needs rebuilds their trust in the criminal justice and social service systems and restores hope to victims and survivors, as well as their communities; and

**WHEREAS**, National Crime Victims' Rights Week, April 21 through 27, 2024, is the perfect time to recommit that all victims of crime receive accessible, appropriate, and trauma-informed services, ensuring equity and inclusion for all.

**NOW**, **THEREFORE**, I, Jeni Arndt, Mayor of the City of Fort Collins, do hereby proclaim the week of April 21 through 27, 2024, as

## NATIONAL CRIME VICTIMS' RIGHTS WEEK

Reaffirming the commitment to creating a victim service and criminal justice response that assists all victims of crime during National Crime Victims' Rights Week and throughout the year; and expressing our sincere gratitude and appreciation for those community members, victim service providers, and criminal justice professionals who are committed to improving our response to all victims of crime so they may find relevant assistance, support, justice, and peace.

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of the City of Fort Collins this 16th day of April, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

# PROCLAMATION

**WHEREAS**, volunteers can connect with local community service opportunities through hundreds of community service organizations; and

**WHEREAS**, individuals and communities are at the center of social change, discovering their power to make a difference; and

**WHEREAS**, during National Volunteer Week, all over the nation, service projects will be performed and volunteers recognized for their community service; and

**WHEREAS**, April is a month for volunteers, with the occurrences of National Service Recognition Day, CSUnity, Earth Day and numerous City volunteer projects; and

**WHEREAS**, Fort Collins has the sixth largest volunteer rate of any mid-sized city in the country at 38 percent; and

**WHEREAS**, volunteers are vital to our future as a caring and productive nation.

**NOW**, **THEREFORE**, I, Jeni Arndt, Mayor of the City of Fort Collins, do hereby proclaim April 21 through 27, 2024, as

## NATIONAL VOLUNTEER WEEK

in Fort Collins, and urge my fellow citizens to volunteer in their respective communities. By volunteering and recognizing those who serve, we can come together to make a difference.

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of the City of Fort Collins this 16th day of April, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

# PROCLAMATION

**WHEREAS**, this April is the twenty-first National Donate Life Month with a goal to raise awareness about organ, eye and tissue donation, encourage Americans to register as donors and honor those that have saved and healed lives through the gift of donation; and

**WHEREAS**, Colorado has been one of the leaders in the nation with a donor registry of 66.21 percent of driver license/ID card applicants signing up to be organ and tissue donors, and Fort Collins remains in the top five cities in Colorado with a Donor Designation rate of 71.4 percent – a decision that reflects deep commitment to one another and confirms that there is good inside all of us; and

**WHEREAS**, one donor can save up to 8 lives through organ donation and save and heal more than 75 lives through tissue donation; and

**WHEREAS**, a record 307 heroic organ donors provided 918 lifesaving transplants which is a 10.6 percent increase from 2022; and Donor Alliance recovered tissue for transplant from 1,703 heroic tissue donors saving and healing with nearly 144,000 tissue grafts; and

**WHEREAS**, registering gives hope back to the more than 1,300 people waiting for a lifesaving organ transplant in Colorado and Wyoming while compassionately celebrating donors and their families for the gift of life.

**WHEREAS**, organ, eye and tissue donation would not be possible without our community coming together for one united purpose. Saying "Yes" to be an organ, eye and tissue donor, you are not just checking a box – you are saving and healing lives.

**NOW**, **THEREFORE**, I, Jeni Arndt, Mayor of the City of Fort Collins, do hereby proclaim the month of April 2024, as

## NATIONAL DONATE LIFE MONTH

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of the City of Fort Collins this 16th day of April, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

# PROCLAMATION

**WHEREAS**, the City of Fort Collins, working with various individuals and organizations serving the diverse segments of our Asian American, Native Hawai'ian, and Pacific Islander (AANHPI) communities, recognizes the growing and expanding Asian American community of Fort Collins to celebrate and honor the triumphs and challenges of its community members through their historically unique journeys and struggles; and

**WHEREAS**, AANHPI communities have a long history of contributing to the Fort Collins, northern Colorado, and Colorado histories and presently continue to offer diverse contributions in the arts, business, education, government, non-profit, and interdisciplinary sectors of Fort Collins; and

**WHEREAS**, AANHPI communities continue to work and hope for an inclusive, prosperous, and welcoming future in the Fort Collins community, even in the face of systemic challenges and the need to assimilate to American customs and ideals, while simultaneously honoring AANHPI communities' values, history, and languages; and

**WHEREAS**, AANHPI communities continually enrich our community through food, art, cultural programs, and representation which encompasses the whole of Fort Collins' AANHPI community, from immigrant populations to generations born in our City and the United States, all of whom hope for an inclusive future free from marginalization in times of peace and turmoil.

**NOW**, **THEREFORE**, I, Jeni Arndt, Mayor of the City of Fort Collins, do hereby proclaim April 2024, as

## ASIAN AMERICAN NATIVE HAWAI'IAN PACIFIC ISLANDER HERITAGE MONTH

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of the City of Fort Collins this 16th day of April, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

**April 16, 2024**

# AGENDA ITEM SUMMARY
City Council

## STAFF

Heather Walls, Interim City Clerk

## SUBJECT

**Consideration and Approval of the Minutes of the March 19, 2024 Regular Meeting.**

## EXECUTIVE SUMMARY

The purpose of this item is to approve the minutes of the March 19, 2024 regular meeting.

## STAFF RECOMMENDATION

Staff recommends approval of the minutes.

## ATTACHMENTS

1. Draft Minutes, March 19, 2024

**March 19, 2024**

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Regular Meeting – 6:00 PM**

**PROCLAMATIONS AND PRESENTATIONS**
**5:00 PM**

## A) PROCLAMATIONS AND PRESENTATIONS

PP 1. **Declaring March 2024 as Fix a Leak Month.**

Mayor Jeni Arndt presented the above proclamations at 5:00 p.m.

**REGULAR MEETING**
**6:00 PM**

## B) CALL MEETING TO ORDER

Mayor Jeni Arndt called the regular 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 Kelly Ohlson
Councilmember Melanie Potyondy

STAFF PRESENT
City Manager Kelly DiMartino
City Attorney Carrie Daggett
Interim City Clerk Heather Walls

## E) CITY MANAGER'S AGENDA REVIEW

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

- All items on the consent agenda were recommended for approval.
- The items on the discussion agenda were reviewed.



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**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.)*

Nathan Wallace commented on feeling unsafe at the March 5th Council meeting and thanked Council for keeping its focus on local events.

Jan Stallones, on behalf of North College neighborhoods and businesses, acknowledged the Hickory detention pond is generally needed for flood control but expressed concern it is part of steps toward the new 24/7 shelter. Stallones expressed support for a shelter, but noted there are concerns among the Hickory Village residents.

Emily Gallichotte thanked Council and staff for work on making appointments per Consent Item No. 20, *Items Relating to Appointments to Various Boards and Commissions*, specifically citing the Women and Gender Equity Advisory Board to which she will be appointed.

Cheryl Trine discussed Palestinians living under Israeli occupation and commented on murder rates in Gaza. Trine stated people came to Council to request a cease fire resolution to help elevate their voices.

Karen Schwartz urged Council to postpone consideration of Item No. 20, *Items Relating to Appointments to Various Boards and Commissions*, specifically the appointments to the Human Relations Commission. Schwartz stated the Human Relations Commission received a letter that said it enabled violations of constitutional rights and stated the Commission violated its own mandate related to enhancing diversity and embracing inclusion and different ideas and perspectives, and ignored its own bylaws by violating non-discrimination and equal protection laws. Schwartz also stated the Commission has worked in opposition to the City's strategic objectives that call for Fort Collins to build trust with its increasingly diverse community through meaningful engagement.

Isabella Zapata discussed the war in Gaza and stated a cease fire resolution would help put pressure on the state and federal governments to stop letting American tax dollars fund Israel Zapata questioned how calling for a cease fire would harm the community.

Sterling Linville discussed a 1985 Council resolution related to the apartheid in South Africa and stated the South African delegation to the International Court of Justice has now brought charges against Israel of an apartheid even more extreme than what was suffered in South Africa. Linville suggested Council's moral and legal obligations under federal law, the Genocide Convention Implementation Act, compel it to do everything possible to prevent the crime of genocide or be found complicit and legally liable. Additionally, Linville requested Council bring for a resolution stating that Fort Collins will not do business with persons and corporations that invest in a state engaged in genocide

Julie Rowen-Zoch stated the cease fire resolution issue is important because this is the Holocaust of our time and it is important the Council listen to its constituents on the issue.

G Inguanta opposed the characterization of those speaking in support of a pro-Palestine cease fire as a fanatical mob and commented on the diversity of the group.

August-Carter Nelson requested Council consider a cease fire resolution and stated the purpose of government should be to listen to people.

Alex Scott requested Council consider a cease fire resolution as recommended by the Human Relations Commission and commented on feeling as though Council does not care about the desires of its constituents.

Derrin Scott Evans suggested Council should require one green initiative and a certain number of trees for all new builds  Additionally, Evans supported Council having a fully remote meeting option for security reasons and stated Council is required to listen to its constituents, but is not required to obey its constituents.

Rich Stave opposed remote meetings and expressed concern there is no notification of the order of speakers in the lobby

Killian Clear expressed concern about the primary short-term rental Code and stated listing a long-term renter on a trust puts the renter in an ownership position, thereby allowing them to utilize the other part of the home as a short-term rental. Clear stated this situation at a neighboring property has had negative impacts and suggested the long-term renter should at least be required to be the host of the short-term rental.

Laura Lenhart requested Council consider a cease fire resolution.

Brooklyn Hansen, known as Sabbath, stated Council's refusal to consider a cease fire resolution indicates it supports genocide, ethnic cleansing, an apartheid state, forced starvation and displacement, and the brutal killing of 32,000 people.

Hannah (no last name given) opposed Council's refusal to consider a cease fire resolution and stated it is explicitly a local issue as Fort Collins sends over $2 million a year to fund Israel and Woodward, which manufactures GPS devices for Israeli-American missiles, is located here

Adam Hirschhorn stated Fort Collins has always been international.

Cheryl Distaso read a statement from Alli Owens regarding attacks and threats she has received from Zionists, including one incident after a Council meeting at City Hall.

Claire K. (no last name given) discussed feeling unsafe at a recent peaceful protest because of the continuous and inaccurate portrayal of the constituents who have been coming to Council peacefully requesting a cease fire resolution.

Blaine (no last name given) discussed feeling fear as a trans individual.

Jack Armstrong stated there have been a lot of assumed statements about how Councilmembers feel and what they believe and stated there are a lot of people who appreciate the work of Council Armstrong opposed those who accused Council of not caring about genocide occurring.

Sunflower Flores discussed being a pre-school teacher and suggested it would be absurd to show a photo of a child who may be in danger, referencing a Councilmember who showed a photo of her child.

Kimberly Conner stated that not voting for a cease fire resolution is taking a side and is allowing community division to continue.  Conner stated fear should not direct our actions.

B. Cunningham commended the midtown infrastructure improvements and suggested using the Hughes Stadium land as a refugee camp.

**H) PUBLIC COMMENT FOLLOW-UP**

Councilmember Potyondy thanked the speakers and clarified no Councilmembers have used the term 'angry mob' to reference the pro-cease fire speakers. Additionally, she stated Council communicating doxing of public officials does not mean it is equating their level of struggle with people living in a war zone and requested people do some reflection before making statements that paint who Councilmembers are as people without having the requisite information to do so.

Councilmember Pignataro stated tree policies will be on next week's work session. She asked if the rental registration program will include aspects that may help a situation such as the one mentioned by Killian Clair. City Manager DiMartino replied the program will not specifically address that topic, though Ginny Sawyer is aware of the situation and there is a service area request in play currently.

Councilmember Pignataro thanked the speakers and noted she encouraged those who have been politically charged to look into running for office at last night's meeting. She commented on seeing a photo of a dead child during the Syrian refugee crisis which affected her deeply and informed her decision to run for office as her next step. She stated the City's immigration legal defense fund translated what can be done locally to help immigrants.

Councilmember Canonico asked if there would be an option for speaker order notification in the Chambers lobby. City Manager DiMartino replied staff will look into some options.

Mayor Pro Tem Francis thanked the speakers and stated the Human Relations Commission fulfilled Council's request to consider the cease fire resolution; however, as the City's Boards and Commissions are advisory, Council is not bound by the Commission's recommendation. She noted the Commission will be moving forward its other business and will no longer be considering the topic.

## I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

None.

## J) CONSENT CALENDAR

1. **Consideration and Approval of the Minutes of the February 6, 2024 and February 20, 2024 Regular Meetings.**

   *The purpose of this item is to approve the minutes of the February 6, 2024 and February 20, 2024 regular meetings.*

   ***Approved.***

2. **Second Reading of Ordinance No. 032, 2024, Appropriating Prior Year Reserves and Unanticipated Philanthropic Revenue Received Through City Give for Various Programs and Services as Designated by the Donors.**

   *This Ordinance, unanimously adopted on First Reading on February 20, 2024, appropriates $18,025.20 in philanthropic revenue received through City Give. These miscellaneous gifts to various City departments support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation. 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.*

   ***Adopted on Second Reading.***

3. **Second Reading of Ordinance No. 033, 2024, Appropriating Prior Year Reserves in the Conservation Trust Fund for the Future Design and Construction of the Fossil Creek Trail Spur.**

*This Ordinance, unanimously adopted on First Reading on February 20, 2024, appropriates partial funding for the future construction of the Fossil Creek Trail spur. This revenue is contributed from the developer. This trail spur is identified in the South College Corridor Subarea Plan as "City built and maintained." The easement for the future trail spur was secured during the development review process of the Fort Collins Nissan-Kia project. Per the South College Avenue Access Control Plan, this trail is of regional significance and the Developer agreed to contribute their proportional share of the public access trail project in the amount of $35,000. The Developer was required to provide the funds prior to issuance of the project's first building permit. The design and construction date of the future trail spur at this time is unknown.*

***Adopted on Second Reading.***

4. **Second Reading of Ordinance No. 034, 2024, Authorizing Transfers of Appropriations for the Xeriscape Incentive Program.**

*This Ordinance, unanimously adopted on First Reading on February 20, 2024, supports businesses, homeowner associations ("HOAs") and other commercial properties pursuing costly landscape projects that reduce water use long-term through the Xeriscape Incentive Program by utilizing $75,104 in existing 2024 appropriations to fund the City's match requirement under this grant project.*

***Adopted on Second Reading.***

5. **Second Reading of Ordinance No. 035, 2024, Authorizing the Release of Restrictive Covenants on Property at 2850 Sykes Drive, Developed by Fort Collins Habitat for Humanity.**

*This Ordinance, unanimously adopted on First Reading on February 20, 2024, authorizes the termination of the HOME Investment Partnership Funding Development Contract with Fort Collins Habitat for Humanity (Habitat) and release the Agreement of Restrictive Covenants Affecting Real Property on the single-family home located at 2850 Sykes Drive. Termination of the contract and release of the Agreement of Restrictive Covenants is required for Fort Collins Habitat for Humanity to move forward with the sale of the home to the buyer.*

***Adopted on Second Reading.***

6. **Second Reading of Ordinance No. 036, 2024, Approving the Vacation of a Portion of Two Easements Originally Dedicated in that Certain Replat of Coachlight Plaza PUD.**

*This Ordinance, unanimously adopted on First Reading on February 20, 2024, approves the vacation of a 1,077 square foot portion of two easements (8' Electrical Easement and an 8' Telephone Easement) (the "Easements") that are no longer required by the City because they are currently located beneath a newly constructed building envelope.*

***Adopted on Second Reading.***

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7. **Second Reading of Ordinance No. 037, 2024, Authorizing the Conveyance to N College 1311, LLC, of a Portion of the City Property Designated as the Future Hickory Detention Pond in Exchange for Adjoining Property and Other Valuable Consideration.**

*This Ordinance, unanimously adopted on First Reading on February 20, 2024, permits the conveyance of approximately 1.31 acres (57,064 sf) of City property (the "Conveyed Parcel") to N College 1311, LLC, ("Owner"), as well as a possible temporary construction easement or license to enter, and acceptance of Natural Habitat Buffer Zone on City property, in exchange for approximately 2.43 acres (105,723 sf) of Owner's adjoining property (the "Received Parcel") and other valuable consideration.*

***Adopted on Second Reading.***

8. **Items Relating to the Laporte Avenue Multimodal Improvement Project.**

*A. Resolution 2024-025 Authorizing an Amendment to an Existing Intergovernmental Agreement between the City of Fort Collins, Colorado, and the Colorado Department of Transportation for the Laporte Avenue Multimodal Improvement Project.*

*B. First Reading of Ordinance No. 038, 2024, Making Supplemental Appropriations, Appropriating Prior Year Reserves and Authorizing Transfers of Appropriations for the Laporte Avenue Multimodal Improvement Project and Related Art in Public Places.*

*The purpose of this item is to enable the City to receive and expend Colorado Department of Transportation (CDOT) funds for the Laporte Avenue Multimodal Improvement Project (Laporte Project). The funds will be used for construction of improvements along Laporte Ave from Fishback Avenue to Sunset Street. If approved this item will: 1) authorize the Mayor to execute an amendment to the Intergovernmental Agreement (IGA) for the Laporte Project with CDOT; 2) appropriate $2,500,000 of Transportation Alternative grant funds for the Laporte Project; 3) use $122,727 from the Bicycle Infrastructure Improvements Community Capital Improvement Program (CCIP Bike Program) as part of the local match; 4) use $102,273 from the Pedestrian Infrastructure Improvements Community Capital Improvement Program (CCIP Pedestrian Program) as part of the local match; 5) appropriate as part of the local match contribution $223,425 from the Transportation Capital Expansion Fee Reserves (TCEF); 6) appropriate as part of the local match contribution $222,750 from General Fund Reserves; 7) appropriate $1,755 (0.78% of the TCEF amount of the 1% contribution for the artwork portion of APP) from TCEF Reserves to the Art in Public Places Program; 8) appropriate $495 (0.22% of the TCEF amount of the 1% contribution to APP) from the Transportation Fund Reserves to the Art in Public Places Program; 9) appropriate $2,250 (1% of the General Fund amount) from the General Fund to the Art in Public Places Program.*

***Resolution Adopted. Ordinance Adopted on First Reading.***

9. **Items Relating to a State Grant for Clean Energy Vehicles.**

*A. First Reading of Ordinance No. 040, 2024, Making a Supplemental Appropriation in the General Fund of Grant Funds from the Colorado Department of Public Health and Environment and Appropriating Prior Year Reserves in the Water Fund to Support Transitioning City Fossil Fuel Vehicles to Clean Energy Vehicles.*

*B. Resolution 2024-027 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the Colorado Department of Public Health and Environment for the Receipt of Grant Proceeds for Clean Energy Vehicles.*

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*The purpose of these items is to support the City of Fort Collins (City) in transitioning fossil fuel vehicles to clean energy vehicles as a measure of reducing greenhouse gas emissions to achieve maximum air quality benefits for the people of Fort Collins and Colorado.*

*The City was awarded $910,000 from the State's Clean Fleet Vehicle and Technology (CFVT) grant program in support of the City purchasing clean energy vehicles that align with vehicles approved through the State's CFVT grant program. The awarded funds will support purchase of approved vehicles, with the City contributing the remaining needed funds. Based on needs of City departments, Operation Services and departments within City Utilities will be funding the additional funds needed for purchase of approved vehicles.*

*Approval of these items would support the City in transitioning fossil fuel fleet vehicles to clean energy by:*

- *Authorizing the Mayor, by Resolution, to execute an Intergovernmental Agreement (IGA) with the State of Colorado for purchase of approved clean energy fleet vehicles;*
- *Appropriating $910,000 of unanticipated grant revenue from the State of Colorado's CFVT grant program; and*
- *Appropriating $96,504 from Water Fund reserves.*

***Ordinance Adopted on First Reading. Resolution Adopted.***

10. **Items Relating to the Power Trail and Harmony Grade Separated Crossing Project.**

*A. Resolution 2024-028 Authorizing an Intergovernmental Agreement Between the City of Fort Collins, Colorado, and the Colorado Department of Transportation for the Power Trail and Harmony Grade Separated Crossing Project.*

*B. First Reading of Ordinance No. 041, 2024, Making Supplemental Appropriations in the Capital Projects Fund of Colorado Department of Transportation Alternative Program Grant Funds and the Congestion Mitigation and Air Quality Grant Funds, for the Power Trail and Harmony Grade Separated Crossing Project.*

*The purpose of this item is to enable the City to receive and expend federal pass-thru funds for the Power Trail and Harmony Grade Separated Crossing Project (the Project). The funds will be used for construction of a pedestrian and bicycle underpass located approximately 500 feet west of the intersection of Harmony Road and Union Pacific Railroad. If approved this item will:*

- *Authorize the Mayor to execute an Intergovernmental Agreement (IGA) for the Project with the Colorado Department of Transportation (CDOT);*
- *Appropriate $800,000 of unanticipated Transportation Alternative Program (TAP) grant funds for the Project; and*
- *Appropriate $2,700,000 of Congestion Mitigation and Air Quality (CMAQ) grant funds for the Project.*

*Previously appropriated funds will be used for local match requirements.*

***Resolution Adopted. Ordinance Adopted on First Reading.***

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11. **First Reading of Ordinance No. 042, 2024, Appropriating Prior Year Reserves in the General Fund for Cultural Development and Programming Activities, Tourism Programming, and Convention and Visitor Program Services.**

*The purpose of this item is to appropriate $560,178, of which $392,125 is proposed for Convention and Visitors Bureau, $140,044 is proposed for Cultural Development and Programming Activities (Fort Fund), and $28,009 is proposed for Tourism Programming (Fort Fund) all from unanticipated 2023 Lodging Tax revenue collections.*

*Lodging taxes are annually collected by the City of Fort Collins for Cultural Development and Tourism programming activities. Anticipated revenue is projected through each Budgeting for Outcomes (BFO) cycle and then adjusted annually as needed based on final actual collections. For 2023, total Lodging tax revenues collected came in $560,178 above projected collections.*

***Adopted on First Reading.***

12. **First Reading of Ordinance No. 043, 2024, Appropriating Prior Years Reserves Received in the General Fund By City Give for Fort Collins Police Services for the 2024 Police Leaders' Summit.**

*The purpose of this item is to request appropriation of $30,000 in philanthropic revenue received by City Give for Fort Collins Police Services for the 2024 Police Leaders' Summit as designated by the donor.*

*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.*

***Adopted on First Reading.***

13. **First Reading of Ordinance No. 044, 2024, Appropriating Prior Year Reserves Received By City Give for Fort Collins Police Services for the Safe Futures Initiative.**

*The purpose of this item is to request appropriation of $80,000.00 in philanthropic revenue received by City Give for Fort Collins Police Services for the Safe Futures initiative.*

*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.*

***Adopted on First Reading.***

14. **First Reading of Ordinance No. 045, 2024, Making a Supplemental Appropriation in the General Fund of the Internet Crimes Against Children Grant in Support of Fort Collins Police Services Cyber Crimes Unit.**

*The purpose of this item is to support the Fort Collins Police Services' Cyber Crimes Unit by appropriating $6,585 of unanticipated grant revenue awarded by the Colorado Springs Police Department.*

***Adopted on First Reading.***

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15. **First Reading of Ordinance No. 046, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Clarify Terminology Regarding Control Valves and Water Service and Fire Lines.**

*The purpose of this item is to clarify and make consistent certain terminology in City Code. This item will remove "curb stop" from City Code, to be replaced by "control valve." Replacement of this terminology removes any potential assumption that a water control valve on a service or fire line must have proximity to a street or sidewalk curb to define ownership of the valve and of the line extending from the valve.*

***Adopted on First Reading.***

16. **First Reading of Ordinance No. 047, 2024, Establishing Rental Rates and Delivery Charges for Use of Water Available Under Fort Collins Utilities' Raw Water Interests for 2024 Through March 2027.**

*The purpose of this item is to obtain Council approval for the proposed formulas for calculating rental rates and delivery charges for Fort Collins Utilities' (Utilities) raw water supplies for the next three years, including proposed rental rates and delivery charges for fully consumable water. The rates and charges would be effective through March 2027. Setting the rates and charges via formula ensures Utilities can recoup the ownership and administrative costs for rented supplies and provides planning certainty for the agricultural rental community.*

*Proposed formulas for most supply sources remain consistent with those from the previous rental rate and delivery charge ordinance (Ordinance No. 038, 2021). Staff is recommending an increase in the rental rate and delivery charge for fully consumable water to be in line with market conditions for this type of water. In addition, staff is recommending the rental rate for Water Supply and Storage Company supplies to be 130% of assessment versus the prior rate of assessment plus a flat administration fee. <u>These are the only changes to rental rates and delivery charge methods.</u>*

***Adopted on First Reading.***

17. **Items Relating to Water Service for the Northern Colorado Regional Airport's New Terminal.**

*A. Resolution 2024-029 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins, the City of Loveland and the Fort Collins-Loveland Water District for the Purchase of a Water Tap for the New Terminal at the Northern Colorado Regional Airport.*

*B. First Reading of Ordinance No. 048, 2024 Authorizing the Conveyance of a Permanent Non-Exclusive Domestic Waterline Easement on Property Jointly Owned by the City of Fort Collins and the City of Loveland at the Northern Colorado Regional Airport for the New Airport Terminal Facility.*

*The purpose of Resolution A is to authorize the City Manager to execute an intergovernmental agreement for the purchase of a water tap from the Fort Collins-Loveland Water District for water service at the Airport's new terminal. Ordinance B would authorize a conveyance of an easement to the water district to allow for a water service line for the terminal. The easement is over a portion of the Northern Colorado Regional Airport property, which is owned jointly by the City of Fort Collins and the City of Loveland.*

***Resolution Adopted. Ordinance Adopted on First Reading.***



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18. **Resolution 2024-030 Adopting the City of Fort Collins 2024 Strategic Plan.**

*The purpose of this item is to formally adopt the 2024 Strategic Plan. The adopted plan will guide the 2025-2026 Budgeting for Outcomes process. All adopted Council Priorities have been included in the 2024 Strategic Plan.*

***Adopted.***

19. **Resolution 2024-031 Authorizing the City Manager to Execute an Agreement Between the City of Fort Collins and the State of Colorado Regarding Implementation of Portions of the Fish and Wildlife Mitigation and Enhancement Plan for the Halligan Water Supply Project (Cheat Grass and Big Horn Sheep Collaring).**

*The purpose of this item is to seek Council approval of a proposed agreement ("Agreement") between the City and the State of Colorado acting through Colorado Parks and Wildlife ("CPW") regarding certain aspects of the Halligan Water Supply Project ("Halligan Project"). The purpose of this Agreement is to implement Section 4.2.3.18 (Bighorn Sheep Habitat Improvements) and Section 4.2.3.19 (Bighorn Sheep Collaring Study) of the Halligan Project's Fish and Wildlife Mitigation and Enhancement Plan ("Mitigation Plan"), under which 1) the City intends to transfer funds to CPW; and 2) habitat treatments and bighorn sheep monitoring are to be started at least two years in advance of construction. Based on the City's expected construction schedule, the Parties desire to begin implementing those Mitigation Plan sections early in 2024 before a full agreement related to the Mitigation Plan is expected to be completed.*

*CPW will use the funds for chemical treatment to abate invasive cheat grass. CPW will use its best efforts to treat a minimum of at least 500 acres with a focus on the Lower Unit of the State Wildlife Area. CPW may additionally use the funds for the installation of up to two remote passive water sources on the State Wildlife Area. Any funds not needed for the cheat grass treatment or the water sources installation may be used by CPW for habitat treatment on additional acreage within the State Wildlife Area.*

*CPW will also use the funds for the purpose of supporting a GPS (global positioning system) collaring and monitoring study of bighorn sheep from the Lone Pine herd that will include tracking their movements and habitat use, and conducting disease testing, before, during, and immediately after Halligan Project construction.*

***Adopted.***

20. **Items Relating to Appointments to Various Boards and Commissions.**

*A. Resolution 2024-032 Making Appointments to the Active Modes Advisory Board.*

*B. Resolution 2024-033 Making Appointments to the Affordable Housing Board.*

*C. Resolution 2024-034 Making Appointments to the Air Quality Advisory Board.*

*D. Resolution 2024-035 Making Appointments to the Art in Public Places Board.*

*E. Resolution 2024-036 Making Appointments to the Building Review Commission.*

*F. Resolution 2024-037 Making Appointments to the Citizen Review Board.*

*G. Resolution 2024-038 Making an Appointment to the Cultural Resources Board.*

*H. Resolution 2024-039 Making Appointments to the Disability Advisory Board.*

*I. Resolution 2024-040 Making Appointments to the Economic Advisory Board.*

*J. Resolution 2024-041 Making Appointments to the Energy Board.*

*K. Resolution 2024-042 Making an Appointment to the General Employees Retirement Committee.*

*L. Resolution 2024-043 Making Appointments to the Human Relations Commission.*

*M. Resolution 2024-044 Making Appointments to the Human Services and Housing Funding Board.*

*N. Resolution 2024-045 Making Appointments to the Land Conservation and Stewardship Board.*

*O. Resolution 2024-046 Making Appointments to the Natural Resources Advisory Board.*

*P. Resolution 2024-047 Making Appointments to the Parks and Recreation Board.*

*Q. Resolution 2024-048 Making Appointments to the Senior Advisory Board.*

*R. Resolution 2024-049 Making Appointments to the Transportation Board.*

*S. Resolution 2024-050 Making Appointments to the Water Commission.*

*T. Resolution 2024-051 Making Appointments to the Women and Gender Equity Advisory Board.*

*U. Resolution 2024-052 Making Appointments to the Youth Advisory Board.*

*The purpose of this item is to fill vacancies on various Boards and Commissions.*

*In 2023, the City Council adopted a Code of Conduct and updated Boards and Commissions Policy, along with other policies and procedures that apply to service on City boards and commissions. Each board and commission appointee is required to acknowledge and accept these requirements in order to take appointed office. Each Resolution provides that no person appointed may take office until they have completed the required acknowledgement and acceptance of the Code of Conduct and the applicable laws and policies that govern service on City of Fort Collins boards and commissions.*

***Resolutions A-U Adopted.***

**END OF CONSENT CALENDAR**

***Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, to approve the recommended actions on items 1-20 on the Consent Calendar.***

Mayor Arndt noted there were a record number of applications for Boards and Commissions and encouraged those who were not selected to reapply.

Councilmember Canonico commented on Item No. 10, *Items Relating to the Power Trail and Harmony Grade Separated Crossing Project*, noting the project is now fully funded and construction will begin no later than the spring of 2025.



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Councilmember Potyondy thanked the staff who helped coordinate the Boards and Commissions interviews.

***The motion carried 7-0.***
***Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Canonico, Pignataro, Potyondy, Gutowsky, and Ohlson.***
***Nays: None.***

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

Councilmember Ohlson asked if the Boards and Commissions recommendations mentioned were in the packet for Item No. 10, *Items Relating to the Power Trail and Harmony Grade Separated Crossing Project*, and if they were not, to please include them in a future packet. Additionally, Councilmember Ohlson raised a number of questions regarding Item No. 16, *First Reading of Ordinance No. 047, 2024, Establishing Rental Rates and Delivery Charges for Use of Water Available Under Fort Collins Utilities' Raw Water Interests for 2024 Through March 2027*, including ensuring the City is charging for its rental water what the private sector would be charging and that all costs to administer the program are being recovered. He also requested a staff response to questions raised by the Water Board prior to Second Reading.

**L) STAFF REPORTS**

None.

**M) COUNCILMEMBER REPORTS**

Councilmember Potyondy

- Reported on attending an urban and rural forestry event at O'Dell Brewery during which the City Forester spoke.

***Clerk's Note: Mayor Arndt called for a 10-minute break at 7:08 p.m. The meeting resumed at 7:21 p.m.***

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

None.

**O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION**

21. **Strauss Lakes Metropolitan Districts Conceptual Review Hearing**

*The purpose of this item is to conduct a Conceptual Review Hearing pursuant to the City Policy for Reviewing Service Plans for Metropolitan Districts (Metro District Policy) to allow Council and members of the public to provide preliminary comments in response to an applicant's Letter of Interest so that the applicant may better determine whether or not to submit a formal application and what a formal application should include.*

*Metropolitan Districts (Metro Districts) must provide exceptional public benefits in a variety of categories to gain Council approval. Staff evaluates the Metro Districts' proposed public benefits guided by the current 2021 Council-approved Metro District Policy, which includes a score card related to housing and residential development. The City's Metro District Policy requires this*

*Conceptual Review Hearing with Council to give the applicant the opportunity to present its proposal and to seek feedback from Councilmembers and the public about the proposed Metro Districts, which the applicant may use to determine whether to submit a formal application.*

*Hearing Process Overview*

*The process for reviewing and considering approval of Metro Districts generally proceeds as follows:*

*1. Applicant submits Letter of Interest*

*2. Staff reviews Letter of Interest and provides an informal, non-binding response*

*3. Council Conceptual Review is conducted, where Council considers and discusses the public benefits proposed in the Letter of Interest*

*4. If Applicant decides to proceed, Applicant submits formal application for Metro District(s) along with Service Plan*

*5. Staff reviews application and Service Plan*

*6. Council Finance Committee reviews submittal and provides feedback to applicant*

*7. Council considers application and Service Plan at a public hearing*

*As stated in the Metro District Policy, if it so chooses to do so, Council may consider a motion at the conclusion of the hearing to express its opinion whether the service plan of the Strauss Lakes Metro Districts, as proposed, should be brought forward to Council for its formal consideration. That motion may also include any recommendations Council may have concerning what should or should not be included in the applicant's formal application. However, the Policy also clearly states that any such motion adopted and any comments, suggestions, or recommendations made by any Councilmember concerning the proposal will not bind or otherwise obligate any Councilmember or other City decision maker to any course of conduct or decision in any subsequent formal application under the Policy. Sample motions are provided below.*

***It should be noted that the Council is not required to adopt a motion related to the Metro Districts, and the Conceptual Review Hearing is meant solely for Councilmembers to provide feedback on the proposed Metro Districts and is not meant for the Council to comment on, or make specific recommendation regarding, any development aspects that may later come to Council for review and decision-making.***

*Strauss Lakes is a proposed mixed-use development at the northeast corner of Horsetooth Road and Ziegler Road proposed by Cottonwood Land and Farms, LLC ("Cottonwood"). On February 5, 2024, Cottonwood submitted a revised Letter of Interest outlining the public benefits to be provided by the proposed Strauss Lakes Metropolitan Districts, pursuant to the City's Metro District Policy. Staff finds the applicant's proposed public benefits generally conform with the requirements of the Metro District Policy; however, all elements of the proposed public benefits will require additional analysis by staff to confirm they meet the requirements of the Metro District Policy. Staff will provide a final assessment and recommendation on the Strauss Lakes Districts upon formal submittal.*

Josh Birks, Deputy Director of Sustainability Services, provided a history of the City's metro district policy noting the conceptual review hearing aspect was added to the process in 2021

and noted the purpose of the conceptual review hearing is to allow Council and members of the public to provide preliminary comments in response to the letter of interest.

Birks noted the project site is at the northeast corner of Horsetooth and Ziegler and outlined the metro district policy requirement that extraordinary public benefits be delivered as part of the metro district's activities. He noted staff has not conducted a very deep analysis of the metro district request at this time given the policy is designed to allow Council to have this opportunity to provide feedback to the applicant.

Birks called Council's attention to a few open questions based on staff's initial review of points, including looking at the smaller units through only finished space, not including unfinished basement space, and looking at the different energy efficiency solutions for the affordable housing versus the market rate units. Additionally, Birks noted the metro district policy adopted in 2021 includes reference to specific energy performance standards that the basic Code now surpasses, though the policy still allows for the applicant to receive points under the residential metro district point system for that because it refers to a hard and fast threshold as opposed to a variable one.

Birks outlined staff's preliminary thoughts on the letter of interest, including that the proposal generally conforms with the guidelines, and that by self-assessment at least, the minimum number of points required seems to be provided. He reiterated that staff's detailed analysis would come following a formal application and noted Council is not required to take any formal action this evening; however, guidance is included should Council desire to make a motion.

APPLICANT PRESENTATION

Robert Rogers, White, Bear, Ankele, Tanaka & Waldron, thanked staff for the information that has been provided to this point and introduced the project team. Rogers stated this is the first metro district proposal to come before the City since the 2021 policy adoption and noted the bar for metro districts in Fort Collins is the highest in the State. Rogers stated the proposed metro districts not only meet the new requirements but will qualitatively exceed them.

Bill McDowell, Cottonwood Land and Farms, LLC, property owner, commented on donating land to Fort Collins for natural area properties, Hageman Earthcycle, and the preservation of the Strauss Cabin home site. Additionally, McDowell stated the Strauss Lakes property was originally 515 acres; however, the property has shrunk due to the City's need for two storm drainage channels, the Rigden Water Storage Reservoir, and a park location, the land for which Cottonwood Land and Farms sold the City for $812,000 less than market rate.

Cathy Mathis, TB Group, provided information on the concept plan for the site, including the mix of product types such as live-work lots, large townhomes, single-family homes, carriage home lots, small townhomes, medium townhomes, CSU community workforce apartments, paired homes, affordable housing apartments, and mixed-use units.

Rogers stated the main reason metro districts are needed is to fill the gap required to fund significant public benefits, including significant regional infrastructure in the estimated amount of $92 million, and other planned public benefits such as significant carbon footprint reductions and significant affordable housing contributions. Additionally, Rogers stated metro districts will help ensure that growth pays its own way for this development by filling a capital void in funding essential projects that no other public entity is willing or able to fund at the time the improvements are needed, and they can do so at a reduced cost through tax-exempt financing amortized over thirty to forty years. Rogers stated this allows for property owners to pay proportionately for their use of the improvements over the time that they live in the development

rather than through an up front, lump sum payment that increases the cost of the purchase price of individual homes.

Rogers outlined the specific public benefits anticipated for this project and discussed the ways in which it meets the City's requirements. Rogers provided information on the plans for the project to address energy conservation and renewables through energy-efficient ventilation, air tight homes with heater energy recovery, above Code standard thermostats, and installation of 50-70% of the total energy needs in the form of solar for all market rate units. Rogers outlined the energy conservation approach for the affordable units.

Rogers went on to discuss how the project will address indoor and outdoor water conservation, neighborhood livability, and affordable housing.

Arthur McDermott, McDermott Properties, discussed the affordable housing communities McDermott has developed, including one in Fort Collins. McDermott discussed the plan for between 144 and 168 Strauss Lakes affordable apartment units in one-, two-, and three-bedroom configurations with a variety of area median incomes satisfied. He stated McDermott is committed to energy efficiency for the project.

Rogers discussed more specifics of the service plan noting the total anticipated public improvement cost for the project is currently estimated at $92.5 million for on-site and off-site improvements such as water, sanitary sewer, a lift station, storm sewer, landscaping, parks, and recreation and trail improvements. Rogers noted that dollar amount does not include the significant additional private investment required to subsidize the affordable housing effort and some of the private energy commitments that are going to be made in both the market rate and affordable units. Rogers stated the proposed service plan will conform with the City's model service plan.

Rogers discussed additional public benefits related to environmental sustainability, critical public infrastructure, high-quality smart growth, and strategic priorities.

PUBLIC COMMENT

Rich Stave questioned where the water from the site will go noting aggregate has been removed from the site for decades. Stave also questioned how much infill will need to be added to make basements feasible and stated it is likely the cost of that work will be added into the cost of the units. Additionally, he stated the metro districts will increase the mill levy for the homes which will increase the ownership and rental costs.

Richard Kraemer stated he has no relationship with the developers and commented on the New Urbanist components of the project including small lot sizes and small yards. Kraemer expressed support for the project.

COUNCIL DISCUSSION

Mayor Arndt clarified questions can go to staff and the applicant.

City Attorney Daggett noted this is discussion of the proposed metro district, not the subdivision itself.

Potyondy requested additional information about how costs for homeowners and renters would be impacted by the inclusion of a metro district and, in those agreements, several formulas were applied to limit the total cost for renters, and that includes any mill levy that would be passed on.

Rogers stated the plan is for the rent amounts to be in the 30-60% AMI average and all mill levies will be paid by the property owner.

Councilmember Pignataro asked when the public can provide preliminary public comment. Birks replied that the formal application and service plan consideration will go before Council allowing for public input. Birks noted there is no public engagement process as part of the review, though there will be opportunities for public input through the development review process.

Councilmember Pignataro commented on other metro districts across the state that had issues with residents not understanding what living in a metro district meant, and that is what Fort Collins is attempting to avoid. She asked if more than one metro district is planned. Rogers replied the plan is for multiple districts due to the state requirement that any governmental entity that imposes a tax impose a uniform tax across its boundaries, and due to the number of different product types anticipated, there will be different assessment ratios across the site.

Councilmember Pignataro noted one of the housing types was listed as CSU community and workforce and asked if there is an agreement in place with CSU. McDowell replied former City Manager Atteberry asked him to be involved when the Hughes Stadium site was being sold and McDowell became the third part that allowed an MOU to be structured wherein McDowell would provide some land to CSU for their affordable housing they wanted to put on the Hughes site, CSU was then going to sell the ground to the City, and at the time, that plan was to meet the affordable housing need for this project this evening. However, two months after the MOU was signed, the Board of Governors at CSU decided to move forward with the Hughes sale and McDowell was no longer involved. McDowell stated there are no formal agreements in place, though discussions have occurred.

Mayor Pro Tem Francis commended the decision to extend the energy program to the affordable housing units and noted Council did not like the fact that the affordable housing units were so separate from the community in Northfield; therefore, she requested the affordable housing be more incorporated within the project. She commended the New Urbanism aspects, mix of housing types, wide sidewalks, and small streets. She stated a request was received from Housing Catalyst to shift the AMI to at or below 80%. Birks replied staff has yet to dig into that request and that will be done during the formal application process.

Mayor Arndt asked if the use of grey water has ever been considered. McDowell replied that is being considered for the park areas and rather than having large lawns, the plan is for homes to have small xeriscaped areas. Mayor Arndt noted she was just curious.

Councilmember Gutowsky requested more information on the live-work units. McDowell replied the units have a ground floor space dedicated to an office or in-law suite perhaps with the residential floor space above.

Councilmember Canonico commented on the possibility of a grade-separated crossing and asked if there is a plan for the planned trail that will connect the west subdivisions to the east side park going across Ziegler. McDowell replied options are being evaluated, though the current issues are how close Ziegler is to the Fossil Creek Reservoir Inlet Ditch and groundwater concerns. McDowell stated a light is currently planned at William Neal and Ziegler and stated an overpass, or grade-separated crossing, would be costly and block views.

Birks stated a pedestrian overpass may be something that is better handled as part of the land use conversation, though an overpass or any pedestrian improvement could certainly be funded by a metro district.

DRAFT

Angela Hygh, land use counsel for the applicant, stated these types of improvements will be included in the land use submittals and noted the applicant will work with staff to ensure all requirements are met and options are considered.

Councilmember Potyondy asked if the minimum requirements are already extraordinary as compared to other communities or if there is an expectation that projects exceed the minimum requirements. Birks replied he would like to follow up on that, but stated Fort Collins is unique in having a very clear and stated requirement for extraordinary public benefits in its metro district policy and is unique in having a residential scoring system, which could be considered extraordinary in itself. Birks stated the minimum standard is what staff uses to determine when a project is ready for Council to start providing comment.

Councilmember Gutowsky asked about the improved bus stop on William Neal. McDowell replied the bus line will be extended into the project in order to serve the community park and the stop will include benches and a shelter.

Councilmember Gutowsky asked about the timeline for completion of that part of the project. McDowell replied that part of the project will be the first part off William Neal to be developed, though no formal commitments to builders other than McDermott have been made. Additionally, McDowell noted the affordable housing will be constructed near the beginning of the development and will be placed in the heart of the site.

Councilmember Ohlson commented on the history of metro districts in Fort Collins and asked if the energy requirements will be changed for metro districts given the bar is higher in the Code, though he acknowledged it would be unfair to change the requirements for this project given it is already in process. Birks replied conversations have begun about changing that part of the policy, perhaps in a way that is dynamic to allow it to always stay ahead of the Code.

Councilmember Ohlson asked about the impacts of large property tax increases for metro districts. Birks replied the impacts would be the same as for any governmental entity that collects property taxes, though there is a mill cap and debt cap for metro districts; therefore, those increases would accelerate the metro district paying off the debt it issued with bonds.

Councilmember Ohlson stated he did not believe this should be voted upon this evening, though he will give it a fair and objective look moving forward. He requested the applicant team give the utmost consideration to the protection of natural features and habitats and noted consolidating wetlands is not the best environmental approach.

Mayor Arndt stated this development appears to adhere to Fort Collins' values in terms of open space, the integration of affordable housing, and variety of housing types. She expressed thanks for the work of prior Councils and staff to develop the metro district policy.

Councilmember Ohlson requested affirmation that Council does not need to take any formal action unless desired. Birks replied there is no requirement to take formal action; the purpose of the hearing is for the applicant and staff to get Council's preliminary thoughts for moving forward with the formal application process.

***No Action taken.***

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## OTHER BUSINESS

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

Councilmember Pignataro commented on a meeting she recently attended discussing the newly designated pollinator district in Manitou Springs and stated she has information on what it would take to certify Fort Collins as well. She requested a memo to see what would be required. City Manager DiMartino replied staff will put together an assessment and initial memo.

Councilmember Potyondy requested more information on commercial breeding ordinances passed by other municipalities. Mayor Arndt noted a memo had already been provided and asked if additional information is needed.

Councilmember Pignataro stated she is curious to know if shutting down pet stores leads to the closing of puppy mills and stated she would like more information on that topic.

## Q) ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 8:35 p.m.

_____
Mayor

ATTEST:

_____
Interim City Clerk

DRAFT

**April 16, 2024**

# AGENDA ITEM SUMMARY
City Council

## STAFF

Lawrence Pollack, Budget Director

## SUBJECT

**Second Reading of Ordinance No. 049, 2024, Reappropriating Funds Previously Appropriated in 2023 but Not Expended and Not Encumbered in 2023.**

## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on April 2, 2024, reappropriates monies in 2024 that were previously authorized by Council for expenditures in 2023 for various purposes. The authorized expenditures were not spent or could not be encumbered in 2023 because:

● There was not sufficient time to complete bidding in 2023 and therefore, there was no known vendor or binding contract as required to expend or encumber the monies; or

● The project for which the dollars were originally appropriated by Council could not be completed during 2023 and reappropriation of those dollars is necessary for completion of the project in 2024.

Additionally, there may have been sufficient unspent dollars previously appropriated in 2023 to carry on programs, services, and facility improvements in 2024 for those specific purposes.

In the above circumstances, the unexpended and/or unencumbered monies lapsed into individual fund balances at the end of 2023 and reflect no change in Council policies.

Monies reappropriated for each City fund by this Ordinance are as follows:

| | |
|---|---|
| General Fund | $2,498,249 |
| Cultural Services Fund | 55,000 |
| Recreation Fund | 251,064 |
| Museum Fund | 61,265 |
| Transportation Service Fund | 1,288,625 |
| Water Fund | 52,500 |
| Date & Communications Fund | 390,600 |
| Total | $4,597,303 |

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

## BACKGROUND / DISCUSSION

The Executive Team has reviewed the Reappropriation requests to ensure alignment with organization priorities and the Budget staff reviewed the requests to verify that all met qualification requirements**.** The 2024 Reappropriation requests are as follows, by fund:

**GENERAL FUND**

**City Clerk's Office**

**1) City Clerk Elections - $188,375**

Purpose for funds: This offer was developed to fund the 2023 regular municipal election on the presumption that a regular municipal election would occur in April of 2023 and would be conducted by the City Clerk's Office. Council put a ballot question before the voters in November 2022 which changed the regular municipal election date to November in odd numbered years.

Reason funds not expensed in 2023: The 2023 election expenditures resulted in cost savings due to the election being coordinated with Larimer County in a November election and not conducted by the City.

The remaining funds are requested to be reappropriated to support the 2024 coordinated election, which will include the City's anticipated sales tax renewal ballot questions. A 2024 election was not fully budgeted in the 23-24 BFO cycle.

**2) Legislative Management System Implementation - $27,945**

Purpose for funds: A legislative management system provides the backbone for how information about policy decisions gets to and from the Council. Currently, the City uses an agenda management system that is past its useful life for receiving ongoing support and updates from the vendor, and is not as robust as newer solutions on the market. Implementation of a new legislative management system will provide the public with greater access to City legislative information, provide time savings for staff and the Clerk's Office, and decrease demands on IT for setup and support.

Reason funds not expensed in 2023: The City's competitive selection process took place in the second half of 2023, resulting in a vendor engagement and the start of software implementation in first quarter of 2024. Now with a vendor under contract, first-year costs have been priced at $127,945, as compared to the original first-year project estimate of $150,000 in 2023. No expenditures occurred in the first year of the project budget. This request is to reappropriate $27,945 of the unspent $150,000 to increase the 2024 budget to meet the new first-year software implementation cost. Year-two and annual ongoing costs of the Legislative Management System have been priced at $89,600, as compared to the original project estimate budget of $100,000 ongoing.

**Community Development and Neighborhood Services**

**3) Administration of 1041 Regulations - $320,000**

Purpose for funds: Ordinance 2023-076 was adopted in June 2023 to ensure the City had adequate oversight of 1041 regulations by retaining the services of a third-party consultant to assist in the review of proposals and permit applications to conduct designated activities or develop within a designated area, and to conduct follow up inspections and monitoring related to issued permits.

Reason funds not expensed in 2023: Although several Request For Proposals (RFP) were initiated, followed by local vendor interviews, an RFP re-scoping exercise, direct outreach to out-of-state companies, and timeline extensions to the RFP, staff did not receive any proposals to contract services for this program.

On January 4, 2024, the City Manager approved a hiring exception for a Classified FTE (1) for the purpose of administering 1041 regulations.

**4) Rental Housing Services - $65,000**

Purpose for funds: Last year, Council passed an ordinance that will require most housing providers to register their rental properties annually (exceptions are mobile home parks and owner-occupied rentals). They also approved staffing to develop educational opportunities and provide resources for both housing providers and tenants. This is an exciting opportunity for the City to be a partner to housing providers and tenants, and an active supporter of quality affordable rental housing in the community. This budget was designed to cover the startup costs of the program, including materials for new staff, for community consultants to build equity and inclusivity into the program, and to create communication materials for both housing providers and tenants.

Reason funds not expensed in 2023: Funding appropriation was delayed and hiring of the Rental Housing Manager was not complete until October of 2023, which left little time for expenditure of funds. These startup funds are critical for ensuring that the rental housing program is a success. If these funds are not appropriated, we will have reduced capacity for education and engagement with the thousands of community members who are part of the rental market. These funds are pivotal to the start-up phase of the program which was built to have higher hourly and consultant needs.

**5) Digital Transformation (Licensing, Permitting, and Code Enforcement) - $757,000**

Purpose for funds: This project represents a vital opportunity to simplify, standardize, and improve processes in preparation for a dramatic and sustained increase in community demand for licensing and permitting. The current licensing and permitting environment relies on a patchwork of Accela-based systems, spreadsheets, paper applications, and online forms. This means that customers must navigate multiple different systems and requirements depending on the specific license/permit they are seeking. In addition, process improvements and system changes within Accela currently require the investment of significant funding and rely on extensive IT support and use of third-party contractors. This initiative will include simplifying and standardizing business processes alongside the evaluation of optimal digital solutions to build a more holistic, customer-centered software ecosystem that incorporates a wider range of internal users. The result will be implementation of a more holistic, customer-centered software ecosystem to increase efficiency, advance accessibility, and improve the overall customer experience.

Reason funds not expensed in 2023: Project funds were partially encumbered ($170,000) and spent ($22,500) in 2023 to procure an additional contractor at the strong recommendation of the City's IT department, since the scope of the desired software functionality expanded significantly to include the needs of Utilities, Clerk, IT, and Community Development within this "digital transformation" priority. This contractor was utilized to synthesize needs from these multiple parties, to better ensure that the future software solution meets the project's vision, guiding principles, and key success factors, ultimately providing a more consistent user experience, and better internal coordination and efficiencies. With the expansion of the project scope, the selection contractors helped assemble a 600-page RFP which was released on January 12, 2024; and closed February 16, 2024. Initial vendor evaluation phase is in progress with procurement anticipated in May. The funds requested for reappropriation in 2024 are expected to be encumbered in 2024 with the selected vendor, and the work is expected to extend into 2025. The team anticipates that the remaining budget will be fully utilized for this phase of configuration and implementation. Future budget appropriations are anticipated for any expansion of the scope, additional implementation phases, necessary change management tasks, and ongoing maintenance and subscriptions for user and administrator accounts.

**Economic Health Office**

**6) Placer AI Software - $32,750**

Purpose for funds: Placer AI is a location-based analytics company. Charting both foot and vehicular traffic, Placer data provides insight into how people move through the City. This data will be used to better understand and mitigate capital project construction impacts on local business, as well as assist in other economic development efforts like site selection and business retention.

Reason funds not expensed in 2023: This reappropriation is necessary because contract negotiations between Placer AI, City Purchasing, and CAO were not completed before the end of 2023.

**7) Small Business Revolving Loan Fund - $25,000**

Purpose for funds: The accumulated economic development fund was set aside to create the City of Fort Collins Revolving Loan Fund for Small Businesses and Startup companies operating in Fort Collins. The City will use the funds to support program access to capital for small businesses in Fort Collins city limits, including those that have historically not had access to traditional financial capital markets.

Reason funds not expensed in 2023: $25,000 is set aside each year to cover administrative and marketing costs of the third-party and City Economic Health Office. The Revolving Loan Fund was not launched at the end of Q4, 2023, so these funds need to be reappropriated and held for a Q1/Q2 2024 launch of the fund.

**Emergency Preparedness and Security (EPS)**

**8) Security Technology for Emergency Preparedness - $13,456**

Purpose for funds: This offer provides funding for security technology upgrades to Community Services public facilities, with priorities being set by Community Services staff in conjunction with EPS. Specifically, this reappropriation request is to finish security camera infrastructure projects at Northside Aztlan, Museum of Discovery, and the Lincoln Center.

Reason funds not expensed in 2023: Security cable installation at the three forementioned public facilities was planned and contracted in 2023. However, the projects were not completed until late 2023 and early 2024 due to schedule coordination with contractors. Three invoices for the completed work have been received and are scheduled to be paid in 2024, totaling $13,456.

**Environmental Services**

**9) CivicSpark Fellowship for Our Climate Future - $22,800**

Purpose for funds: This Fellowship provides an opportunity for an early-career professional to work full-time in local government, partially subsidized by the federal AmeriCorps program, through a nonprofit called CivicWell. The City's contribution is roughly the same as what has been historically allocated for a part-time program assistant, thanks to the partnership with CivicWell. Typically, the 11-month Fellowship runs from September to August of the following year and there is a slight discount if the funds are paid in full at the start of the contract period.

Reason funds not expensed in 2023: This cycle, the placement was shortened to a three-quarter placement, beginning in January 2024. This resulted in a timing issue for funding held in 2023 for the 2023-24 cohort. We are requesting the 2023 funds be reappropriated to support the original request that historically would have been funded in full beginning in Q4, 2023.

**Municipal Court**

**10) Larimer County Jail Contract - $18,260**

Purpose for funds: Through an annual contract with Larimer County, the City of Fort Collins is provided joint use of the Jail and Larimer County Sheriff services. Instead of paying per bed space used, per bond issued at the jail, and per in-custody hearing held, the City pays a set price for the use of these services. In 2023, City reserved two bed spaces per day to ensure there was space available if a Municipal Court defendant upon conviction of an applicable municipal ordinances or a finding of contempt of court by a Judge was sentenced to serve jail. The Court held approximately 140 in-custody hearings involving over 800 cases and used approximately 900 jail bed spaces in 2023. Accordingly, the City's reserved bed spaces for 2024 has increased from two to three bed spaces per day, as it had been prior to 2023.

Reason funds not expensed in 2023: The 2023 Annual Jail Services contract with Larimer County totaled $106,500, while the Municipal Court budgeted $125,000 in 2023 for this service. For 2024, the contract was raised to $195,000 while our budget is only $130,000. To offset this difference, we are requesting the 2023 savings to be reappropriated to the 2024 budget.

**11) Opioid Relief Fund - $75,000**

Purpose for funds: To date, the City has received a total of $170,169 as part of a national opioid settlement. The Council Finance Committee and City Council supported an appropriation of $75,000 in August 2023 to establish a municipal drug court program that would provide evidence based problem-solving court practices. No expenditure occurred in 2023 as part of the new Drug Court program.

Reason funds not expensed in 2023: Municipal Court is in the process of hiring 1 FTE Probation Officer. Because this program is one of the first in its kind for a Municipal Court in Colorado, the Court is carefully vetting potential candidates and their qualifications to make sure that the creation of this program is considered a best practice from the start. The position was originally planned to start in 2023 but is now anticipated to start in the second quarter of 2024.

**Police Information Systems**

**12) Northern Colorado Regional Communication Network (NCRCN) Radio Redundancy- $30,000**

Purpose for funds: This reappropriation is for additional needed radio infrastructure to create redundancy to the communication system within the Northern Colorado Radio Communication Network.

Reason funds not expensed in 2023: In 2023, ORD 41 was approved to fund needed repairs on the radio towers on top of Poudre Valley Hospital and just north of Horsetooth Mountain, however, there is a final phase of this project that is necessary to close weaknesses in the communication system. This last phase will create redundancy between the 911 call center and Platte River Power Authority so that communication could continue if the existing fiber node was not functioning. This will be completed by Q3 of 2024.

**Police Office of the Chief**

**13) City Give - Rifle Plates - $102,563**

Purpose for funds: This reappropriation is for the remaining portion of a charitable gift designated by the donor as a demonstration of appreciation for Police Services to be used toward personal protection equipment.

Reason funds not expensed in 2023: In 2022 and 2023 Police Services purchased personal protection equipment for all applicable officers. The Chief of Police continues to explore ways to spend the remaining amount that will meet the current needs of Police Services and also honor the donor’s designated intent.

**14) Santa Cops Donation - $500**

Purpose for funds: In 2023 ORD 093 was approved by Council as a part of the City Give program. This donation was made by Santa Cops to help purchase gifts for kids in need during the holidays.

Reason funds not expensed in 2023: Changes in programming resulted in the donation not being deployed in 2023. The funds will be used in 2024 per the designated intent.

**Police Patrol**

**15) Police Handheld Radios - $620,000**

Purpose for funds: In 2023 ORD 108 was approved by Council in September to purchase handheld radios for Police Services as a critical piece of equipment to be effective in providing safety for the community.

Reason funds not expensed in 2023: Because of the size of the order that was placed in the later part of 2023 and the extensive process to get all of the radios ready for use, the payment will not be made until the early part of 2024.

**Social Sustainability**

**16) Electrical Vehicle (EV) Infrastructure Offset Credits - $199,600**

Purpose for funds: These funds address the cost differential between current Colorado Housing and Finance Authority requirements and the updated Building Code requirements for Electric Vehicle (EV) infrastructure for affordable developments. The program provides cost-sharing of these additional infrastructure requirements by providing credits of flat fees calculated per project based on eligible parking spaces.

Reason funds not expensed in 2023: Two developments were awarded these EV credits in 2023. All future affordable housing developments will be built to the standards in the 2021 Building Code and will therefore qualify for this incentive. Amounts will vary depending on the number of parking spaces per development.

**CULTURAL SERVICES & FACILITIES FUND**

**Cultural Services – Gardens on Spring Creek**

**17) The Gardens on Spring Creek Nutrien Donation - $55,000**

Purpose for funds: Nutrien donated $100,000 to The Gardens on Spring Creek in 2023 which is designated for supporting healthy eating programs, including exterior capital improvements of the Outdoor Teaching Kitchen at The Gardens.

Reason funds not expensed in 2023: The donation from Nutrien was appropriated in April 2023. The donor did not place a deadline for expending the funds. In some cases, in 2023, purchases were held up trying to get pricing quotes from vendors. Gardens staff have been looking at best uses for the funds going forward.

In 2023 The Gardens used the donation funds to hold cooking classes for adults and for summer camp, purchased supplies for the outdoor kitchen, and completed minor capital work including new locks, concrete and engraving work, and water heater and weather-stripping repairs. The Gardens is working with City Give so that the next time a donation of this type is received the funds will be put into a non-lapsing business unit.

**RECREATION FUND**

**Recreation**

**18) EPIC Asset Repair & Replacement - $251,064**

Purpose for funds: 2023 Offer 43.16 proposed three projects to address severe facility maintenance issues at EPIC. The offer was then scaled down to include only one of the projects to address drainage of the EPIC Pool deck. Low spots and inadequate slopes cause water to create puddles and not drain properly. To improve the safety and comfort of pool users it is necessary to rework the deck tile so water that splashes onto the deck will flow to one of the existing deck drains. EPIC was designed to be a competitive pool, but because of this issue some outside groups no longer want to use EPIC for swim meets as it does not meet their standards.

While the pool deck remains a high priority, further assessment is needed to capture the full scope of repairs that are necessary along with budgeting for the total repair. We would like to shift these funds in 2024 to the second priority listed in Offer 43.16 of replacing the flooring that surrounds the ice rinks.

Reason funds not expensed in 2023: Project became underfunded due to escalated costs in 2023. $13,316 had been spent on Project Management fees assessing the deck in 2023.

**MUSEUM FUND**

**Cultural Services – FC Museum of Discovery**

**19) The Museum of Discovery Artifact Housing Furniture - $61,265**

Purpose for funds: This offer will provide funds to purchase and install a collections storage system and special archival quality equipment and supplies at the Fort Collins Museum of Discovery (FCMoD). This enhancement includes a one-time expense for the purchase, delivery and installation of shelving and cabinetry custom designed for specific types of artifacts and contract staff to move and rehouse artifacts using specialized supplies including general conservation materials such as ethafoam, buffered tissue, and acid free archival boxes.

As the artifact collection continues to grow the need to complete the buildout of the storage furniture is reaching critical mass. Approximately half of the collection's storage furniture is installed and is safely housing historical collections owned by the City of Fort Collins. It is important to properly house historic collections like the one held at FCMoD to industry standards to preserve history and to help the community to tell stories of all and our place in time. The Archive & Collections are a valuable community resource, they are accessible and free for any member of the public.

Reason funds not expensed in 2023: The furniture was received in late 2023 and the Museum needs to use the remaining funds for staffing to set up the new furniture and make sure that all artifacts are properly handled and stored.

**TRANSPORTATION FUND**

**Streets**

**20) Roof Replacement for Salt Barn - $185,000**

Purpose for funds: The purpose of this request is to reappropriate $185,000 for the Streets Department Salt Barn roof replacement. The existing EPDM (ethylene propylene diene terpolymer) roof has been leaking, the membrane has become de-laminated from the substrate, and the roof is well past its life. Additionally, the interior leaks of the roof at the perimeter; the scuppers and downspout collector heads are

also leaking. These leaks and the freeze/thaw cycling during the winter months are causing damage to the interior and exterior of the brick structure of the historic building.

Reason funds not expensed in 2023: The Streets Department and Operation Services conducted a thorough review of concerns arising from the roof of the Salt Barn due to the severe weather events during the Spring and Summer of 2023. The structural age of the facility required an asbestos test prior to obtaining a quote, adding additional time to the project. Once the quotes were received the total cost of the roof exceeded the RFP work order on-call max of $120,000. As a result, an RFP or bidding process needs to be completed for the roof which could not be completed by the end of 2023.

**21) Centre Avenue Paving Project - $657,000**

Purpose for funds: The purpose of this request is to reappropriate $657,000 from the 2023 Street Maintenance Program (SMP) budget to cover the costs of the Centre Avenue project which was scheduled to be completed in 2023. This project includes an asphalt overlay of three streets: Centre Avenue between Prospect Road and Worthington Circle, Worthington Avenue between Centre Avenue and Drake Road, and Research Boulevard between Centre Avenue and Drake Road.

Reason funds not expensed in 2023: The Centre Avenue project was scheduled to be repaved in 2023 during the summer when Colorado State University (CSU) was on break to minimize the impact to the students and faculty since this project is adjacent to the CSU campus. The project was postponed to 2024 to coordinate with the pedestrian and bicycle underpass project that goes under Prospect Road (just west of Centre Avenue). The Prospect Road underpass project was delayed and completed as CSU returned to school in August. To minimize the traffic impact to CSU, the Centre Avenue project was postponed to the following year.

**22) MAX/BRT Bus Line Pavement Upgrade - $366,625**

Purpose for funds: The purpose of this request is to reappropriate $366,625 from the 2023 Street Maintenance Program (SMP) budget to cover the costs of the Mason BRT/ MAX project which was scheduled to be completed in 2023. The work was not completed north of Mountain Avenue to Maple Street in 2023.

Reason funds not expensed in 2023: This project was delayed due to contract negotiations with BNSF. Work ceased as the winter and colder temperatures shut down the project towards the end of the 2023 construction season. This final phase of the project includes an asphalt overlay and concrete improvements on Mason Street between Mountain Avenue and Maple Street. These last two blocks of work will complete the approved 2023 Asset Management Enhancement Offer 7.12 – Street Maintenance Program – MAX/ BRT Bus Line – Downtown Concrete Pavement Upgrade project.

**Traffic**

**23) Neighborhood Traffic Mitigation Program Project Construction - $80,000**

Purpose for funds: Traffic in neighborhoods can affect the quality of life for residents, bicycles, pedestrians, as well as drivers. The Neighborhood Traffic Mitigation Program is a collaborative effort between neighborhoods and staff to implement traffic calming options. In 2023, Traffic received $150,000 funding for traffic calming devices and an additional $65,000 funding for medians and/or pedestrian refuge islands, sidewalk curb extensions and traffic diverters in order to achieve a more "complete streets" approach to traffic calming. The offer included funding for professional (consulting) services and funding for the construction of traffic mitigation devices on neighborhood streets. Traffic is requesting $80,000 to be re-appropriated from the 2023 budget to construct these mitigation improvements.

Reason funds not expensed in 2023: Due to staffing changes and consultant availability, design of the mitigation improvements for Stuart and Stover was not started until fall. Survey and design will be completed in the Spring of 2024, and the construction will start in the summer/fall.

**WATER FUND**

**Utilities Water Resources**

**24) Northern Integrated Supply Project (NISP) Response & Engagement - $52,500**

Purpose for funds: Since 2008, the City has developed and contributed science-based input to the various planning stages of the Northern Integrated Supply Project (NISP) project with the goal of minimizing adverse impacts on the Poudre River and the Fort Collins community. The City's efforts have resulted in positive changes to this project which are reflected in the NISP operations and mitigation plan. Funding from this 2022 offer is intended to provide technical consulting and engineering support to inform the City's engagement in future NISP planning efforts. Specifically, staff will engage in NISP adaptive management and master planning stakeholder processes; however, additional technical and consulting support will be needed to achieve the desired outcomes. Funds from this offer would support: 1) Water resources engineering and analysis to advise the NISP flow operations and ensure the proposed flow mitigation program is realized; 2) Advisement for the development of NISP's proposed Master Plan and Adaptive Management Program; and 3) Additional discipline-specific representation on technical advisory groups and input for project infrastructure proposed within the City limits.

Reason funds not expensed in 2023: The NISP project Record of Decision (ROD) was released in late 2022, and Northern Water's Adaptive Management and River master Planning discussions with Poudre basin stakeholders did not commence until Q3 of 2023. To date, however, there has only been one meeting to restart the planning process. More active engagement is expected in 2024, per communication from Northern Water. Staff will continue to respond to the project timeline and engagement process that Northern Water develops for their project. Funds from this budget offer will be used for the original intended purpose of developing science-based input with the assistance from technical and engineering consultants, on how the NISP project impacts should be managed, mitigated and monitored.

**DATA AND COMMUNICATIONS FUND**

**Information Technology**

**25) GIS Cloud Modernization - $90,600**

Purpose for funds: The GIS Cloud Modernization support efforts to modernize the existing ArcGIS Enterprise Portal implementation. This work will simplify and stabilize the existing platform in order to reduce the support required from IT to maintain this system. This also frees resources to focus on higher value work. The modernization will reduce the support needed for the GIS infrastructure while ensuring the stability, availability, and security of the environment for its 1121 users. Migrating existing solutions onto ArcGIS Online where appropriate, establishing GIS Governance, implementing advanced monitoring, deprecating outdated applications, and upgrading to current versions of software will allow for reduced confusion and application fatigue. There is a need to work with other teams, including IT Security, to make sure this solution meets all requirements.

Reason funds not expensed in 2023: These funds were not fully expended in 2023, as the team spent the beginning of the year focusing on procuring an Esri Advantage Program that provides guidance and assistance with accomplishing the identified modernization efforts. Efforts in 2023 were focused on the first stage of upgrading the ArcGIS Enterprise platform to the current version. As this is a planned multi-year project, activities in 2024 will be focused on establishing governance for GIS, implementing advanced monitoring of the system, deprecating the use of applications that are no longer supported by Esri, and continuing the process to upgrading to the current versions of all applications on the platform.

**20) ERP System Replacement - $300,000**

Purpose for funds: This offer will identify the components necessary for the City to implement a modernized ERP ecosystem, accounting for all readiness components, and will focus on the first two phases necessary to transform our business processes into a modern solution while minimizing customizations that exponentially increase implementation and support costs. To succeed this must become a business-led, technology-enabled transformation and we must plan this modernization in six key phases: 1) discovery and planning, 2) business process transformation, 3) design and development, 4) change management and training, 5) testing and implementation, and 6) operational support. Maintaining our current platform amplifies the need for high-touch, manual support. A new ERP solution will implement industry best practices necessary to standardize and streamline processes, reduce costly customization, address talent resiliency while improving our risk management, and disaster recovery practices, and ensure compliance with our pending end-of-life support. Also, implementing a standard solution will reduce the 32+ interfaces necessary to support today.

Reason funds not expensed in 2023: These funds were not expended in 2023, as the team was focusing efforts on aligning with the following statement from the original offer: "To succeed, this must become a business-led, technology-enabled transformation…" Efforts in 2023 were focused on transforming this into a business-led plan by coordinating with outside vendors and multiple counties and municipalities, such as Alight, Denver, Boulder, and Kitsap County, who walked Finance, HR, and IT staff through their unique experiences with previous implementations to help the City prepare for ERP preparation and replacement, before the City spends any of the allocated and future funds.

For 2024, continuation of this work includes hiring a consultant to facilitate a collaboration effort between the key City departments to provide strategic planning, readiness, change management planning, business process review, data considerations, and other key initiatives required to develop and support the business processes to be served by a future ERP system.

## CITY FINANCIAL IMPACTS

This Ordinance increases 2024 appropriations by $4,597,303. A total of $2,498,249 is requested for reappropriation from the General Fund, $1,288,625 is requested from the Transportation Fund, and $810,429 from other funds. Reappropriation requests represent amounts budgeted in 2023 that could not be encumbered at year-end. The appropriations are from prior year reserves.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

## PUBLIC OUTREACH

None.

## ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration

ORDINANCE NO. 049, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REAPPROPRIATING FUNDS PREVIOUSLY APPROPRIATED IN
2023 BUT NOT EXPENDED AND NOT ENCUMBERED IN 2023

A. City Council authorized expenditures in 2023 for various purposes in the General Fund, the Cultural Services Fund, the Recreation Fund, the Museum Fund, the Transportation Services Fund, the Water Fund, and the Data and Communications Fund, portions of which were not spent or encumbered in 2023.

B. Article V, Section 11 of the City Charter provides that all appropriations unexpended or unencumbered at the end of the fiscal year lapse to the applicable general or special fund, unless it is an appropriation for capital projects or for federal, state, or private grants or donations that has been previously designated by City Council as a non-lapsing appropriation.

C. 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.

D. The City Manager has recommended the appropriations described herein and has determined that the amounts to be appropriated as described herein are available and currently unappropriated and will not cause the total amount appropriated in the Funds as described herein to exceed the current estimate of actual and anticipated revenues and all other funds to be received in those Funds during this fiscal year.

E. It is in the best interests of the City and its residents to re-appropriate funds for the expenditures below, in furtherance of these expenditures and their respective public purposes authorized in 2023 for which such appropriated funds were not expended and not encumbered during 2023.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from prior year reserves in the General Fund the sum of TWO MILLION FOUR HUNDRED NINETY-EIGHT THOUSAND TWO HUNDRED FORTY-NINE DOLLARS ($2,498,249) to be expended in the General Fund for the following purposes:

| | |
|---|---|
| City Clerk Elections | $188,375 |
| Legislative Management System Implementation | $27,945 |
| Administration of 1041 Regulations | $320,000 |
| Rental Housing Services | $65,000 |

| | |
|---|---|
| Digital Transformation (Licensing, Permitting, and Code Enforcement) | $757,000 |
| Placer AI SaaS for EHO | $32,750 |
| Small Business Revolving Loan Administrative Fund | $25,000 |
| Security Technology | $13,456 |
| CivicSpark Fellowship for Our Climate Future | $22,800 |
| Larimer County Jail Contract | $18,260 |
| Opioid Relief Fund | $75,000 |
| NCRCN radio redundancy | $30,000 |
| City Give Rifle Plates | $102,563 |
| Santa Cops Donation | $500 |
| Police Handheld Radios | $620,000 |
| EV Infrastructure Offset Credits | $199,600 |
| GENERAL FUND TOTAL | $2,498,249 |

Section 2. There is hereby appropriated from prior year reserves in the Cultural Services Fund the sum of FIFTY-FIVE THOUSAND DOLLARS ($55,000) to be expended in the Cultural Services Fund for the following purposes:

| | |
|---|---|
| The Gardens on Spring Creek Nutrien Donation | $55,000 |
| CULTURAL SERVICES FUND TOTAL | $55,000 |

Section 3. There is hereby appropriated from prior year reserves in the Recreation Fund the sum of TWO HUNDRED FIFTY-ONE THOUSAND SIXTY-FOUR DOLLARS ($251,064) to be expended in the Recreation Fund for the following purposes:

| | |
|---|---|
| EPIC Asset Repair & Replacement | $251,064 |
| RECREATION FUND TOTAL | $251,064 |

Section 4. There is hereby appropriated from prior year reserves in the Museum Fund the sum of SIXTY-ONE THOUSAND TWO HUNDRED SIXTY-FIVE DOLLARS ($61,265) to be expended in the Museum Fund for the following purposes:

| | |
|---|---|
| The Museum of Discovery Artifact Housing Furniture | $61,265 |
| MUSEUM FUND TOTAL | $61,265 |

Section 5. There is hereby appropriated from prior year reserves in the Transportation Services Fund the sum of ONE MILLION TWO HUNDRED EIGHTY-EIGHT THOUSAND SIX HUNDRED TWENTY-FIVE DOLLARS ($1,288,625) to be expended in the Transportation Services Fund for the following purposes:

| | |
|---|---|
| Roof Replacement for Salt Barn | $185,000 |
| Centre Avenue Paving Project | $657,000 |
| MAX/BRT Bus Line Pavement Upgrade | $366,625 |

| | |
|---|---|
| Neighborhood Traffic Mitigation Program Project Construction | $80,000 |
| TRANSPORTATION SERVICES FUND TOTAL | $1,288,625 |

Section 6. There is hereby appropriated from prior year reserves in the Water Fund the sum of FIFTY-TWO THOUSAND FIVE HUNDRED DOLLARS ($52,500) to be expended in the Water Fund for the following purposes:

| | |
|---|---|
| Northern Integrated Supply Project (NISP) Response & Engagement | $52,500 |
| WATER FUND TOTAL | $52,500 |

Section 7. There is hereby appropriated from prior year reserves in the Data & Communications Fund the sum of THREE HUNDRED NINETY THOUSAND SIX HUNDRED DOLLARS ($390,600) to be expended in the Data & Communications Fund for the following purposes:

| | |
|---|---|
| GIS Cloud Modernization | $90,600 |
| ERP System Replacement | $300,000 |
| DATA & COMMUNICATIONS FUND TOTAL | $390,600 |

Introduced, considered favorably on first reading on April 2, 2024, and approved on second reading for final passage on April 16, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: April 26, 2024
Approving Attorney: Ryan Malarky

**April 16, 2024**

# AGENDA ITEM SUMMARY
City Council

## STAFF

Jonathan Piefer, Senior Real Estate Specialist
Ralph Campano, Real Estate Services Manager
Matt Simpson, Civil Engineer III

## SUBJECT

**Second Reading of Ordinance No. 050, 2024, Approving the Conveyance of a Temporary Construction Easement for the Construction of Permanent Stormwater Improvements on City Property to DHIC-Enclave, LLC.**

## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on April 2, 2024, approves an Ordinance that would permit the conveyance of a Temporary Construction Easement (the "Easement") on approximately 4.36 acres (189,996 sf) of City property known as the Redwood Detention Pond and the Redwood Channel (collectively, the "City Property") to DHIC – Enclave, LLC ("Developer"), in exchange for the construction of permanent stormwater master plan improvements on the City Property.

Please note that this Second Reading Agenda Item Summary has been amended to address concerns brought up by Councilmember Ohlson at First Reading (see below).

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

## BACKGROUND / DISCUSSION

**Redwood Detention Pond and Redwood Channel**

A portion of the City Property was dedicated to the City for public use on June 7,1977, as part of the Replat of Evergreen Park Second Filing (the "Redwood Detention Pond"). Redwood Detention Pond is a regional detention pond currently serving various properties in the Dry Creek Basin. Redwood Detention Pond currently provides stormwater runoff detention, water quality treatment, and a stormwater outfall for new and existing developments in the area. Approximately 54 acres of existing developed area within the City drain to the existing Redwood Detention Pond. The enlargement of the existing Redwood Detention Pond is specified in the Northeast College Corridor Outfall plan (NECCO) and will provide important flood protection to existing residences immediately south of the existing Redwood Detention Pond as well as flood protection to southern portions of the Dry Creek Basin.

The other portion of the City Property was purchased by the City on July 20,1990, from Century Bank, and is 2.064 acres, more or less (the "Redwood Channel"). The Redwood Channel was originally constructed

to provide stormwater drainage from northern properties into the City Evergreen Detention Pond, located to the east of Redwood Detention Pond.

**Development Project**

The Easement is required as part of the development review process for the Developer's adjoining development known as the Enclave at Redwood, being a 238 unit residential development (the "Development") of approximately 30.178 acres originally purchased by the Developer on December 16, 2021, (the "Developer Property"). The Developer has submitted plans to the City for the Development, which is currently in the final stages of the development review process. A portion of the Development, being approximately 1/5th of the Developer Property, will also use Redwood Detention Pond as an off-site stormwater detention facility.

Under the terms of the Easement, the Developer will enlarge Redwood Detention Pond to provide an additional 6 acre-feet of stormwater storage, but only approximately 1.5 acre-feet are needed for the Development.

**The Easement**

The Easement is required for the Developer to access the City Property to construct the master drainage plan improvements (the "Stormwater Improvements") to the existing Redwood Detention Pond, which include the removal of existing stormwater infrastructure, significant regrading, increased storage capacity, improved functionality, enhanced natural habitat, trees, and vegetation. The estimated total cost of the Stormwater Improvements, excluding revegetation and restoration, is $408,846, which shall be borne solely by the Developer. However, the City will be providing a repayment to the Developer for "enhanced vegetation" and the costs of the storm main(s), and such costs would normally be expenses incurred by the City. The Easement will provide that any damaged surface areas, including any trees, will be restored in accordance with a City plans, specifications, and requirements.

Staff have relied primarily on the Developer and/or its contractors to provide accurate surveys, legal descriptions, and title review for the Easement.

**Easement Valuation**

The City Property is presently valued at approximately $189,996, being $1.00/sf because Redwood Detention Pond is restricted for public use and Redwood Channel is irregularly shaped and non-buildable as a stand-alone parcel. The Easement is valued at $75,998, being 40% of the value of the City Property, or 10% per year of Developer's occupancy for a total of four (4) years. There are no other improvements that will be negatively impacted as part of the Easement because all existing stormwater improvements and landscaping will be replaced according to the Final Development Plans.

## CITY FINANCIAL IMPACTS

Other than staff time and related expenses, the only additional cost to the City associated with the Easement is the waiver of the $75,998 in potential revenue for the Easement, which is offset by the $408,846 estimated total cost of the Stormwater Improvements. The City will reimburse the Developer for the enhanced vegetation and costs of storm mains, which would ordinarily be City expenses.

Staff recommends that the Easement be granted for no monetary consideration because the Fort Collins Utilities ratepayers will be adequately compensated as summarized above.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

This Water Commission does not need to consider or approve of this Ordinance.

## PUBLIC OUTREACH

None.

## QUESTIONS RAISED AT FIRST READING

**Question 1 – Why is the City paying for the "enhanced vegetation' costs?**

The Redwood Detention pond is a regional facility that is owned and maintained by the City. Public Regional Detention ponds are expected to be multi-purpose public amenities, with stormwater flood control, water quality treatment, enhanced vegetation, habitat value and trails, if appropriate. The Redwood Pond is being designed to take this into account and will improve stormwater quality through naturalistic stormwater design and include "enhanced vegetation." A sinuous wetland channel bottom and an extended detention slow release from the outlet structure will provide water quality treatment for existing City areas and provide additional habitat value. Stormwater Staff has worked extensively with City Planning, Environmental Planning, and Forestry Staff to update the previous 2009 concept design to incorporate the wetland bottom as well as preserve an existing emergent wetland and tree grove near the northeast corner of the parcel.

**Question 2 – What does "enhanced vegetation" mean?**

If this were to be a private detention pond, it could be designed as a dryland pond in accordance with the City's "Landscape Design Standards and Guidelines for Stormwater and Detention Facilities." As a City-owned, regional pond, Redwood Detention Pond will have "enhanced vegetation," which is above and beyond standard requirements for a dryland detention pond, and for this facility includes 54 new trees, 92 new shrubs, and four tailored seed mixes. Attached is the Redwood Pond Landscaping plan for reference.

**Question 3 -- What are the shared responsibilities with the developer, the developer's responsibilities, and what is the level of vegetation and habitat, etc. -- in descriptive and financial terms?**

City Code allows for private development to construct City master plan drainage improvements and receive a reimbursement once constructed and accepted. In this situation, the Enclave Development is required to construct the public A2 and A3 stormwater mains, which cross the site, with the option of constructing the adjacent Redwood pond enlargement.

Since the Developer requested to construct the Redwood pond in exchange for the earthwork, the City is only providing repayment for the "enhancement trees and shrubs." The developer is responsible for all other items, including re-establishment of all grasses and wetlands – with the 'four tailored seed mixes' - and all the civil construction.

The following list summarizes the construction cost breakdown and distribution between the City Stormwater department and the Developer. This shows that the majority of the cost for the City regional stormwater pond will be borne by the Developer.

**Developer Costs:**

- Civil work (earth work and concrete work): $408,846 (estimated)
- Revegetation, wetland bottom, and restoration: $72,081 (estimated)
- Temporary irrigation system: $87,000 (estimated)

**City Costs (via post-project repayment):**

- Permanent irrigation system: $52,000 (estimate and being negotiated)
- Water development fees for permanent irrigation service on City parcel - $65,000
- Enhanced Vegetation (54 trees and 92 shrubs): $33,000 (estimate and being negotiated)

In addition, the Developer will owe the City approximately $286,000 in NECCO repayment fees. These repay the City for the design and construction of the NECCO backbone stormwater main and outfall.

## ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration
2. Exhibit A to Ordinance
3. Exhibit B to Ordinance
4. Enclave at Redwood Landscape Plan

ORDINANCE NO. 050, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING THE CONVEYANCE OF A TEMPORARY
CONSTRUCTION EASEMENT FOR THE CONSTRUCTION OF
PERMANENT STORMWATER IMPROVEMENTS ON CITY
PROPERTY TO DHIC-ENCLAVE, LLC

A. The City owns a parcel of real property located southeast and adjacent to the intersection of Conifer Street and Redwood Street as shown and described on Exhibit "A", attached and incorporated herein by reference (the "City Property).

B. DHIC-Enclave, LLC (the "Developer") intends to develop vacant land near the City Property for a 238-unit residential development known as the Enclave at Redwood (the "Development"), and a portion of the Development will use the Redwood Detention Pond as an off-site stormwater detention facility.

C. The Developer has submitted plans for the Development to the City (the "Development Plans"), which have been reviewed by City staff and are in the final stages of the development review process. As part of that process City staff asked the Developer to acquire a temporary construction easement for the Development to allow for certain work within the City Property to improve the Redwood Detention Pond.

D. The temporary construction easement to the Developer covers 189,996 square feet of the City Property as shown and described on Exhibit "B", attached and incorporated herein by reference (the "TCE"). The TCE will allow Developer to enlarge the Redwood Detention Pond to provide approximately 6 acre-feet of additional stormwater storage, while the Development would only require approximately 1.5 acre-feet of storage.

E. The TCE will allow the Developer to access the City Property to construct improvements to the existing Redwood Detention Pond consistent with the City's master drainage plan improvements, including the removal of existing stormwater infrastructure, significant re-grading, increased storage capacity, improved functionality, enhanced natural habitat, trees, and vegetation.

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

G. In addition, Section 23-114 of the City Code requires that any sale or other conveyance of property interests approved under section 23-111(a) be for an amount equal to or greater than the fair market value of such interest.

H. City staff estimates the value of the TCE at $75,998; however, staff also estimates that the work the Developer will do on the City Property in the TCE has a value

of approximately $408,846. While City staff anticipates reimbursing the Developer for a portion of that work for enhanced vegetation and storm mains as part of ordinary City expenses for stormwater, staff has recommended that the City convey the Easements to the Developer for no additional monetary compensation.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Council finds that granting the TCE to the Developer on the terms and conditions described herein is in the best interests of the City.

Section 2. The City Council authorizes the Mayor to execute such documents as are necessary to convey the TCE to Developer on terms and conditions consistent with this Ordinance, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City, including, but not limited to, any necessary changes to the legal description of the TCE, as long as such changes do not materially increase the size or change the character of the interests to be conveyed.

Introduced, considered favorably on first reading on April 2, 2024, and approved on second reading for final passage on April 16, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: April 26, 2024
Approving Attorney: Ryan Malarky

# EXHIBIT A TO ORDINANCE NO. 050, 2024

City Property

**Description:**

**Parcel 1:** 4.02 acres, more or less, located in the S/2 of Section 1, T7N, R69W, 6th PM, Larimer County, Colorado, being more particularly described as Tract A, Replat of Evergreen Park Second Filing recorded June 13, 1977, in Book 1775, Page 584, Clerk and Recorder's Records, Larimer County, Colorado.

**Parcel 2:** 2.064 acres, more or less, located in the E/2 of Section 1, T7N, R69W, 6th PM, Larimer County, Colorado, being more particularly described in that certain Warranty Deed recorded August 31, 1990, at Reception No. 19900039473, Clerk and Recorder's Records, Larimer County, Colorado.

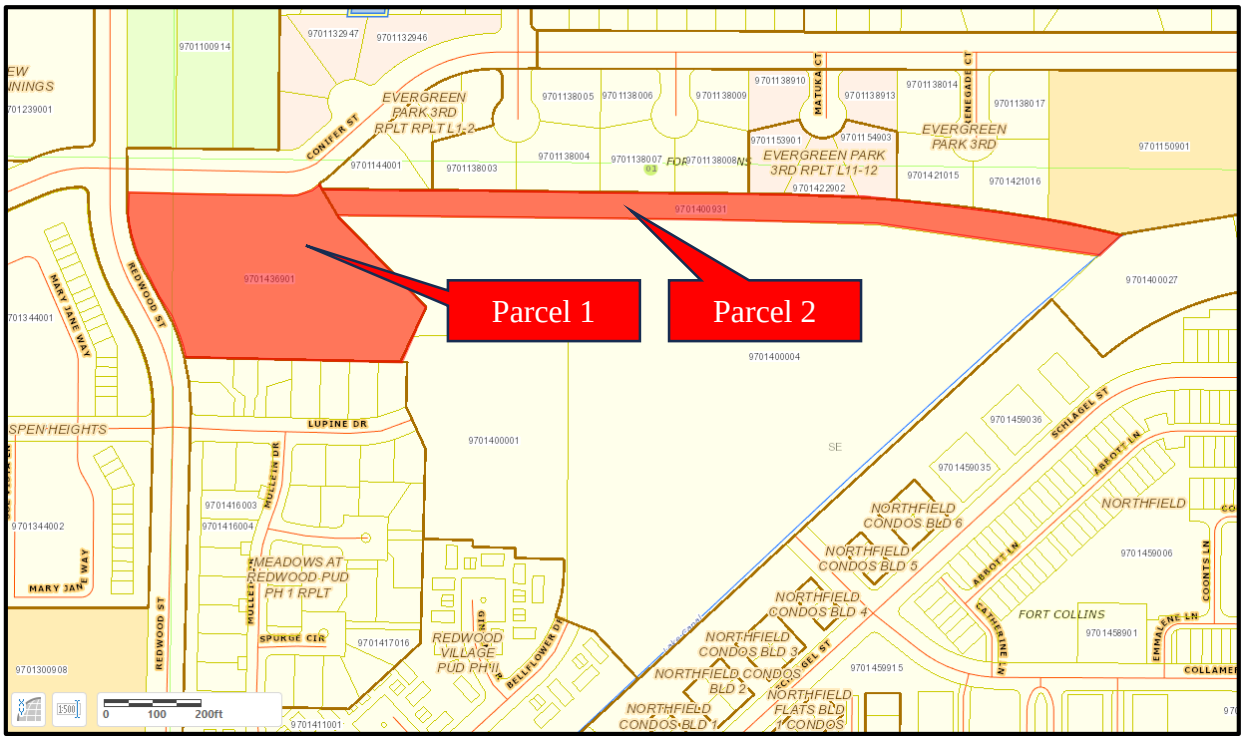
**Location Address:**

Vacant Land located in the S/2 of Section 1, T7N, R69W, 6th PM, Larimer County, Colorado.

**Assessor Parcel Number:**

9701436901 and 9701400931

**Map:**



# SITUATED IN THE SOUTH 1/2 OF SECTION 1, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE 6TH P.M., CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO

A PARCEL OF LAND BEING TRACT A OF THE REPLAT OF EVERGREEN PARK SECOND FILING RECORDED IN BOOK 1775 AT PAGE 584 AND A PORTION OF THAT UNPLATTED LAND AS DESCRIBED IN THAT WARRANTY DEED RECORDED AT RECEPTION NO. 19900039473 IN THE RECORDS OF THE LARIMER COUNTY CLERK AND RECORDER'S OFFICE, SITUATED IN THE SOUTH HALF OF SECTION 1, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** BEARINGS ARE BASED ON THE NORTH LINE OF SAID SOUTHEAST QUARTER OF SECTION 1, MONUMENTED AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER BY A 3.25-INCH ALUMINUM CAP DOWN 0.6 FEET BELOW THE ROAD SURFACE OF REDWOOD STREET, AND AT THE NORTHEAST QUARTER OF SAID SOUTHEAST QUARTER BY A 3.25-INCH ALUMINUM CAP DOWN 0.5' IN A RANGE BOX IN NORTH LEMAY AVENUE, AS BEARING SOUTH 89°06'12"EAST, WITH ALL BEARINGS HEREIN RELATIVE;

**COMMENCING** AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 1; THENCE SOUTH 59°07'33" WEST, A DISTANCE OF 114.26 FEET TO THE NORTHWEST CORNER OF SAID TRACT A AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY OF REDWOOD STREET AND THE SOUTH RIGHT-OF-WAY OF CONIFER STREET, AND THE **POINT OF BEGINNING;**

THENCE ALONG SAID SOUTH RIGHT-OF-WAY OF CONIFER STREET THE FOLLOWING TWO (2) COURSES:

1. THENCE SOUTH 89°08'18" EAST, A DISTANCE OF 365.52 FEET TO A POINT OF NON-TANGENT CURVATURE;
2. THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT AN ARC LENGTH OF 39.30 FEET, SAID CURVE HAVING A RADIUS OF 89.17 FEET, A CENTRAL ANGLE OF 25°15'08", AND A CHORD WHICH BEARS NORTH 75°37'20" EAST A CHORD DISTANCE OF 38.98 FEET TO THE NORTHEAST CORNER OF SAID TRACT A;

THENCE DEPARTING SAID SOUTH RIGHT-OF-WAY AND ALONG THE EAST BOUNDARY OF SAID TRACT A NON-TANGENT TO SAID CURVE, SOUTH 30°15'39" EAST, A DISTANCE OF 12.17 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND DESCRIBED IN THAT WARRANTY DEED RECORDED AT RECEPTION NO. 19900039473;

THENCE DEPARTING SAID EAST BOUNDARY OF TRACT A AND ALONG THE NORTH BOUNDARY OF SAID PARCEL OF LAND SOUTH 89°05'57" EAST, A DISTANCE OF 281.93 FEET;

THENCE DEPARTING SAID NORTH BOUNDARY SOUTH 00°54'03" WEST, A DISTANCE OF 55.00 FEET TO A POINT ON THE SOUTH BOUNDARY OF SAID PARCEL OF LAND;

THENCE ALONG SAID SOUTH BOUNDARY NORTH 89°05'57" WEST, A DISTANCE OF 248.68 FEET TO A POINT ON SAID EAST BOUNDARY OF TRACT A;

CONTINUED ON SHEET 2

NO CHANGES ARE TO BE MADE TO THIS DRAWING WITHOUT WRITTEN PERMISSION OF HARRIS KOCHER SMITH.

Plotted: WED 03/06/24 6:04:58P By: Shawn Clarke Filepath: p:\2020\201013\survey\exbt_201013_tce.dwg Layout: desc

HARRIS KOCHER SMITH
Lincoln Street, Suite 1000
nver, Colorado 80203
.623.6300 F: 303.623.6311
rrisKocherSmith.com

ENCLAVE AT REDWOOD

TEMPORARY CONSTRUCTION EASEMENT
DESCRIPTION

PROJECT #: 201013
CHECKED BY: SDC
DRAWN BY: JOC
SHEET NUMBER 1
1 OF 3

## SITUATED IN THE SOUTH 1/2 OF SECTION 1, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE 6TH P.M., CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO

CONTINUED FROM SHEET 1

THENCE ALONG SAID EAST BOUNDARY THE FOLLOWING THREE (3) COURSES:

1. SOUTH 30°15'00" EAST, A DISTANCE OF 3.20 FEET;
2. THENCE SOUTH 44°03'21" EAST, A DISTANCE OF 263.54 FEET;
3. THENCE SOUTH 25°49'04" WEST, A DISTANCE OF 127.25 FEET TO THE SOUTHEAST CORNER OF SAID TRACT A;

THENCE ALONG THE SOUTH BOUNDARY OF SAID TRACT A NORTH 88°32'10" WEST, A DISTANCE OF 451.23 FEET TO A POINT OF NON-TANGENT CURVATURE ON THE AFORESAID EAST RIGHT-OF-WAY OF REDWOOD STREET AND THE SOUTHWEST CORNER OF SAID TRACT A;

THENCE ALONG THE WEST BOUNDARY OF SAID TRACT A AND THE EAST RIGHT-OF-WAY OF REDWOOD STREET THE FOLLOWING FOUR (4) COURSES:

1. ALONG THE ARC OF SAID CURVE TO THE LEFT AN ARC LENGTH OF 116.30 FEET, SAID CURVE HAVING A RADIUS OF 438.61 FEET, A CENTRAL ANGLE OF 15°11'31", AND A CHORD WHICH BEARS NORTH 21°49'44" WEST A CHORD DISTANCE OF 115.96 FEET;
2. ALONG A LINE NON-TANGENT TO SAID CURVE, NORTH 29°25'22" WEST, A DISTANCE OF 62.81 FEET TO A POINT OF CURVATURE;
3. ALONG THE ARC OF SAID CURVE TO THE RIGHT AN ARC LENGTH OF 188.13 FEET, SAID CURVE HAVING A RADIUS OF 359.09 FEET, A CENTRAL ANGLE OF 30°01'03", AND A CHORD WHICH BEARS NORTH 14°24'51" WEST A CHORD DISTANCE OF 185.98 FEET;
4. NORTH 00°35'41" EAST, A DISTANCE OF 14.55 FEET TO THE **POINT OF BEGINNING.**

SAID PARCEL CONTAINS 189,996 SQUARE FEET OR 4.36 ACRES, MORE OR LESS.

PREPARED BY: SHAWN D. CLARKE, PLS
CO # 38061
SCLARKE@HKSENG.COM

ON BEHALF OF: HARRIS KOCHER SMITH
1120 LINCOLN STREET, SUITE 1000
DENVER, CO 80203
303.623.6300

NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE (3) 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 (10) YEARS FROM THE DATE OF THIS CERTIFICATE SHOWN HEREON.

NO CHANGES ARE TO BE MADE TO THIS DRAWING WITHOUT WRITTEN PERMISSION OF HARRIS KOCHER SMITH.

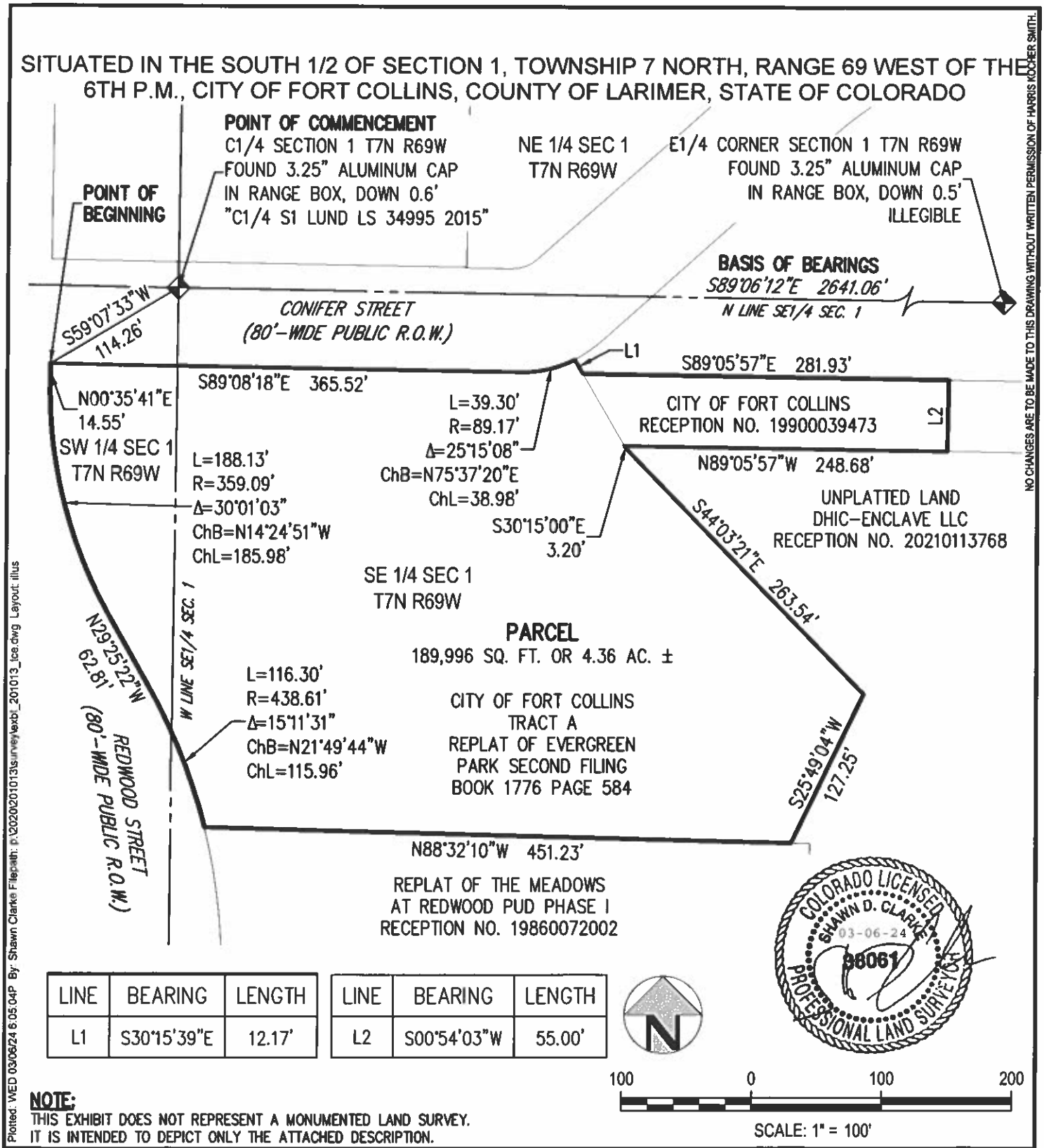
Plotted: WED 03/06/24 6:04:59P By: Shawn Clarke Filepath: p:\2020\201013\survey\exhibits_201013_tce.dwg Layout: desc 2

HARRIS KOCHER SMITH
1120 Lincoln Street, Suite 1000
Denver, Colorado 80203
T: 303.623.6300 F: 303.623.6311
HarrisKocherSmith.com

ENCLAVE AT REDWOOD

TEMPORARY CONSTRUCTION EASEMENT
DESCRIPTION

PROJECT #: 201013
CHECKED BY: SDC
DRAWN BY: JOC
SHEET NUMBER 2
2 OF 3




| LINE | BEARING | LENGTH |
|---|---|---|
| L1 | S30°15'39"E | 12.17' |

| LINE | BEARING | LENGTH |
|---|---|---|
| L2 | S00°54'03"W | 55.00' |

**NOTE:**
THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED LAND SURVEY.
IT IS INTENDED TO DEPICT ONLY THE ATTACHED DESCRIPTION.

NO CHANGES ARE TO BE MADE TO THIS DRAWING WITHOUT WRITTEN PERMISSION OF HARRIS KOCHER SMITH.

Plotted: WED 03/06/24 6:05:04P By: Shawn Clarke Filepath: p:\2020\201013\survey\exhibit_201013_tce.dwg Layout: illus

HARRIS KOCHER SMITH
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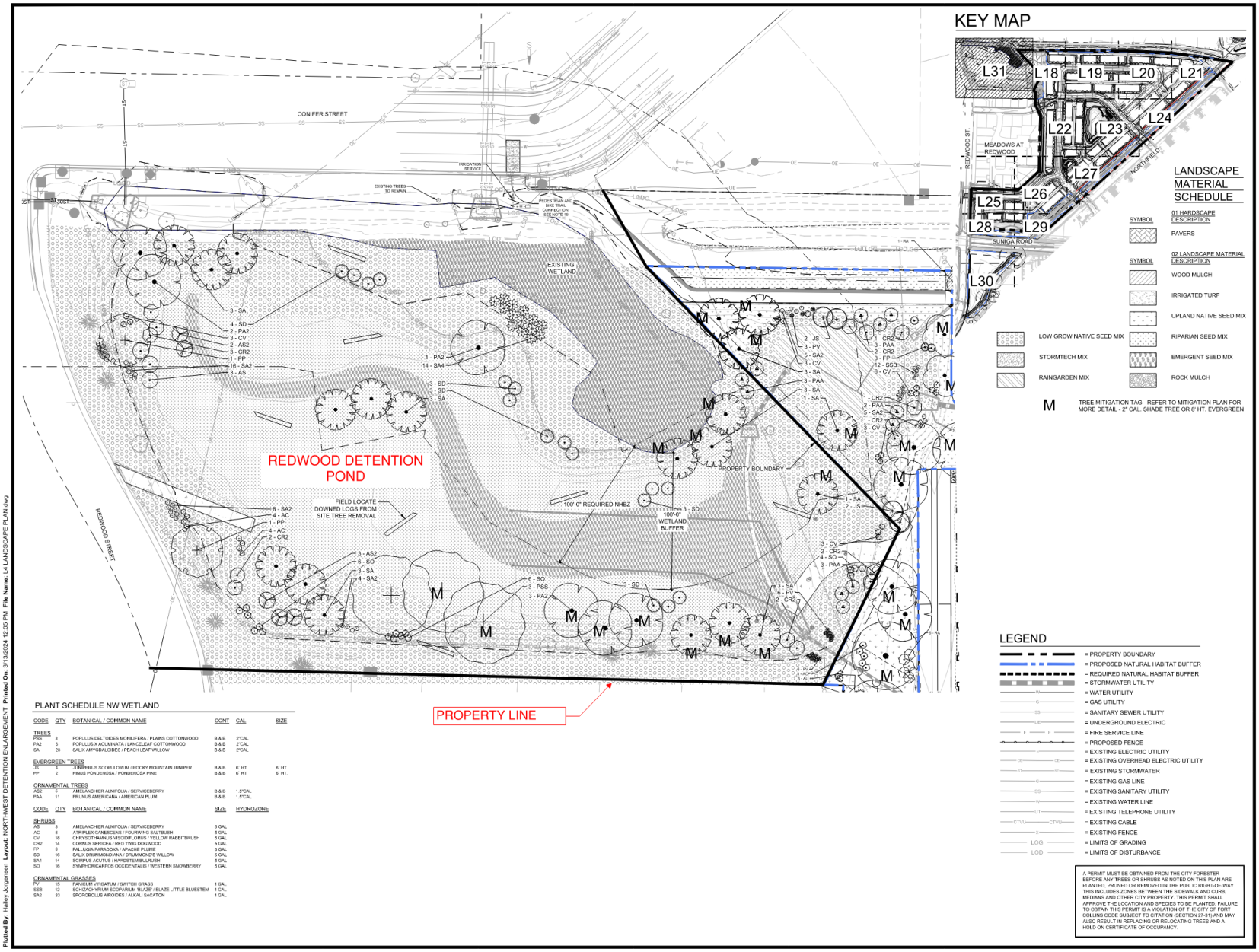
nver, Colorado 80203
.623.6300 F: 303.623.6311
arrisKocherSmith.com

ENCLAVE AT REDWOOD

TEMPORARY CONSTRUCTION EASEMENT
ILLUSTRATION

PROJECT #: 201013
CHECKED BY: SDC
DRAWN BY: JOC
SHEET NUMBER 3
3 OF 3




## KEY MAP




## LANDSCAPE MATERIAL SCHEDULE

| SYMBOL | 01 HARDSCAPE DESCRIPTION |
|---|---|
| | PAVERS |

| SYMBOL | 02 LANDSCAPE MATERIAL DESCRIPTION |
|---|---|
| | WOOD MULCH |
| | IRRIGATED TURF |
| | UPLAND NATIVE SEED MIX |
| | LOW GROW NATIVE SEED MIX |
| | RIPARIAN SEED MIX |
| | STORMTECH MIX |
| | EMERGENT SEED MIX |
| | RAINGARDEN MIX |
| | ROCK MULCH |

M TREE MITIGATION TAG - REFER TO MITIGATION PLAN FOR MORE DETAIL - 2" CAL. SHADE TREE OR 8' HT. EVERGREEN

## PLANT SCHEDULE NW WETLAND

| CODE | QTY | BOTANICAL / COMMON NAME | CONT | CAL | SIZE |
|---|---|---|---|---|---|
| **TREES** | | | | | |
| PSS | 3 | POPULUS DELTOIDES MONILIFERA / PLAINS COTTONWOOD | B & B | 2"CAL | |
| PA2 | 6 | POPULUS X ACUMINATA / LANCELEAF COTTONWOOD | B & B | 2"CAL | |
| SA | 23 | SALIX AMYGDALOIDES / PEACH LEAF WILLOW | B & B | 2"CAL | |
| **EVERGREEN TREES** | | | | | |
| JS | 4 | JUNIPERUS SCOPULORUM / ROCKY MOUNTAIN JUNIPER | B & B | 6' HT | 6' HT |
| PP | 2 | PINUS PONDEROSA / PONDEROSA PINE | B & B | 6' HT | 6' HT |
| **ORNAMENTAL TREES** | | | | | |
| AS2 | 5 | AMELANCHIER ALNIFOLIA / SERVICEBERRY | B & B | 1.5"CAL | |
| PAA | 11 | PRUNUS AMERICANA / AMERICAN PLUM | B & B | 1.5"CAL | |

| CODE | QTY | BOTANICAL / COMMON NAME | SIZE | HYDROZONE |
|---|---|---|---|---|
| **SHRUBS** | | | | |
| AS | 3 | AMELANCHIER ALNIFOLIA / SERVICEBERRY | 5 GAL | |
| AC | 8 | ATRIPLEX CANESCENS / FOURWING SALTBUSH | 5 GAL | |
| CV | 18 | CHRYSOTHAMNUS VISCIDIFLORUS / YELLOW RABBITBRUSH | 5 GAL | |
| CR2 | 14 | CORNUS SERICEA / RED TWIG DOGWOOD | 5 GAL | |
| FP | 3 | FALLUGIA PARADOXA / APACHE PLUME | 5 GAL | |
| SD | 16 | SALIX DRUMMONDIANA / DRUMMOND'S WILLOW | 5 GAL | |
| SA4 | 14 | SCIRPUS ACUTUS / HARDSTEM BULRUSH | 5 GAL | |
| SO | 16 | SYMPHORICARPOS OCCIDENTALIS / WESTERN SNOWBERRY | 5 GAL | |
| **ORNAMENTAL GRASSES** | | | | |
| PV | 15 | PANICUM VIRGATUM / SWITCH GRASS | 1 GAL | |
| SSB | 12 | SCHIZACHYRIUM SCOPARIUM 'BLAZE' / BLAZE LITTLE BLUESTEM | 1 GAL | |
| SA2 | 33 | SPOROBOLUS AIROIDES / ALKALI SACATON | 1 GAL | |

## LEGEND

- = PROPERTY BOUNDARY
- = PROPOSED NATURAL HABITAT BUFFER
- = REQUIRED NATURAL HABITAT BUFFER
- = STORMWATER UTILITY
- = WATER UTILITY
- = GAS UTILITY
- = SANITARY SEWER UTILITY
- = UNDERGROUND ELECTRIC
- = FIRE SERVICE LINE
- = PROPOSED FENCE
- = EXISTING ELECTRIC UTILITY
- = EXISTING OVERHEAD ELECTRIC UTILITY
- = EXISTING STORMWATER
- = EXISTING GAS LINE
- = EXISTING SANITARY UTILITY
- = EXISTING WATER LINE
- = EXISTING TELEPHONE UTILITY
- = EXISTING CABLE
- = EXISTING FENCE
- = LIMITS OF GRADING
- = LIMITS OF DISTURBANCE

A PERMIT MUST BE OBTAINED FROM THE CITY FORESTER BEFORE ANY TREES OR SHRUBS AS NOTED ON THIS PLAN ARE PLANTED, PRUNED OR REMOVED IN THE PUBLIC RIGHT-OF-WAY. THIS INCLUDES ZONES BETWEEN THE SIDEWALK AND CURB, MEDIANS AND OTHER CITY PROPERTY. THIS PERMIT SHALL APPROVE THE LOCATION AND SPECIES TO BE PLANTED. FAILURE TO OBTAIN THIS PERMIT IS A VIOLATION OF THE CITY OF FORT COLLINS CODE SUBJECT TO CITATION (SECTION 27-31) AND MAY ALSO RESULT IN REPLACING OR RELOCATING TREES AND A HOLD ON CERTIFICATE OF OCCUPANCY.

ENCLAVE AT REDWOOD

FINAL DEVELOPMENT PLAN

FORT COLLINS, CO

**PREPARED BY:**

riply design
LANDSCAPE ARCHITECTURE, LAND PLANNING

**LAND PLANNER / LANDSCAPE ARCHITECT**
RIPLEY DESIGN INC.
419 Canyon Ave. Suite 200
Fort Collins, CO 80521
p. 970.224.5828
f. 970.225.6657

**APPLICANT**
DHI COMMUNITIES
Kyle Henderson
p. 970.219.3638

**ARCHITECT**
KTGY
Doug Heaton
820 16th Street, Suite 500
Denver, CO 80202
p. 303.825.6400

**ENGINEER**
HKS
Michael Moore, PE
1120 Lincoln Street, Suite 1000
Denver, CO 80203
p. 303.623.6300

NORTH SCALE: 1"=30'-0"

ORIGINAL SITE PAPER

ISSUED

| No. | DESCRIPTION | DATE |
|---|---|---|
| 07 | FDP 7 | 03/13/2024 |

REVISIONS

| No. | DESCRIPTION | DATE |
|---|---|---|

NORTHWEST DETENTION ENLARGEMENT

SEAL:

ENTITLEMENT DRAWINGS NOT FOR CONSTRUCTION

| | |
|---|---|
| PROJECT No.: | R20-059 |
| DRAWN BY: | AG/LO/KS/HJ |
| REVIEWED BY: | KR |

DRAWING NUMBER:

L31

**Plotted By:** Hailey Jorgensen **Layout:** NORTHWEST DETENTION ENLARGEMENT **Printed On:** 3/13/2024 12:05 PM **File Name:** L4 LANDSCAPE PLAN.dwg

**April 16, 2024**

# AGENDA ITEM SUMMARY
City Council

## STAFF

Jonathan Piefer, Senior Real Estate Specialist
Ralph Campano, Real Estate Services Manager
Matt Simpson, Water Utility Engineer
Missy Nelson, Parks Senior Technical Project Manager
Mike Calhoon, Parks Director

## SUBJECT

**Second Reading of Ordinance No. 051, 2024, Approving the Conveyance of a Permanent Easement for Stormwater Drainage, a Temporary Construction Easement for the Construction of Stormwater Drainage Improvements, and a Temporary Construction Easement for the Construction of Sewer Facilities on City Property to PS-Poudre River, LLC.**

## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on April 2, 2024, approves an Ordinance that would permit the conveyance of one permanent drainage easement (the "Drainage Easement"), one temporary construction easement (the "Drainage TCE") for the modification of current drainage facilities, and one temporary construction easement (the "Sewer TCE") for the installation of public sewer facilities to PS-Poudre River, LLC ("PSPR"), on City Property located at 101 1st Street, which is the current location of Buckingham Park ("Buckingham Park"). Construction pursuant to the Drainage TCE will modify existing floodplain boundaries, and the Drainage Easement will allow PSPR to store additional stormwater on a portion of Buckingham Park. The Sewer TCE is for the installation of public sewer facilities required by the City so that PSPR may proceed with the development of the adjoining lands. The actual conveyance of the easements will be conditional upon PSPR, or its successors and assigns, obtaining City development approval of the contemplated work within the easements.

This Second Reading Agenda Item Summary has been amended to address questions raised by Councilmember Ohlson at First Reading regarding review by Boards and Commissions (see below).

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

## BACKGROUND / DISCUSSION

### The Project

The Drainage Easement, the Drainage TCE, and the Sewer TCE (the "Conveyance Documents" and the "Easements") are part of a PSPR development of lands adjacent to Buckingham Park (the "Development"), and staff has requested the Conveyance Documents from PSPR as part of the development review process for the Development.

PSPR has submitted plans (the "Construction Plans") to the City for the Development, which have been reviewed by staff. Work within the Drainage TCE – the majority of which is within the Drainage Easement - will include grading and regrading to modify the stormwater storage capacity. Additional improvements to be installed within the Easements are the sanitary sewer pipe, which will be located below the surface of Buckingham Park. There are no foreseeable construction impacts to access, use, and parking at Buckingham Park. The Conveyance Documents will provide that any damaged surface areas, including any trees, will be restored in accordance with City plans, specifications, and requirements.

The grading and re-grading on Buckingham Park will include $68,558 of work that benefits the City, including importing topsoil, irrigation system modifications, and removal of man-made debris (including concrete debris) that is undesirable for park operations. Park staff has concluded that the $68,558 of work is dollar-for-dollar beneficial to Buckingham Park.

Staff have relied primarily on PSPR and/or its contractors to provide accurate surveys, legal descriptions, and title review for the Conveyance Documents.

**The Drainage Easement**

The Drainage Easement is comprised of 62,419 square feet of City Property adjoining the eastern boundary of the Development. The Drainage Easement is for the perpetual right to store 100-year flood water and the Development's stormwater runoff on Buckingham Park and will not include the right to install any permanent improvements or alter the Drainage Easement area after completion of the initial grading and regrading construction pursuant to the Drainage TCE, as discussed below.

**The Drainage TCE**

The Drainage TCE is comprised of 40,648 square feet of City Property adjoining the eastern boundary of the Development. Although the Drainage TCE includes lands outside of the Drainage Easement, most of the Drainage TCE is located within the boundaries of the Drainage Easement. All construction for the Drainage Easement will be conducted during the term of the Drainage TCE. The Drainage TCE will allow PSPR the right of temporary access to regrade the surface of said area so that the storage and capacity of the Drainage Easement area will be able to accommodate stormwater runoff from the Development. Work under the TCE will also include the removal of unwanted concrete and debris from the City's prior levy construction on and near Buckingham Park. This re-grading and debris removal substantially benefits the drainage and future development of Buckingham Park.

**The Sewer TCE**

The Sewer TCE is comprised of 4,562 square feet of City Property adjoining the eastern boundary of the Development and is located entirely within the boundaries of the Drainage Easement. The Sewer TCE is for the installation of an underground sanitary sewer connecting the Development sewer line to the City system. Subsequent to installation of the sewer, the City will assume ownership and maintenance responsibilities for all improvements installed pursuant to the Sewer TCE.

## CITY FINANCIAL IMPACTS

Other than staff time and other expenses reimbursable to the City by PSPR, there is no cost to the City associated with Conveyance Documents or the Easements. However, staff estimates the fair market value of the Easements to total $18,615, being itemized as follows (the "Property Values"):

1. Drainage Easement-$8,225;
2. Drainage TCE-$10,162; and
3. Sewer TCE-$228.

Staff recommends that the Easements should be conveyed to PSPR for no monetary consideration as the Parks Department will be benefitting from the removal of concrete and debris, importing topsoil, and irrigation system modifications, the value of which is estimated at $68,558 which substantially exceeds the Property Values.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Not required.

- The duties of Parks and Recreation Board speak more generally to “rules, regulations, policies and administrative and budgetary matters”
- When staff deems easements on Parks properties to have minimal impact to the underlying properties purpose and function, it is not a part of our typical practice to bring them to the boards.
- For larger more impactful land purchases/sales or policies, it is more common to seek input from the boards.
- This Agenda item was evaluated to show minimal or no impact on the underlying uses.

## PUBLIC OUTREACH

None.

## ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration
2. Exhibit A to Ordinance
3. Exhibit B to Ordinance
4. Exhibit C to Ordinance
5. Exhibit D to Ordinance
6. Vicinity Map

ORDINANCE NO. 051, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING THE CONVEYANCE OF A PERMANENT EASEMENT FOR STORMWATER DRAINAGE, A TEMPORARY CONSTRUCTION EASEMENT FOR THE CONSTRUCTION OF STORMWATER DRAINAGE IMPROVEMENTS, AND A TEMPORARY CONSTRUCTION EASEMENT FOR THE CONSTRUCTION OF SEWER FACILITIES TO PS-POUDRE RIVER, LLC

A. The City owns a parcel of real property located north of East Lincoln Avenue and adjacent to the Poudre River as shown and described on Exhibit "A", attached and incorporated herein by reference, upon which is located the City's Buckingham Park (the "City Property").

B. PS-Poudre River, LLC ("PSPR") intends to develop a vacant parcel of land (the "Development") to the north of adjacent to the City Property (the "PSPR Property").

C. PSPR has submitted plans for the Development to the City (the "Development Plans"), which have been reviewed by City staff. As part of the development review process City staff asked PSPR to acquire necessary easements for the Development, including three easements on the City Property.

D. These easements (collectively, "the Easements") include:

1. A perpetual drainage easement to PSPR over 62,419 square feet of the City Property to allow for the right to store 100-year flood water and stormwater drainage from the Development as shown and described on Exhibit "B", attached and incorporated herein by reference (the "Drainage Easement"). After the completion of grading and re-grading to allow for such storage pursuant to the Drainage TCE identified below, the Drainage Easement will not allow for any further alteration of the easement area or the installation of any permanent improvements.

2. A temporary construction easement to PSPR for a period of up to four years over 40,648 square feet of the City Property as shown and described on Exhibit "C", attached and incorporated herein by reference (the "Drainage TCE"). The majority of the Drainage TCE area lies within the boundaries of the Drainage Easement and will allow PSPR the temporary ability to perform work to re-grade the surface to accommodate stormwater runoff from the Development. Work under the Drainage TCE will also include PSPR's removal of unwanted concrete and other debris from the City's prior levy construction for Buckingham Park. The re-grading and debris removal substantially benefits the drainage and future development of the park.

3. A temporary construction easement to PSPR for a period of up to four years over 4,562 square feet of the City Property as shown and described on Exhibit "D", attached and incorporated herein by reference (the "Sewer

TCE"). The Sewer TCE is located entirely within the Drainage Easement and will allow PSPR to install an underground sanitary sewer line connecting the Development sewer line to the City's sanitary sewer system. After installation, PSPR will convey the sewer line to the City.

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

F. In addition, Section 23-114 of the City Code requires that any sale or other conveyance of property interests approved under section 23-111(a) be for an amount equal to or greater than the fair market value of such interest.

G. City staff estimates the value of the Easements at $18,615; however, staff also estimates that the work PSPR will do on the City Property in the Easements – including grading and re-grading, importing topsoil, removal of concrete and debris, modifications to the city's irrigation system, and installation of a sewer line – has a value of approximately $68,558 and substantially benefits the drainage and future development of Buckingham Park. Therefore, staff has recommended that the City convey the Easements to PSPR for no additional monetary compensation.

H. Because the work contemplated in the Easements must still obtain development review approval from the City, City staff recommends the actual conveyance of the Easements be conditional upon PSPR, or its successors and assigns, obtaining such approval.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Council finds that granting the Easements to PSPR on the terms and conditions described herein is in the best interests of the City.

Section 2. The City Council authorizes the Mayor to execute such documents as are necessary to convey the Easements to PSPR on terms and conditions consistent with this Ordinance, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City, including, but not limited to, any necessary changes to the legal descriptions of the Easements, as long as such changes do not materially increase the size or change the character of the interests to be conveyed.

Introduced, considered favorably on first reading on April 2, 2024, and approved on second reading for final passage on April 16, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: April 26, 2024
Approving Attorney: Ryan Malarky

# The City Property

EXHIBIT B TO ORDINANCE NO. 051, 2024

**The Drainage Easement**

**PARCEL DESCRIPTION**

A parcel of land situate in the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) of Section Twelve (12), Township Seven North (T.7N.), Range Sixty-nine West (R.69W.) of the Sixth Principal Meridian (6th P.M.), City of Fort Collins, County of Larimer, State of Colorado and being more particularly described as follows:

**COMMENCING** at the Center Quarter corner of said Section 12, as monumented by a #6 rebar with a 2 1/2" Aluminum Cap stamped LS 31169, 2020 and assuming the East line of said SE1/4NW1/4, as monumented at the Center-North Sixteenth corner by a #6 rebar with a 2" Aluminum Cap stamped LS 7481, 1995 as bearing North 00°26'40" East being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 1323.95 feet with all other bearings contained herein relative thereto;

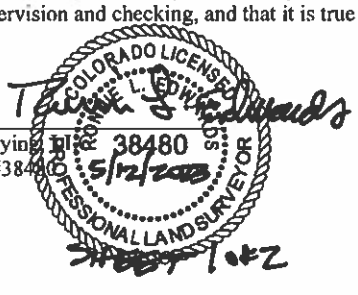
THENCE North 00°26'40" East along said East line a distance of 545.62 feet;
THENCE North 89°33'20" West a distance of 20.00 feet to the Southeast corner of a parcel of land described in that Special Warranty Deed recorded March 3, 2005 as Reception No. 2005-0017087 of the Records of Larimer County;
THENCE South 45°41'53" West along the Southeasterly line of said parcel of land described in that Special Warranty Deed recorded March 3, 2005 as Reception No. 2005-0017087 of the Records of Larimer County a distance of 175.00 feet to the **POINT OF BEGINNING**;
THENCE South 05°48'34" East a distance of 9.54 feet;
THENCE South 40°52'40" West a distance of 61.18 feet;
THENCE South 73°16'46" West a distance of 74.12 feet;
THENCE South 44°45'07" West a distance of 44.93 feet;
THENCE South 80°52'12" West a distance of 29.29 feet;
THENCE South 21°32'39" West a distance of 45.30 feet;
THENCE South 41°37'16" West a distance of 38.14 feet;
THENCE South 70°08'19" West a distance of 20.32 feet;
THENCE South 30°55'45" West a distance of 58.21 feet;
THENCE South 06°19'14" West a distance of 102.97 feet;
THENCE South 22°15'23" West a distance of 53.43 feet;
THENCE North 75°34'08" West a distance of 37.05 feet;
THENCE South 26°28'28" West a distance of 38.90 feet;
THENCE South 79°54'13" West a distance of 20.01 feet;
THENCE North 30°43'19" West a distance of 140.10 feet;
THENCE North 06°56'38" West a distance of 70.19 feet;
THENCE North 01°29'42" East a distance of 68.82 feet to the Southerly line of said parcel of land described in that Special Warranty Deed recorded March 3, 2005 as Reception No. 2005-0017087 of the Records of Larimer County;

The following Four (4) courses are along the Southerly lines of said parcel of land described in that Special Warranty Deed recorded March 3, 2005 as Reception No. 2005-0017087 of the Records of Larimer County:
THENCE South 60°55'34" East a distance of 39.74 feet;
THENCE North 49°42'53" East a distance of 121.67 feet;
THENCE North 66°49'53" East a distance of 110.60 feet;
THENCE North 74°21'53" East a distance of 223.40 feet to the **POINT OF BEGINNING.**

Said described parcel of land contains 62,419 Square Feet or 1.433 Acres, more or less (±).

**SURVEYORS STATEMENT**

I, Ronnie L. Edwards, a Colorado Licensed Professional Land Surveyor do hereby state that this Parcel Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.

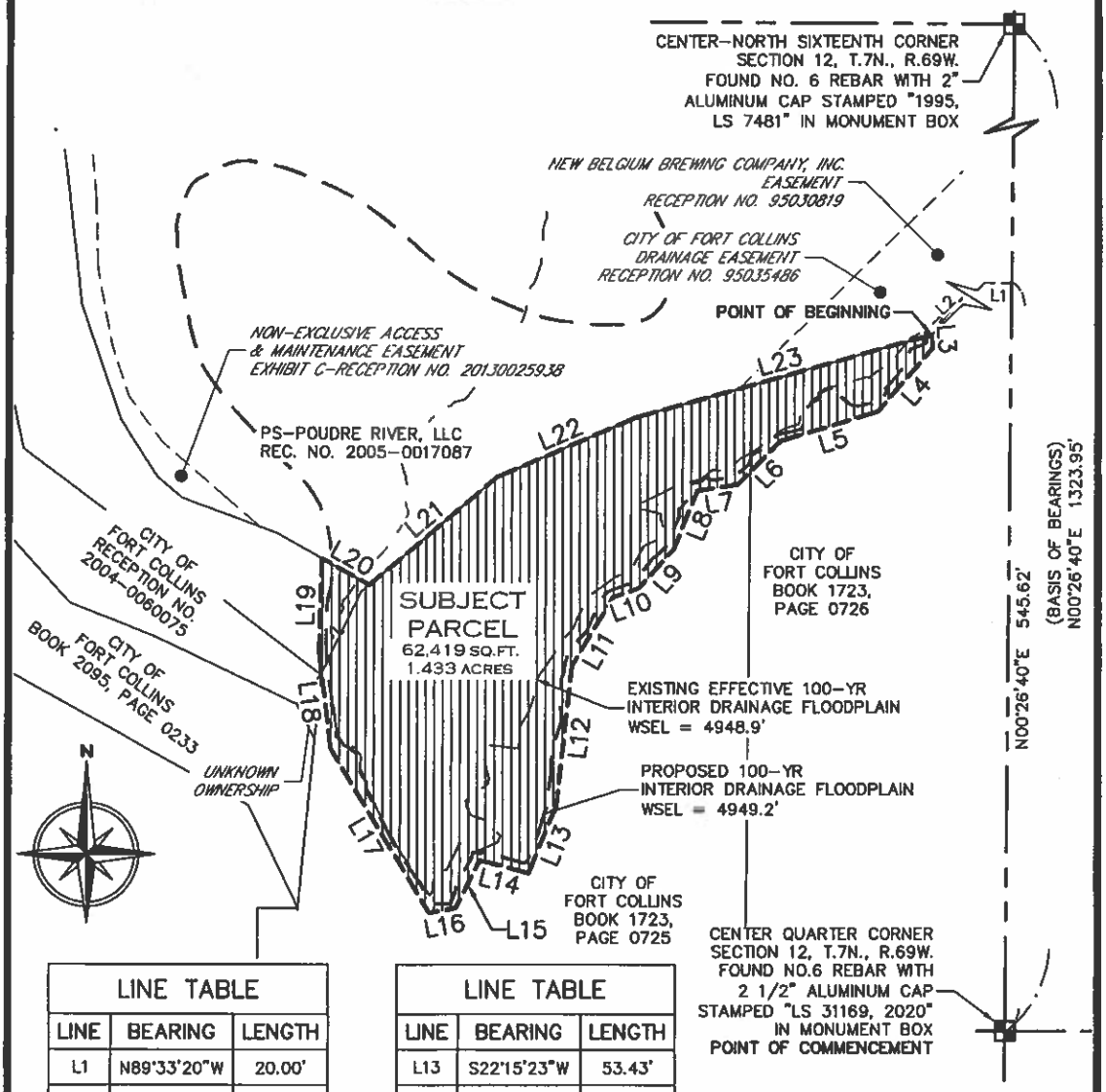



Ronnie L. Edwards - on behalf of Majestic Surveying, LLC
Colorado Licensed Professional Land Surveyor #38480

MAJESTIC SURVEYING
1111 Diamond Valley Drive, Suite 104
Windsor, Colorado 80550

EXHIBIT B TO ORDINANCE NO. 051, 2024

SE1/4NW1/4 Section 12, T.7N., R.69W. Page 2 of 2




| LINE TABLE | | |
|---|---|---|
| LINE | BEARING | LENGTH |
| L1 | N89°33'20"W | 20.00' |
| L2 | S45°41'53"W | 175.00' |
| L3 | S05°48'34"E | 9.54' |
| L4 | S40°52'40"W | 61.18' |
| L5 | S73°16'46"W | 74.12' |
| L6 | S44°45'07"W | 44.93' |
| L7 | S80°52'12"W | 29.29' |
| L8 | S21°32'39"W | 45.30' |
| L9 | S41°37'16"W | 38.14' |
| L10 | S70°08'19"W | 20.32' |
| L11 | S30°55'45"W | 58.21' |
| L12 | S06°19'14"W | 102.97' |

| LINE TABLE | | |
|---|---|---|
| LINE | BEARING | LENGTH |
| L13 | S22°15'23"W | 53.43' |
| L14 | N75°34'08"W | 37.05' |
| L15 | S26°28'28"W | 38.90' |
| L16 | S79°54'13"W | 20.01' |
| L17 | N30°43'19"W | 140.10' |
| L18 | N06°56'38"W | 70.19' |
| L19 | N01°29'42"E | 68.82' |
| L20 | S60°55'34"E | 39.74' |
| L21 | N49°42'53"E | 121.67' |
| L22 | N66°49'53"E | 110.60' |
| L23 | N74°21'53"E | 223.40' |

Note: This drawing does not represent a monumented land survey. Its sole purpose is a graphic representation of the accompanying written description.

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 from the date of the certification shown hereon. (CRS 13-80-105)

COLORADO LICENSED
RONNIE L. EDWARDS
38480
5/12/2023
PROFESSIONAL LAND SURVEYOR

SHEET 2 OF 2

Ronnie L. Edwards, PLS 38480
On behalf of Majestic Surveying, LLC

MAJESTIC SURVEYING

PROJECT NO: 2019340 CLIENT: A.C.E.
DATE: 3/23/2023 SCALE: 1"=100'

**The Drainage TCE**

**PARCEL DESCRIPTION**

A parcel of land for easement purposes, situate in the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) of Section Twelve (12), Township Seven North (T.7N.), Range Sixty-nine West (R.69W.) of the Sixth Principal Meridian (6th P.M.), City of Fort Collins, County of Larimer, State of Colorado and being more particularly described as follows:

**COMMENCING** at the Center Quarter corner of said Section 12, as monumented by a #6 rebar with a 2 1/2" Aluminum Cap stamped LS 31169, 2020 and assuming the East line of said SE1/4NW1/4, as monumented at the Center-North Sixteenth corner by a #6 rebar with a 2" Aluminum Cap stamped LS 7481, 1995 as bearing North 00°26'40" East being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 1323.95 feet with all other bearings contained herein relative thereto;

THENCE North 00°26'40" East along said East line a distance of 545.62 feet;
THENCE North 89°33'20" West a distance of 20.00 feet to the Southeast corner of a parcel of land described in that Special Warranty Deed recorded March 3, 2005 as Reception No. 2005-0017087 of the Records of Larimer County;
THENCE South 45°41'53" West along the Southeasterly line of said parcel of land described in that Special Warranty Deed recorded March 3, 2005 as Reception No. 2005-0017087 of the Records of Larimer County a distance of 175.00 feet to the **POINT OF BEGINNING**;
THENCE South 55°36'30" West a distance of 132.00 feet;
THENCE South 67°49'30" West a distance of 95.00 feet;
THENCE South 43°21'30" West a distance of 202.50 feet;
THENCE South 39°58'30" West a distance of 81.00 feet;
THENCE South 52°03'00" West a distance of 25.00 feet;
THENCE North 33°05'30" West a distance of 67.00 feet;
THENCE North 24°43'00" West a distance of 36.00 feet;
THENCE North 21°25'31" West a distance of 82.00 feet;
THENCE North 48°22'28" West a distance of 76.00 feet to the Southerly line of a parcel of land described in that Special Warranty Deed recorded March 3, 2005 as Reception No. 2005-0017087 of the Records of Larimer County;

The following Five (5) courses are along the Southerly lines of said parcel of land described in that Special Warranty Deed recorded March 3, 2005 as Reception No. 2005-0017087 of the Records of Larimer County:
THENCE South 69°41'00" East a distance of 74.14 feet;
THENCE South 60°55'34" East a distance of 76.57 feet;
THENCE North 49°42'53" East a distance of 121.67 feet;
THENCE North 66°49'53" East a distance of 110.60 feet;
THENCE North 74°21'53" East a distance of 223.40 feet to the **POINT OF BEGINNING.**

Said described parcel of land contains 40,648 Square Feet or 0.933 Acres, more or less (±).

**SURVEYORS STATEMENT**

I, Ronnie L. Edwards, a Colorado Licensed Professional Land Surveyor do hereby state that this Parcel Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.

COLORADO LICENSED RONNIE L. EDWARDS 38480 PROFESSIONAL LAND SURVEYOR 5/12/2024

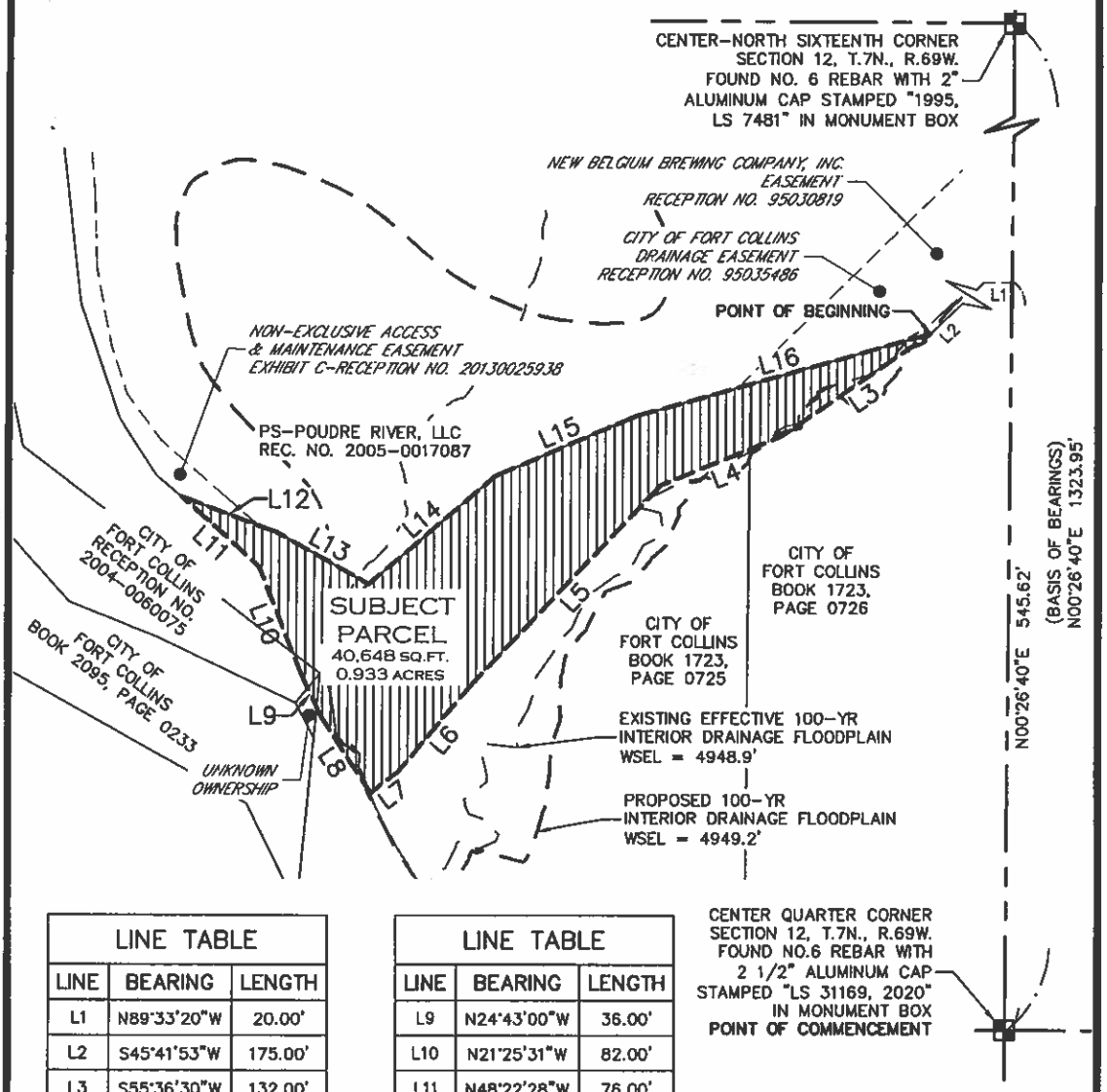
Ronnie L. Edwards - on behalf of Majestic Surveying
Colorado Licensed Professional Land Surveyor

SHEET 1 of 2

MAJESTIC SURVEYING
1111 Diamond Valley Drive, Suite 104
Windsor, Colorado 80550

SE1/4NW1/4 Section 12, T.7N., R.69W.



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| L1 | N89°33'20"W | 20.00' |
| L2 | S45°41'53"W | 175.00' |
| L3 | S55°36'30"W | 132.00' |
| L4 | S67°49'30"W | 95.00' |
| L5 | S43°21'30"W | 202.50' |
| L6 | S39°58'30"W | 81.00' |
| L7 | S52°03'00"W | 25.00' |
| L8 | N33°05'30"W | 67.00' |

| LINE TABLE | | |
|---|---|---|
| LINE | BEARING | LENGTH |
| L9 | N24°43'00"W | 36.00' |
| L10 | N21°25'31"W | 82.00' |
| L11 | N48°22'28"W | 76.00' |
| L12 | S69°41'00"E | 74.14' |
| L13 | S60°55'34"E | 76.57' |
| L14 | N49°42'53"E | 121.67' |
| L15 | N66°49'53"E | 110.60' |
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COLORADO LICENSED
RONNIE L. EDWARDS
38480
PROFESSIONAL LAND SURVEYOR
5/12/2022
SHEET 2 of 2

Ronnie L. Edwards, PLS 38480
On behalf of Majestic Surveying, LLC

MAJESTIC SURVEYING

PROJECT NO: 2019340 CLIENT: A.C.E.
DATE: 4/7/2022 SCALE: 1"=100'

## The Sewer TCE

### PARCEL DESCRIPTION

A strip of land, 30.00 feet in width situate in the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) of Section Twelve (12), Township Seven North (T.7N.), Range Sixty-nine West (R.69W.) of the Sixth Principal Meridian (6th P.M.), City of Fort Collins, County of Larimer, State of Colorado and being more particularly described as follows:

**COMMENCING** at the Center Quarter corner of said Section 12, as monumented by a #6 rebar with a 2 1/2" Aluminum Cap stamped LS 31169, 2020 and assuming the East line of said SE1/4NW1/4, as monumented at the Center-North Sixteenth corner by a #6 rebar with a 2" Aluminum Cap stamped LS 7481, 1995 as bearing North 00°26'40" East being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 1323.95 feet with all other bearings contained herein relative thereto;

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The following Four (4) Courses are along the Southerly lines of said parcel of land described in that Special Warranty Deed recorded March 3, 2005 as Reception No. 2005-0017087 of the Records of Larimer County:
THENCE South 45°41'53" West a distance of 175.00 feet;
THENCE South 74°21'53" West a distance of 223.40 feet;
THENCE South 66°49'53" West a distance of 110.60 feet;
THENCE South 49°42'53" West a distance of 82.34 feet to the **POINT OF BEGINNING**;
THENCE South 00°00'10" East a distance of 164.79 feet;
THENCE South 89°59'50" West a distance of 30.00 feet;
THENCE North 00°00'10" West a distance of 139.36 feet to the Southerly most corner of said parcel of land described in that Special Warranty Deed recorded March 3, 2005 as Reception No. 2005-0017087 of the Records of Larimer County;
THENCE North 49°42'53" East along the Southerly line of said parcel of land described in that Special Warranty Deed recorded March 3, 2005 as Reception No. 2005-0017087 of the Records of Larimer County a distance of 39.33 feet to the **POINT OF BEGINNING**.

Said described parcel of land contains 4,562 Square Feet or 0.105 Acres, more or less (±).

### SURVEYORS STATEMENT

I, Ronnie L. Edwards, a Colorado Licensed Professional Land Surveyor do hereby state that this Parcel Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.

COLORADO LICENSED RONNIE L. EDWARDS 38480 PROFESSIONAL LAND SURVEYOR
10/10/2023

SHEET 1 OF 2

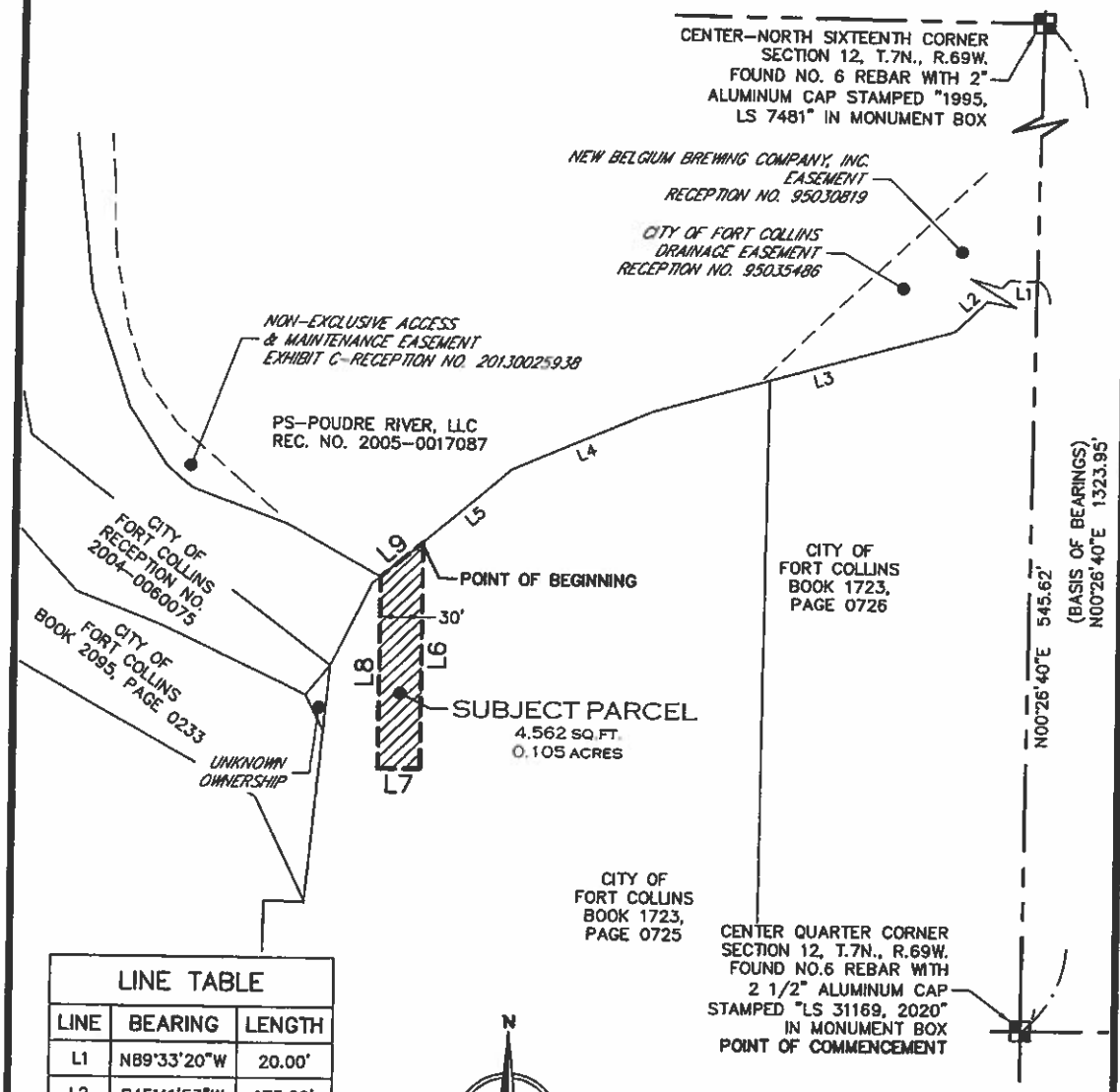
Ronnie L. Edwards - on behalf of Majestic Surveying, LLC
Colorado Licensed Professional Land Surveyor #38480

MAJESTIC SURVEYING
1111 Diamond Valley Drive, Suite 104
Windsor, Colorado 80550

EXHIBIT D TO ORDINANCE NO. 051, 2024

SE1/4NW1/4 Section 12, T.7N., R.69W.



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| L5 | S49°42'53"W | 82.34' |
| L6 | S00°00'10"E | 164.79' |
| L7 | S89°59'50"W | 30.00' |
| L8 | N00°00'10"W | 139.36' |
| L9 | N49°42'53"E | 39.33' |

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COLORADO LICENSED
RONNIE L. EDWARDS
38480
10/10/2023
PROFESSIONAL LAND SURVEYOR

SHEET 2 OF 2

Ronnie L. Edwards, PLS 38480
On behalf of Majestic Surveying, LLC

MAJESTIC SURVEYING

PROJECT NO: 2019340 CLIENT: A.C.E.
DATE: 10/10/2023 SCALE: 1"=100'

April 16, 2024

# AGENDA ITEM SUMMARY
City Council

## STAFF

Jonathan Piefer, Senior Real Estate Specialist
Ralph Campano, Real Estate Services Manager
Dave Kemp, Parks Senior Trails Planner
Kim Manajek, Senior Manager Horticulture

## SUBJECT

**Second Reading of Ordinance No. 052, 2024, Approving the Conveyance of One Permanent Easement and One Temporary Construction Easement for the Construction of a Portion of Phemister Trail on City Property to Colorado State University.**

## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on April 2, 2024, approves an Ordinance that would permit the conveyance of one (1) permanent easement (the "Trail Easement") and one (1) temporary construction easement (the "TCE") to Colorado State University ("CSU"), for the construction, operation, and maintenance of a public multi-modal trail (the "Phemister Trail") on City Property located at 2145 Centre Street, which is the current location of The Gardens on Spring Creek (the "Gardens on Spring Creek").

Please note that this Second Reading Agenda Item Summary has been amended to address concerns brought up by Councilmember Ohlson at First Reading. Specifically, amendments to address Tree Restoration and Council/Board approvals. Kim Manajek from Cultural Resources has also been added as a staff resource.

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

## BACKGROUND / DISCUSSION

### The Property

The Gardens on Spring Creek is comprised of 18.050 acres, more or less, being all of Tract A of the Centre for Advanced Technology 22nd Filing, Community Horticulture Center, as depicted in that certain Plat recorded April 2, 2003, at Reception No. 20030039524, Clerk and Recorder's Records, Larimer County, Colorado. The land was originally conveyed to the City by Colorado State University Research Foundation in that certain Special Warranty Deed dated February 29, 2000, recorded April 2, 2003, at Reception No. 20030039524, Clerk and Recorder's Records, Larimer County, Colorado. The City subsequently constructed The Gardens on Spring Creek on the land, which opened in 2004. The land is currently managed by the City's Cultural Services Department.

**The Project**

The Trail Easement and the TCE (the "Conveyance Documents" and the "Easements") are part of the Phemister Trail Project of CSU, located on the west side of Centre Avenue between The Gardens on Spring Creek and the underpass at Prospect Road. The trail will connect to Spring Creek Trail at the Gardens on Spring Creek and will run north along the east side of the CSU Horticulture Center before reaching the underpass at Prospect Road. Phemister Trail will improve access and safety for pedestrians and cyclists heading toward CSU's main campus by circumventing the need to use and cross Centre Avenue. The trail will also include a new bridge over Spring Creek (the "Bridge"), which will provide a potential detour route if the Spring Creek Trail tunnel under Centre Avenue is blocked by seasonal flooding.

CSU has submitted plans (the "Construction Plans") for Phemister Trail to the City for review, which has undergone the Site Plan Advisory Review process. CSU has also submitted CDOT Right of Way plans to the Colorado Department of Transportation, which are currently under review. Construction on the Phemister Trail is expected to start this year.

There are no foreseeable construction impacts to access, use, and parking at The Gardens on Spring Creek. The Conveyance Documents will provide that any damaged surface areas, including any trees, will be restored in accordance with City plans, specifications, and requirements.

Staff have relied primarily on CSU and/or its contractors to provide accurate surveys, legal descriptions, and title review for the Conveyance Documents.

**Second Reading Clarification:** The current plans do not show that any additional trees will be planted as part of this project. Furthermore, the trail alignment is not shown to impact any existing trees.

This Trail construction is part of a larger stormwater/trail project associated with Ordinance 113-2016, which resulted in the addition of 38 Trees and 33 Shrubs as outlined on the attached Landscape Plan.

**The Trail Easement**

The Trail Easement consists of 13,120 square feet of City property on the northern portion of the Gardens on Spring Creek, being comprised of two separate areas (7,323 square feet and 5,797 square feet) separated by property owned by CSU. The Trail Easement will permit CSU to construct, operate, and maintain a 10' wide public multi-modal trail on City property. The Trail Easement will also provide that CSU will own and maintain the improvements installed pursuant thereto, being Phemister Trail and the Bridge. The Trail Easement will ensure that any damaged surface areas, including any trees, will be restored in accordance with a City plans, specifications, and requirements.

**The TCE**

The TCE consists of 26,944 square feet of City property adjoining the Bridge, being comprised of three separate areas (10,981 square feet, 8,715 square feet, and 7,248 square feet). Work within the TCE will mainly include grading, regrading, and construction activities to support the trail and the Bridge. The TCE will provide that any damaged surface areas, including any trees, will be restored in accordance with a City plans, specifications, and requirements.

## CITY FINANCIAL IMPACTS

Other than staff time and other expenses reimbursable to City by CSU, there is no cost to the City associated with Conveyance Documents or the Easements. However, staff estimates the fair market value of the Easements to total $15,159, being itemized as follows (the "Property Values"):

1. Trail Easement-$12,464; and
2. TCE-$2,695.

Staff recommends that the Easements should be conveyed to CSU for no monetary consideration because such transactions serve a bona fide public purpose and satisfy the requirements of Section 23-114 of the City Code.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

At its August 24, 2016, meeting, the Parks and Recreation Board voted 8-0 to recommend approval of the easement and found it appropriate to utilize this portion of the City's land to develop and construct the water quality pond and trail connectivity with the City's assistance in the design and neighborhood outreach.

The Parks and Recreation Board was also updated on the project status during the New Business report on December 6, 2023.

Approval or review by the Cultural Resources Board is not required.

## PUBLIC OUTREACH

None.

## ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration
2. Landscape Plan

ORDINANCE NO. 052, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING THE CONVEYANCE OF ONE PERMANENT EASEMENT AND ONE TEMPORARY CONSTRUCTION EASEMENT FOR THE CONSTRUCTION OF A PORTION OF PHEMISTER TRAIL ON CITY PROPERTY TO COLORADO STATE UNIVERSITY

A. The City's Gardens on Spring Creek property is comprised of 18.050 acres and contains a portion of the City's Spring Creek Trail, a multi-modal trail.

B. Colorado State University ("CSU") seeks two easements ("the Easements") from the City on a portion of the Gardens on Spring Creek property, including one temporary construction easement and one permanent easement to allow for the construction, operation, and maintenance of a portion of the multi-modal Phemister Trail, which allows for the connection of the Phemister Trail and the Spring Creek Trail.

C. The permanent easement consists of 13,120 square feet of City property on the northern portion of the Gardens on Spring Creek, being comprised of two separate areas (7,323 square feet and 5,797 square feet) separated by property owned by CSU.

D. The temporary construction easement consists of 26,944 square feet of City property, being comprised of three separate areas (10,981 square feet, 8,715 square feet, and 7,248 square feet). Work within the temporary construction easement will mainly include grading, regrading, and construction activities to support the trail and a bridge over Spring Creek.

E. City staff estimates that the fair market value of the Easements to total $15,159.

F. Section 23-111 of the City Code authorizes the City Council to dispose of interests in real property owned in the name of the City provided that the City Council first finds, by ordinance, that such disposition is in the best interests of the City.

G. Section 23-114 of the City Code authorizes the City Council to dispose of interests in real property for less than fair market value provided that the City Council determines that such disposition serves a bona fide public purpose.

H. City staff has recommended that the City grant the Easements at no cost to CSU. The City Council concurs and determines that the disposition of this property interest serves a bona fide public purpose in accordance with the requirements of Section 23-114 of the City Code because:

a. The Easements promote health, safety or general welfare and benefits a significant segment of the citizens of Fort Collins because it allows for expanded use of multi-modal trails available to the public;

b. The expansion of multi-modal trails supports City active modes goals;

c. The financial support provided through the grant of the Easements to CSU can be leveraged through benefits to the City's cooperative relationship with CSU;

d. The financial benefit to CSU is not substantial relative to the public purpose of expanding the multi-modal trail system in the city; and

e. The grant of the Easements will not interfere with current City projects or work programs, hinder workload schedules or divert resources needed for primary City functions or responsibilities.

I. The City Council finds that granting the Easements to CSU as described above is in the best interests of the City.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Council finds that granting the Easements to CSU on the terms and conditions described herein is in the best interests of the City.

Section 2. The City Council authorizes the Mayor to execute such documents as are necessary to convey the Easements to CSU on terms and conditions consistent with this Ordinance, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City, including, but not limited to, any necessary changes to the legal descriptions of the Easements, as long as such changes do not materially increase the size or change the character of the interests to be conveyed.

Introduced, considered favorably on first reading on April 2, 2024, and approved on second reading for final passage on April 16, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: April 26, 2024
Approving Attorney: Ted Hewitt

# Site Meeting Notes: 3/2/17

**TREES**
Austrian Pine (3), min. 6' tree, protection included

**SHRUBS**
Three Leaf Sumac (5)

-CSU Temp Irrigation System

**SHRUBS**
Three Leaf Sumac (9)

Assumed for budgeting; once the outlet structure and wing walls are built, we will have another site meeting to determine if this is appropriate.

-CSU Temp Irrigation System

**Delete this zone:** discussed that this area was not conducive to planting currently with heavily compacted soil from drive access

**Delete this zone:** screening for pond is already provided to the south and west with existing vegetation and trees

**TREES**
Cottonwood (3), protection included

River Birch 2 sets of (3) with 10' spacing

-CSU Temp Irrigation System

**TREES**
Lanceleaf Cottonwood (4), protection included

-COFC Irrigation System

**TREES**
Ponderosa Pine (3) with 2-'spacing, min.6' tree, protection included

Choke Cherry (3), min. 5 gallon, protection included

-CSU Temp Irrigation System

**Street Trees on Centre**
Chinquapin Oak (3 or 4)
COFC to confirm which ones need to be replaced

-CSU Irrigation existing

**TREES**
River Birch (3), 10' spacing, protection included

-CSU Temp Irrigation System

**TREES**
River Birch (3) with 10' spacing, protection included

**SHRUBS**
Rabbit Brush 1 set of (3), min. 5 gallon, 8' spacing
Apache Plume 1 set of (5), 8' spacing, min. 5 gallon

-CSI Temp Irrigation System

**TREES**
Choke Cherry 2 sets of (3), min. 5 gallon, protection included

-CSU Temp Irrigation System

**TREES**
Plains Cottonwood (3), protection included

**SHRUBS**
Rabbit Brush 1 set of (3), min. 5 gallon, 8' spacing
Rabbit Brush 1 set of (5), min 5 gallon, 8' spacing
Apache Plume 1 set of (3), min. 5 gallon, 8' spacing

-CSU Temp Irrigation System

**Legend**

**TREES**
Austrian Pine
Ponderosa Pine
River Birch
Plains Cottonwood
Lanceleaf Cottonwood
Choke Cherry

**SHRUBS**
Three Leaf Sumac
Rabbit Brush
Apache Plume

**ble for irrigation.**

**esponsibility TBD**
**heeting.**

**NOTES:**
**1. Plant quantities in each zone to be verifie**
**with CSU, Bath Nursery, and COFC Park Pla**
**ry on Thursday March 2nd. Further discussi**
**pen regarding responsibilities for irrigation**
**of the project area.**
**2. Trees to be 2" caliper min., balled and bur**
**be 5 gallon containers.**

OLSSON ASSOCIATES
5285 McKinley Boulevard, Suite 160
Loveland, CO 80538
TEL 970.461.1733 www.olssonassociates.com

REVISIONS
REV. NO. | DATE | REVISIONS DESCRIPTION
A | 07/29/2016 | ISSUED FOR BID
B | 08/22/2016 | ADDENDUM #2
C | 09/02/2016 | ADDENDUM #3
D | 10/03/2016 | CHANGE ORDER #2

PROJECT # 15-003

drawn by: CH
checked by: AK
approved by: AK
QA/QC by: ENTER QA/QC
project no.: 015-2343
drawing no.: C_SITE_52343.dwg
date: 12/02/2016

SHEET 4

811 Know what's below. Call before you dig.
CALL 811 (SEVENTY-TWO HOURS PRIOR TO DIGGING, GRADING OR EXCAVATING FOR THE MARKING OF UNDERGROUND MEMBER UTILITIES

**April 16, 2024**

# AGENDA ITEM SUMMARY
City Council

## STAFF

Katie Donahue, Director, Natural Areas Department
Barb Brock, Financial Analyst II, Natural Areas Department

## SUBJECT

**First Reading of Ordinance No. 053, 2024, Appropriating Prior Year Reserves in the Natural Areas Fund and the Sales and Use Tax Fund for the Purpose of Land Conservation, Visitor Amenities, Restoration and Other Related Natural Areas Stewardship Activities Not Included in the 2024 Adopted City Budget.**

## EXECUTIVE SUMMARY

The purpose of this item is to appropriate $7,924,969 in prior year reserves in the Natural Areas Fund and $269,466 in prior year reserves in the Sales and Use Tax fund to be transferred to the Natural Areas Fund. These appropriations are for land conservation, resource management, planning, construction of trails and other visitor amenities, restoration of wildlife habitat, and other Natural Areas Department programs and activities to benefit the residents of the City, in accordance with the Natural Areas Master Plan.

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

## BACKGROUND / DISCUSSION

Funding for the Natural Areas Department (NAD) for purposes other than capital projects lapses each year if not spent. Unspent prior year funds and unanticipated revenues need to be appropriated into the following year's budget before they can be used. The purpose of this item is to appropriate $7,924,969 in unspent funds and unanticipated revenues in the Natural areas Fund to fund land conservation, resource management, planning, construction of trails and other visitor amenities, restoration of wildlife habitat and other Natural Areas Department programs and activities to benefit the residents of the City, in accordance with the Natural Areas Maser Plan.

In addition, the sales and use tax revenue received in 2023 was higher than projected and existing appropriations were not adequate to make the full transfer from the Sales and Use Tax Fund to the Natural Areas Fund for the one quarter cent Natural Areas tax in the amount of $269,466.

Of the total appropriation $7,100,000 will be used for land conservation. With over $8.0 million in land acquisitions under negotiation, and an additional $20.0 million in properties identified as high priorities for conservation, there is reasonable likelihood that most of these funds specifically for land conservation will be spent in 2024.

The funds for NAD come from the following designated sources of revenue: the City - Open Space Yes! ¼ cent sales tax; the Larimer County - Help Preserve Open Space ¼ cent sales tax; and miscellaneous anticipated and unanticipated revenues. All these funds are restricted to the purposes of the NAD, including unanticipated revenues, which consist generally of income from sales tax revenues, sale of easements and leases, and grants. The prior year reserve funds being appropriated in this Ordinance are more specifically described as:

$7,470,859 Unspent 2023 Budgeted Funds – appropriated for same purpose.

$ 454,110 Unanticipated Revenues & Unspent Funds – appropriated for new purposes.

$ 269,466 Transfer from Sales and Use Tax Fund

$8,194,435 Total Appropriation from 2023 Prior Year Reserves

The anticipated use of these funds is as follows:

**Land Conservation** - $7,100,000: $6,915,424 in unspent land conservation funds plus $184,576 in new funds for land conservation efforts per the Natural Areas Master Plan.

**Ecological Stewardship -** $569,636: $39,636 to carryover the unspent donation from the West Vine neighborhood for the restoration of Kestrel Fields; $200,000 for demolition of structures, when needed, for new acquisitions, $170,000 for grassland health infrastructure (water and fence) needs, $80,000 for breeding bird data analysis and $80,000 in restoration seed purchases.

**Planning and Special Projects -** $158,799: $140,000 in carryover for the Strategic Framework; this planning process kicked off in Q4 2023 and will continue throughout 2024. $18,799 in undistributed Enhancement Grant Funds from 2023 will be distributed as part of support for Nature in the City community-led habitat projects.

**Trails and Visitor Amenities (TVA) -** $285,000 for a mini-excavator that will be utilized across the department for projects throughout the year and to replace the 2002 FL80 tandem axel truck.

**Rangers/Trails & Visitor Amenities -** $30,000 for new camera additions to the system-wide cameras currently in use for parking lot management and crime abatement, replacing basic model wildlife cameras without transmission capabilities.

**Department Management -** $51,000 for a consultant contract for leadership coaching and change management support as Natural Areas implements a department reorganization.

## CITY FINANCIAL IMPACTS

The appropriation Ordinance increases 2024 appropriations in the City's Natural Areas Fund by $8,194,435. The requested total appropriation of $8,194,435 in the Natural Areas Fund represents 2023 appropriations that were unspent and unencumbered at year-end in addition to 2023, unanticipated revenues and new appropriations from the Natural Areas Fund Balance. This ordinance also increases the total appropriations in the Sales and Use Tax Fund by $269,466 to be transferred to the Natural Areas Fund. All these funds are restricted to the purposes of the Natural Areas Department.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Land Conservation and Stewardship Board met on March 6, 2024.

**2023 Reappropriations Excerpt**

Barb Brock, Financial Analyst II and Katie Donahue, Director, reminded the LCSB of the annual reappropriation process. As outlined in the memo to the LCSB, NAD staff will be requesting to appropriate $8,194,435 in unspent funds and unanticipated revenues in the Natural Areas Fund to fund land conservation, restoration of wildlife habitat, trails and visitor amenities, special projects and other NAD needs to benefit the residents of Fort Collins.

Of the total appropriation, $7,100,000 will be used for land conservation. With over $8,000,000 currently under contract or in negotiation, and an additional $20,000,000 in properties identified as high priorities for conservation, there is a reasonable likelihood that most of these funds will be spent in 2024.

Barb and Katie then provided a brief description of the remaining funds to be carried over to 2024 budget and the associated expenditures.

**Discussion**

Member Piesman asked for clarification on the Land Conservation expenditures for 2024. Katie and Barb explained, staff maintains an active priority list of potential acquisitions which currently totals approximately $20.0 million. It is unlikely that all properties on the priority list would be acquired in 2024.

***Member Elson made a motion that the Land Conservation and Stewardship Board recommends that City Council approve the proposed 2024 appropriation of prior year Natural Areas reserves. Member Piesman seconded the motion. The motion was unanimously approved 7-0.***

## PUBLIC OUTREACH

Natural Areas Funds will be spent in alignment with the Natural Areas Master Plan, which was extensively reviewed by the public prior to its adoption in October 2014.

## ATTACHMENTS

1. Ordinance for Consideration

ORDINANCE NO. 053, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PRIOR YEAR RESERVES IN THE NATURAL AREAS FUND AND THE SALES AND USE TAX FUND FOR THE PURPOSE OF LAND CONSERVATION, VISITOR AMENITIES, RESTORATION AND OTHER RELATED NATURAL AREAS STEWARDSHIP ACTIVITIES NOT INCLUDED IN THE 2024 ADOPTED CITY BUDGET

A. The City is committed to preserving natural areas and providing educational, interpretive and appropriate recreational opportunities to the public.

B. Natural Areas programming implements open land conservation priorities identified in the City's Comprehensive Plan by purchasing conservation easement interests in key natural areas, community separators, or other open lands; providing stewardship for lands purchased; public engagement and educational programs; and developing trails and interpretive features and other amenities for public use.

C. The Natural Areas Department is funded primarily through the collection of City Open Space – Yes! sales and use tax revenue, as well as revenues from the Larimer County Help Preserve Open Space sales and use tax, investment earnings, and other miscellaneous revenues deposited in the Natural Areas Fund.

D. 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.

E. Article V, Section 11 of the City Charter requires all appropriations unexpended or unencumbered at the end of the fiscal year lapse to the applicable general or special revenue fund, except appropriations for capital projects and federal or state grants do not lapse until completion of the capital project or expiration of the respective grant.

F. The City Manager has recommended the appropriation from prior year reserves in the Natural Areas Fund of a total of $7,924,969, comprised of unspent and unencumbered appropriations from 2023.

G. The City Manager has recommended this appropriation and determined that this appropriation is available and previously unappropriated from the Natural Areas Fund and will not cause the total amount appropriated in the Natural Areas 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.

H. 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.

I. The City Manager has recommended the transfer of $269,466 from the Sales and Use Tax Fund to the Natural Areas Fund and determined that the purpose for which the transferred funds are to be expended remains unchanged.

J. The appropriations described herein shall be used for land conservation, resource management, planning, construction of trails and other visitor amenities, restoration of wildlife habitat, and other Natural Areas Department programs and activities to benefit the residents of the City, in accordance with the Natural Areas Master Plan.

K. The appropriations described herein benefits the public health, safety, and welfare of the residents of Fort Collins and serves the public purpose of providing funding for preserving natural areas, conserving viewsheds, and providing recreational opportunities to the public.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from prior year reserves in the Natural Areas Fund the sum of SEVEN MILLION NINE HUNDRED TWENTY-FOUR THOUSAND NINE HUNDRED SIXTY-NINE DOLLARS ($7,924,969) to be expended in the Natural Areas Fund for land conservation, resource management, planning, construction of trails and other visitor amenities, restoration of wildlife habitat, and other Natural Areas Department programs and activities to benefit the residents of the City, in accordance with the Natural Areas Master Plan.

Section 2. There is hereby appropriated from prior year reserves in the Sales and Use Tax Fund for transfer to the Natural Areas Fund the sum of TWO HUNDRED SIXTY-NINE THOUSAND FOUR HUNDRED SIXTY-SIX DOLLARS ($269,466) and appropriated therein to be expended in the Natural Areas Fund for land conservation, resource management, planning, construction of trails and other visitor amenities, restoration of wildlife habitat, and other Natural Areas Department programs and activities to benefit the residents of the City, in accordance with the Natural Areas Master Plan.

Introduced, considered favorably on first reading on April 16, 2024, and approved on second reading for final passage on May 7, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: May 17, 2024
Approving Attorney: Sara Arfmann

**April 16, 2024**

# AGENDA ITEM SUMMARY
City Council

## STAFF

Nina Bodenhamer, City Give Director

## SUBJECT

**First Reading of Ordinance No. 054, 2024, Appropriating Philanthropic Revenue Received by City Give for FC Moves to Fund an Asphalt Art Installation.**

## EXECUTIVE SUMMARY

The purpose of this item is to request an appropriation of $25,000 in philanthropic revenue received by City Give for FC Moves, a department within the City's Planning Development and Transportation Service Area, for an asphalt art installation as designated by the grant award. This installation is consistent with the City's Active Modes Plan.

In 2019, the City of Fort Collins launched City Give, a formalized enterprise-wide initiative to create a transparent, non-partisan governance structure for accepting and appropriating charitable gifts.

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

## BACKGROUND / DISCUSSION

Bloomberg Philanthropies awarded $25,000 to FC Moves, a department within the Planning, Development and Transportation Service Area, for an asphalt art installation as designated by the grant award. The installation of this improvement is consistent with the City's Active Modes Plan.

The award will fund an asphalt art installation at the intersection of Magnolia Street, Canyon Avenue, and Sherwood Street near the Lincoln Center. The proposed design intervention aims to improve comfort and safety for all road users by increasing compliance with posted speed limits, reducing near misses, and increasing bike and pedestrian mode share. Traffic paint and delineator posts will outline curb extensions or bulb-outs, which reduce pedestrian crossing distances, exposure to traffic, and turning speeds.

The installation will be informed by robust community engagement and facilitated by Art in Public Places.

The location is an integral component of a major bikeway, allowing for safe east/west travel and offering a unique opportunity for innovative traffic calming solutions. The 2022 Active Modes Plan recommends an intersection redesign and suggests asphalt art as a means of testing alternative intersection geometry. The proposed artistic intervention will offer low cost/quick build solutions for traffic calming, place making, and community building.

## CITY FINANCIAL IMPACTS

Upon adoption, this Ordinance will appropriate $25,000 in philanthropic revenue for expenditure in the Transportation Services Fund for FC Moves. The funds have been received and accepted per City Give Administrative and Financial Policy.

The City Manager has also determined that these appropriations are available and previously unappropriated from the Transportation Services Fund and will not cause the total amount appropriated in the Transportation Services Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in the Transportation Services Fund during fiscal year 2024.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

## PUBLIC OUTREACH

None.

## ATTACHMENTS

1. Ordinance for Consideration

ORDINANCE NO. 054, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PHILANTHROPIC REVENUE RECEIVED BY CITY
GIVE FOR FC MOVES TO FUND AN ASPHALT ART INSTALLATION

A. The City recognizes the long and valuable tradition of community-led collaboration as a way to deliver practical solutions to community issues and to improve community livability, including active modes of transportation.

B. The City received an award of $25,000 from Bloomberg Philanthropies to fund an asphalt art installation at the intersection of Magnolia Street, Canyon Avenue, and Sherwood Street near the Lincoln Center.

C. The specific recipient of the award, FC Moves, is a department within the City's Planning, Development, and Transportation Service Area that advances mobility solutions to increase walking, bicycling, transit use, shared and environmentally sustainable modes of transportation.

D. The art installation will improve comfort and safety at the intersection for all road users by, among other things, increasing compliance with posted speed limits, reducing near misses, and increasing bike and pedestrian mode sharing.

E. This appropriation benefits the public health, safety, and welfare of the residents of Fort Collins and serves the public purpose of improving comfort and safety of all users of the Magnolia Street, Canyon Avenue, and Sherwood Street intersection.

F. 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 from such revenues and funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

G. 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 Transportation Services 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.

H. Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for federal, state or private grant or 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 federal, state, or private grant or donation or the City's expenditure of all funds received from such grant or donation.

I. The City Council wishes to designate the appropriation herein as an appropriation that shall lapse at the end of the current fiscal year.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby appropriated from new philanthropic revenue in the Transportation Services Fund the sum of TWENTY-FIVE THOUSAND DOLLARS ($25,000) to be expended in the Transportation Services Fund for Active Modes Asphalt Art Installation.

Section 2. The appropriation herein is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall lapse at the end of the fiscal year.

Introduced, considered favorably on first reading on April 16, 2024, and approved on second reading for final passage on May 7, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: May 17, 2024
Approving Attorney: Ryan Malarky

**April 16, 2024**

# AGENDA ITEM SUMMARY
City Council

## STAFF

Katie Donahue, Natural Areas Director
Jen Dial, Water Resources Manager
Bernadette Kuhn, Senior Environmental Planner/Project Manager
Kerri Ishmael, Grants Administration

## SUBJECT

**Resolution 2024-059 Supporting the Grant Application for the United States Department of the Interior, Bureau of Reclamation's WaterSMART Grants: Planning and Project Design for the Poudre Flows Project and Authorizing the City Manager to Execute Agreements Regarding Such a Grant.**

## EXECUTIVE SUMMARY

The purpose of this item is to obtain support for the City to apply for funds under the United States Department of the Interior, Bureau of Reclamation's ("Reclamation") WaterSMART Planning and Project Design ("WaterSMART") Grant Program for the Poudre Flows Project. The Reclamation requires a resolution demonstrating (1) Council's support of the City's request for funds under the WaterSMART Grant Program and, assuming the City is selected to receive funding, (2) the City's commitment to work with Reclamation in finalizing an agreement that, among other things, demonstrates the City's adherence to meet financial obligations as represented in the grant application.

## STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

## BACKGROUND / DISCUSSION

Since 2013, the City of Fort Collins ("City") has collaborated with regional water providers and partners on an innovative effort to provide protected instream flows on a 52-mile reach of the Cache la Poudre River ("Poudre River"). This effort, called the Poudre Flows Project, will use existing water rights owned by the cities of Fort Collins, Greeley, and Thornton, that will be delivered to the Poudre River as protected stream flows to maintain and improve the river health. To operate the City's water right contribution to the Poudre Flows Project, upgrades must be made to the Arthur Ditch diversion structure. The City is collaborating with the structure's owners, the Arthur Irrigation Company, and ICON Engineering to design structural upgrades needed to measure and deliver the City's water to the Poudre River. To fund the full design and permitting phase, the project team is seeking grant funding from the Reclamation WaterSMART program that provides up to $400,000 for successful recipients working on water management resiliency projects. To meet the requirements of the WaterSMART Grant Program, the project team seeks a Resolution that provides Council's support for the City's request for funds under the Reclamation's fiscal year 2024 funding cycle.

The Poudre Flows Project is a critical project that will support Council's Proposed Priority #8 to, "Protect community water systems in an integrated way to ensure resilient water resources and healthy watersheds". This priority will only be achieved through strong regional partnerships, and the Poudre Flows Project brings together the City, the Cache la Poudre Water Users Association, the Colorado Water Conservation Board, the City of Thornton, the City of Greeley, Northern Water, and the Colorado Water Trust.

The City has and continues to pursue external funding in support of design, permitting, and construction of needed upgrades at the Arthur Ditch diversion structure, located downstream of the intersection of Taft Hill Road and the Poudre River. The conceptual design phase ($120,000) is nearly completed. This effort was possible through City 2023 committed funds from Fort Collins Utilities ("Utilities") and Natural Areas. Final design and permitting costs are estimated between $700,000 and $1,200,000. In support of funds needed for final design and permitting, the City is presenting a proposal under the Reclamation's WaterSMART Grant Program, requesting the maximum award amount of $400,000. Based on the required cost share, the City is proposing $429,230 in cash and in-kind match (Table 1).

Table 1. Poudre Flows Project grant opportunity details.

| Funding Source | Scope | Amount Requested | City Match Amount | Requirements | Deadline |
|---|---|---|---|---|---|
| Reclamation WaterSMART Planning and Project Design Grant | Final Design/Permitting | $400,000 | $429,230 | Council Resolution stating matching funds commitment | May 21, 2024 |

**Next Steps**

Pending a resolution demonstrating City Council's support of the City's pursuit of funds for the Poudre Flows Project, the City will submit a proposal for $400,000 under Reclamation's WaterSMART Grant Program by May 21, 2024. The City will continue to pursue external funding and work through conceptual design options that meet the needs of the Poudre Flows Project and the Arthur Irrigation Company.

## CITY FINANCIAL IMPACTS

Support of City's collaboration amongst Natural Areas and Utilities in applying for Reclamation's WaterSMART Grant Program does not impact City finances. If the grant is awarded, the City will subsequently seek appropriation of such grant funds from Council for transfer and/or appropriation of the City's matching funds to align with City Charter.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Land Conservation and Stewardship Board passed a motion on March 6, 2024, to recommend Council adopt a resolution supporting the City's request for funds under Reclamation's WaterSMART Grant Program.

## PUBLIC OUTREACH

None.

## ATTACHMENTS

1. Resolution for Consideration

RESOLUTION 2024-059
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SUPPORTING THE GRANT APPLICATION FOR THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION'S WATERSMART GRANTS: PLANNING AND PROJECT DESIGN FOR THE POUDRE FLOWS PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS REGARDING SUCH A GRANT

A. The Cache la Poudre River ("Poudre River") flows through Fort Collins and is a significant amenity to the City, its citizens, and the region. The Poudre River is the source of water supply for numerous water users, including the City, such that the majority of Poudre River flows are diverted into canals, ditches, pipelines, reservoirs, and other waterworks. Such diversions reduce the flows of water through Fort Collins, which has various ecological, environmental, recreational, sociological, and other impacts, some of which are adverse.

B. The City desires to enhance Poudre River flows through Fort Collins and in the region while working within the existing legal context, including the prior appropriation doctrine, which is confirmed in Sections 5 and 6 of Article XVI of the Colorado Constitution and the Water Right Determination and Administration Act of 1969, Colorado Revised Statutes Sections 37-92-101 et seq.

C. The City and regional partners are pursuing the Poudre Flows Project ("Project") to improve Poudre River flows, from the canyon mouth to Poudre River's confluence with the South Platte River, at times when flows would improve the ecological health of the river, while not injuriously affecting the owners of or persons entitled to use water under vested water rights or decreed conditional water rights. The Project includes a proposed stream flow augmentation plan pursuant to Colorado Revised Statutes Section 37-92-102(4.5), which is pending in Case No. 2021CW3056 in the District Court for Water Division 1.

D. The City and its regional partners have entered into several agreements related to the Project. *See, e.g.,* Resolution 2016-022, Resolution 2018-087 and Resolution 2018-088.

E. The United States Department of the Interior, Bureau of Reclamation ("Reclamation") has a WaterSMART (Sustain and Manage America's Resources for Tomorrow) Program and has requested applications for WaterSMART Grants: Planning and Project Design for Fiscal Year 2024 ("WaterSMART Grant"). Such a WaterSMART Grant could provide significant funding for the Project, namely with respect to necessary infrastructure upgrades at the Arthur Ditch diversion structure. The upgrades must be installed to operate the City's water rights that contribute to the Project.

F. The City desires to pursue such a WaterSMART Grant. Staff will submit an application under Reclamation's WaterSMART Grant program, pursuant to which the City would seek a grant of $400,000.

G. Applications for WaterSMART Grants require a resolution from the applicant's governing board verifying: (1) the identity of the official with legal authority to enter into an agreement: (2) the board of directors, governing body, or appropriate official who has reviewed and supports the application submitted; (3) the capability of the applicant to provide the amount of funding and/or in-kind contributions specified in the funding plan; and (4) that the applicant will work with Reclamation to meet established deadlines for entering into a grant or cooperative agreement. Following the award of such a WATERSMART Grant, Reclamation and the entity that was awarded the grant enter into an agreement.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Council supports the submission of a WaterSMART Grant application as described in this Resolution.

Section 2. The City Council has the capability to provide the amount of funding and/or in-kind contributions specified in the project budget funding plan to be described in the WaterSMART Grant application, as long as such funding has been appropriated by City Council.

Section 3. The City Manager will work with Reclamation to meet established deadlines for entering into a grant or cooperative agreement related to any award of a WaterSMART Grant.

Section 4. The City Manager is hereby authorized to execute an agreement related to a WaterSMART Grant consistent with this Resolution, with such terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City and to effectuate the purposes of this resolution, provided that all required matching funds have been appropriated prior to execution.

Passed and adopted on April 16, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: April 16, 2024
Approving Attorney: Eric Potyondy

**April 16, 2024**

# AGENDA ITEM SUMMARY
City Council

## STAFF

Solara Clark, Project Coordinator

## SUBJECT

**Resolution 2024-060 Approving Fort Fund Program Support Disbursements.**

## EXECUTIVE SUMMARY

The purpose of this item is to approve Fort Fund grants from the Cultural Development and Programming Account and the Tourism Programming Account for the selected community events in the Program Support Grant – March Deadline category, based upon the recommendations of the Cultural Resources Board.

## STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

## BACKGROUND / DISCUSSION

The Fort Fund grant program, established in 1989, disburses lodging tax revenues deposited in the City's Cultural Development and Programming Account and the Tourism Programming Account in accordance with the provisions of Section 25-244 of the City Code, where 25% of the revenue from the lodging tax fund is applied to the Cultural Development and Programming Account and 5% of revenue from lodging tax is dedicated to the Tourism Programming Account. Local non-profit organizations may apply to Fort Fund for cultural and/or tourism event support. The Cultural Resources Board is authorized to review grant applications based on approved guidelines and make recommendations for Fort Fund disbursements to Council, pursuant to Section 2-145 (b) of the City Code. There are three funding categories available and a total of five deadlines: Special Event Grant (January and July deadlines), Program Support Grant (March and September deadlines), and Cross-Sector Impact Grant (October deadline).

Fort Fund grants support arts and cultural events that enrich the creative vitality of the community, promote local heritage and diversity, and provide opportunities for arts and cultural participation. The grants help promote Fort Collins as a creative center and tourist destination and promote the health and well-being of all residents and visitors.

**March 28, 2024, Funding Session**

At its March 28, 2024, funding session, the Cultural Resources Board reviewed twenty-seven Program Support Grant – March Deadline applications with total requests equaling $584,628.50. Twenty-seven applications were found eligible and recommended for funding of $425,000.

The following table summarizes the Program Support Grant – March Deadline requests, available funds and grant award amounts:

| Grant Requests | Available Funds | Grant Awards |
|---|---|---|
| $584,628.50 | $425,000 | $425,000 |

The Cultural Resources Board scored each application using the funding criteria outlined in the Fort Fund Guidelines and discussed the applications at its March 28, 2024, meeting. The Board's approval and discussion is outlined in the draft minutes. (Attachment 3) The Board is recommending disbursement of $425,000 to the eligible applicants as outlined in Exhibit A to the Resolution.

## CITY FINANCIAL IMPACTS

The Fort Fund grant program, established in 1989, disburses lodging tax revenues deposited in the City's Cultural Development and Programming Account and Tourism Programming Account in accordance with the provisions of Section 25-244 of the City Code. This Resolution would distribute $425,000 from the Cultural Development and Programming Account and Tourism Programming Account to local non-profit organizations. Each grantee organization must provide funds to match the grant amount. These funds were budgeted and appropriated in the 2024 budget. Lodging tax is collected pursuant to Section 25-242 of the City Code.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Cultural Resources Board is presenting these recommendations to Council for programs and organizations to receive funding at the recommended grant amounts from the Cultural Development and Programming Account and Tourism Programming Account.

Exhibit A to the Resolution presents the allocations recommended by the Cultural Resources Board to the Council for Program Support Grant – March Deadline funding.

## PUBLIC OUTREACH

None.

## ATTACHMENTS

1. Resolution for Consideration
2. Exhibit A to Resolution
3. Cultural Resources Board Draft Minutes

RESOLUTION 2024-060
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING FORT FUND PROGRAM SUPPORT DISBURSEMENTS

A. Providers of lodging accommodations in the City are required by Section 25-242 of the City Code to pay three percent of all revenues derived from such lodging accommodations to the City as a lodging tax.

B. The Fort Fund Grant Program ("Fort Fund") supports projects and activities that provide arts and cultural programming to the Fort Collins community and visitors. Established in 1989, Fort Fund distributes lodging tax revenues deposited in the City's Cultural Development and Programming Account and the Tourism Programming Account in accordance with the provisions of Section 25-244 of the City Code.

C. Local non-profit organizations may apply to Fort Fund for cultural and tourism event support. There are three Fort Fund funding programs available for applicants: Special Events; Program Support; and Cross-Sector Impact.

D. The City's Cultural Resources Board reviews applications from the community for Fort Fund monies and makes recommendations to the City Council in accordance with Section 2-145(b) of the City Code and the administrative guidelines for Fort Fund (the "Fort Fund Guidelines").

E. At its meeting on March 28, 2024, the Cultural Resources Board recommended funding for various proposals in the Program Support category based on the criteria and considerations set forth in Section 2-145(b) of the City Code and the Fort Fund Guidelines.

F. The use of lodging tax revenues will provide a public benefit to the Fort Collins community by supporting cultural development and public programming activities within the City that promote the use of public accommodations within the City.

G. The City Council has determined it will advance these purposes to approve Fort Fund grant disbursements as set forth in Exhibit "A," which is attached hereto.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Council hereby finds that the distribution of funds through the Fort Fund program as set forth on Exhibit "A" will promote the cultural and economic health of the community and in doing so will serve a recognized and valuable public purpose.

Section 2. Funds in the total amount of Four Hundred Twenty-Five Thousand Dollars ($425,000), comprised of Three Hundred Fifty-Eight Thousand Six Hundred

Eighty Dollars ($358,680) from the City's Cultural Development and Programming Account and Sixty-Six Thousand, Three Hundred Twenty Dollars ($66,320) from the Tourism Programming Account, are hereby approved for distribution as set forth in Exhibit "A."

Passed and adopted on April 16, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: April 16, 2024
Approving Attorney: Ted Hewitt

EXHIBIT A TO RESOLUTION 2024-060

# *FORT FUND GRANT PROGRAM*
## *Program Support*
### *March 2024*

| | | | Approved Funding | | | |
|---|---|---|---|---|---|---|
| **APPLICANT** | **PROPOSED EVENT/DATE** | **FUNDING REQUESTS** | **CULTURAL DEVELOPMENT & PROGRAMMING** | **TOURISM PROGRAMMING** | **UNFUNDED BALANCE** | **PERCENT OF REQUEST FUNDED** |
| Bas Bleu Theatre Company | 2024-2025 Season<br>September 2024 - August 2025 | $30,000.00 | $21,192 | | $8,808 | 71% |
| Blast N Scrap | Blast Shows!<br>May 2024 - December 2024 | $27,600.00 | $19,497 | | $8,103 | 71% |
| Canyon Concert Ballet | 45th Anniversary Season<br>September 2024 - June 2025 | $30,000.00 | $21,192 | | $8,808 | 71% |
| Centennial Children's Chorus | 2024-2025 Concert Season<br>August 2024 - June 2025 | $25,500.00 | $17,013 | | $8,487 | 67% |
| Colorado Bach Ensemble | 2024-2025 Season<br>December 22, 2024; January 12, 2025; March/April 2025 | $13,950.00 | $9,854 | | $4,096 | 71% |
| Dance Express | 2024-2025 Productions<br>September 2024 - May 2025 | $15,000.00 | $10,596 | | $4,404 | 71% |
| Foothills Symphonic Band | 2024-2025 Concert Season<br>October 2024 - May 2025 | $5,000.00 | $3,140 | | $1,860 | 63% |
| Fort Collins Children's Theatre | Performance Season<br>June 2024 - April 2025 | $27,000.00 | $18,013 | | $8,987 | 67% |
| Fort Collins Museum of Discovery | FCMoD Operations<br>2024 | $30,000.00 | $23,547 | | $6,453 | 78% |
| Fort Collins Symphony Association | 2024-2025 Season<br>July 2024 - May 2025 | $30,000.00 | $23,547 | | $6,453 | 78% |
| Fort Collins Wind Symphony | 2024-2025 Season<br>October 2024 - May 2025 | $7,500.00 | $5,298 | | $2,202 | 71% |
| Friends of the Gardens on Spring Creek | Programming Support for Community Events<br>May - December 2024 | $30,000.00 | | $21,192 | $8,808 | 71% |
| Gregory Allicar Museum (CSU) | Summer 2024-Spring 2025 Programming<br>July 2024 - June 2025 | $30,000.00 | $23,547 | | $6,453 | 78% |
| Health and Wellness Orchestra (FRCCF) | 2024-2025 Season<br>November 10, 2024; March 9, 2025; May 18, 2025 | $10,453.50 | $6,974 | | $3,479 | 67% |
| Howdy Neighbor Events | Comic Con 2024, BrainChange, and Create Your Own Superhero Program<br>August 2024 - June 2025 | $27,495.00 | | $21,581 | $5,914 | 78% |
| IMPACT Dance Company | A Season of Moving Image<br>June 2024 - May 31, 2025 | $18,100.00 | $14,207 | | $3,893 | 78% |
| International Odyssiad & Keyboard Festival | 2024 International Keyboard Odyssiad & Festival<br>August 5-10, 2024 | $30,000.00 | | $23,547 | $6,453 | 78% |
| Larimer Choral Society (Larimer Chorale) | 2024-2025 Season<br>October 2024 - June 2025 | $30,000.00 | $21,192 | | $8,808 | 71% |

EXHIBIT A TO RESOLUTION 2024-060

| | | | | | | |
|---|---|---|---|---|---|---|
| Launch: Community Through Skateboarding | Build Your Own Skateboard Program<br>June 2024 - June 2025 | $4,380.00 | $3,438 | | $942 | 78% |
| Lincoln Center Support League | Arts Education Outreach<br>June 2024 - May 2025 | $10,600.00 | $7,488 | | $3,112 | 71% |
| LuneAseas | Phases of LuneAseas<br>June 2024 - March 2025 | $25,000.00 | $15,698 | | $9,302 | 63% |
| Museum of Art \| Fort Collins | Program Support for Exhibitions and Education<br>June 2024 - June 2025 | $30,000.00 | $23,547 | | $6,453 | 78% |
| New Horizons Band of Nothern Colorado | 2024-2025 Season<br>September 2024 - September 2025 | $5,900.00 | $3,936 | | $1,964 | 67% |
| Off the Hook Arts | Music Education and Performance<br>April 6, May 4, June 3-8, June 27, September 21, November 9, 2024 | $27,750.00 | $19,603 | | $8,147 | 71% |
| OpenStage Theatre & Company, Inc. | 2024-2025 Season<br>August 2025 - July 2025 | $30,000.00 | $23,547 | | $6,453 | 78% |
| Sound Affects Music | Sound Affects Shine On<br>1st and 3 Wednesdays each month in 2024 | $8,400.00 | $5,934 | | $2,466 | 71% |
| The Center for Fine Art Photography | Annual Programming<br>July 2024 - June 2025 | $25,000.00 | $16,679 | | $8,321 | 67% |
| | | | | | | |
| **Totals** | | **$584,628.50** | **$425,000** | | **$159,629** | **73%** |

*Scores are based on application materials and Fort Fund's "Criteria for Funding."*

# MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS

## Cultural Resources Board

## REGULAR MEETING

Thursday, March 28, 2024 – 5:30 PM, Founders Room, The Lincoln Center

**CALL TO ORDER:** 5:41 PM

**ROLL CALL**

- Board Members Present –Sheri Emerick, Kelly Mosher, Vicki Fogel Mykles (Vice-Chair), Audra Vaisbort
- Board Members Remote – Conner Horak-Flood, Leslie Walker (Chair)
- Board Members Absent – Jessica MacMillan
- Staff Members Present – Solara Clark, Kim Manajek
- Guest(s) –

**AGENDA REVIEW**

- Katy Schneider is unable to attend the meeting. She emailed some Visit Fort Collins updates that Vicki Fogel Mykles will read during New Business.

**CITIZEN PARTICIPATION**

**APPROVAL OF MINUTES**

- Approval of January 2024 minutes. Leslie Walker made a motion to approve the minutes. Audra Vaisbort seconded the motion. The motion passed unanimously. Approved by roll call, Ayes: Sheri Emerick, Conner Horak-Flood, Kelly Mosher, Vicki Fogel Mykles, Audra Vaisbort, Leslie Walker.

**UNFINISHED BUSINESS**

**NEW BUSINESS**

- Katy Schneider – Director of Marketing, Visit Fort Collins – Update
    - Vicki Fogel Mykles read the emailed updates (written below) from Katy Schneider to the Board.
    - “Lodging tax saw a slight dip for January and February, but hotels seem to be optimistic about the rest of spring and summer. Fingers crossed.”
    - “Visit Fort Collins will be moving the downtown visitors center into a portion of the former CooperSmith's Pool Hall later this year. There will be opportunities in the new space for artistic programming ranging from visual installations, small scale performances, TedTalk-style programs, and other opportunities. Keep an eye out for an invitation to the grand opening celebration.”
    - “In December, based on a pitch we (Visit Fort Collins) sent in early 2023, Visit Fort Collins hosted journalist Melanie Allen for two days in Fort Collins. The pitch and her focus was on the arts/music/entertainment scene in the community. The article was syndicated through AP News to several national publications/websites. A fantastic win for the arts and culture community here. We also worked with Denver's Channel 7 on a segment about things to do that

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included the Gregory Allicar Museum and, later, the Gardens on Spring Creek. We'll keep spreading the word far and wide!"

- "In an effort to differentiate Fort Collins from other content that leans heavily on outdoor recreation on Colorado.com, we have purchased more articles that feature arts and culture and appear prominently on the Fort Collins page of that site which garners millions of unique views each month."

- 2024 Program Support Grant: March Deadline – Discussion and Funding Recommendations
  - Solara Clark reviewed the 2024 Program Support Grant: March Deadline Funding Results and explained how scoring and available funds affects the amount funded per application.
    - The Board discussed and reviewed twenty-seven 2024 Program Support Grant: March Deadline applications and funding recommendations.
    - The Board took special note to discuss how they can help Fort Fund nonprofit grantees in the future through a variety of workshop topics based on the applications they scored in this round.
    - Board members asked for clarifying information on some of the applicants. Solara Clark and Kim Manajek addressed any confusion.
  - Kelly Mosher made a motion to accept the funding recommendations. Audra Vaisbort seconded the motion. The motion passed unanimously. Approved by roll call, Ayes: Sheri Emerick, Conner Horak-Flood, Kelly Mosher, Vicki Fogel Mykles, Audra Vaisbort, Leslie Walker.
- Capacity Building Workshop Series – Priority Topic(s) Determination
  - Solara Clark explained the topics that were most commonly seen in the top three when Board members were asked to send their priority rankings. The three topics are:
    - Board Development
    - Audience Development/Retention/Involvement
    - Fundraising/Grant Writing/Fiscal Responsibility
  - After brief discussion, the Board decided to begin with Fundraising/Grant Writing/Fiscal Responsibility but to include Corporate Sponsorships/Donor Development and make it a series of financial topics over a course of three workshops.
    - The Board is asked to think about who could be potential facilitators to hire for the workshop and to inform Solara Clark at the next meeting.
- Super Issues Meeting Overview – Sheri Emerick and Kelly Mosher
  - Kelly Mosher described her experience at the Super Issues Meeting as a casual networking event to meet people from other Boards.
  - Sheri Emerick spoke positively about her experience and shared that other Board members were impressed with the Cultural Resources Board

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and the Fort Fund Grant Program.

- Sheri Emerick asked why the event is called “Super Issues Meetings”
  - Solara Clark explained that Super Issue Meetings are intended to engage Boards and Commissions in broader discussions about issues other Boards and Commissions are working on or are interested in. The meetings are produced and managed by the City Clerk’s Office.

**DIRECTOR’S REPORT**

- Kim Manajek updated the Board on department operations:
  - For 2023, volunteers at The Gardens on Spring Creek provided 13,549.79 hours of service.
  - The Fort Collins Museum of Discovery has two artists from Mexico in residence working on the community alebrije sculpture. On April 4, from 5-7pm there will be a community celebration event.
  - The Live at the Gardens Concert Series lineup, in collaboration with The Lincoln Center, will be announced on April 1. Members at the Gardens will get first access to tickets. This series is a big membership driver for the Gardens.
    - In collaboration with the Bohemian Foundation, there will be two additional concerts to take place in September with a later date for announcements.
  - May 18 and 19 is the Spring Plant Sale at The Gardens on Spring Creek.
  - The Gardens on Spring Creek will be celebrating its 20th birthday on May 8. On May 8 from 5-7:30pm will be the Birthday Bash Celebration Event.
  - The Gardens will be hosting the Origami in the Gardens outdoor exhibition this summer. The VIP event will be May 30 and the public grand opening will be June 1.
  - Monday, April 1 is Eileen May’s, our new Director of Cultural Services, first day. She will attend the April CuRB meeting.
  - The Community Center for Creativity will open to the public in July.

**BOARD MEMBER REPORTS**

- Kelly Mosher attended Canyon Concert Ballet’s performance of Picture of Dorian Grey, the Fort Collins Symphony’s Magnificent Mozart performance and Larimer Chorale’s performance of The Creation.
- Conner Horak-Flood went to CSU Dance’s BodySpeak performance and Come From Away at The Lincoln Center.
- Sheri Emerick attended Come From Away at The Lincoln Center and informed the Board of the Gregory Allicar Museum exhibitions.
- Vicki Fogel Mykles went to the Larimer Chorale’s performance of The Creation

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# MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS

## Cultural Resources Board

## REGULAR MEETING

Thursday, March 28, 2024 – 5:30 PM, Founders Room, The Lincoln Center

**OTHER BUSINESS**

- Solara Clark reminded the Board to fill out the Liaison Interest Form as soon as possible.

**ADJOURNMENT:**

Sheri Emerick made a motion to adjourn at 7:07 PM. Audra Vaisbort seconded the motion. The motion passed unanimously. Approved by roll call, Ayes: Sheri Emerick, Conner Horak-Flood, Kelly Mosher, Vicki Fogel Mykles, Audra Vaisbort, Leslie Walker.

Respectfully submitted,
Solara Clark
Project Coordinator

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April 16, 2023

# AGENDA ITEM SUMMARY
City Council

## STAFF

Kai Kleer, Senior City Planner
Megan Keith, Senior City Planner

## SUBJECT

**Resolution 2024-061 Finding Substantial Compliance and Initiating Annexation Proceedings for the I-25 & Mulberry Annexation.**

## EXECUTIVE SUMMARY

The purpose of this item is to determine substantial compliance and initiate annexation proceedings for voluntary annexation of the I-25 & Mulberry Annexation, located at the northeast corner of East Mulberry Street and Interstate 25. The Applicant has submitted a written petition requesting the annexation and proposed zoning. The I-25 & Mulberry Annexation totals 46.9216-acres in size.

The requested zoning for this annexation is General Commercial (C-G) and Industrial (I), which is in alignment with the City of Fort Collins Structure Plan designation for this area. No project development plan proposal was submitted in conjunction with the annexation application; however, it is anticipated that the landowner will submit an application to construct public infrastructure to prepare the site for future users and development.

The site is part of a county-approved metro district; however, this is not relevant to satisfying State statue but will be an important consideration during First Reading.

This annexation request is in conformance with the State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins City Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreement Regarding Growth Management.

## STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

## BACKGROUND / DISCUSSION

This is a 100% voluntary annexation of a 47-acre property located at the northeast corner of I-25 and East Mulberry Street. The property is currently and has historically been used in an agricultural capacity. The site is bound by NE Frontage Road to the west, former Heli-One industrial building to the north, Cloverleaf Community to the east and Sunstate Equipment Rental/East Mulberry Street to the south. As noted, no development proposal was submitted in conjunction with this application, however, the applicant has indicated the desire to design and construct roadway and utility infrastructure to suit approximately 400,000+ square feet of retail and light industrial/flex space.

The I-25 & Mulberry Annexation is approximately 47-acres in size and has a total contiguous perimeter of 3,811 feet or 62%, which satisfies the one-sixth (16%) required by State Statue. Contiguity is gained from the East Gateway Annexation (2018), Interchange Business Park Third Annexation (2006), and I-25 Third Annexation (2017).

The current boundary of the property is also the service area of the Mulberry Frontage Metropolitan District (District) that was established in the County in 2017. The District is an independent local government unit designed to finance and manage public infrastructure that is described in the Service Plan. From staff's review of the Service Plan, the anticipated infrastructure includes the design and construction of a re-aligned Frontage Road, two commercial local streets, utility infrastructure such as water, sanitary, and storm sewer, and detention pond infrastructure. The District operates separately from the County and City, and has a primary purpose of undertaking the planning, design, financing and, construction and maintenance of public improvements. Staff will provide a detailed comparative analysis of the existing Metro District and City Policy at time of First Reading.

The property is located within the Fort Collins Growth Management Area (GMA) and according to policies and agreements between the City of Fort Collins and Larimer County contained in the Intergovernmental Agreement for the Fort Collins Growth Management Area, the City agrees to consider annexation of property in the GMA when the property is eligible for annexation according to State law.

The March 2024 East Mulberry Enclave Monitoring Report will be issued to Councilmembers on March 21, 2024. This is the first issuance of this report following December 2023 adoption of the East Mulberry Plan. The monitoring report is intended to track and explore potential annexation threshold scenarios within the East Mulberry Enclave. The voluntary annexation of the I-25 & Mulberry property is discussed within the report as a potential threshold consideration. This will not impact the timing of the annexation consideration for the I-25 & Mulberry property. Please reference the March 2024 monitoring report for additional information.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Planning and Zoning Commission will conduct a public hearing on the annexation and zoning request on May 16, 2024. The Commission's recommendation will be forwarded to Council as part of the First Reading of the annexation and zoning ordinances on May 21, 2024.

## CITY FINANCIAL IMPACTS

The annexation and zoning will not result in any initial direct significant financial/economic impacts.

Future development will also trigger the transition of law enforcement from Larimer County Sheriff to Fort Collins Police Services. Should development occur, water utility services will be provided by the East Larimer Water (ELCO) District wastewater utility service by the Boxelder Sanitation District, and electric service provided by Fort Collins Light & Power.

## PUBLIC OUTREACH

There was no public outreach for this initiating Resolution, as this Resolution simply accepts the Annexation Petition and provides a schedule for upcoming Council hearings, with a schedule and notification requirements that comply with State Statutes.

## ATTACHMENTS

1. Resolution for Consideration
2. Exhibit A to Resolution
3. Vicinity Map
4. Petition

5. Applicant Narrative
6. Annexation Map
7. Applicant Statement of City Plan Principles and Policies
8. Metro District Service Plan

RESOLUTION 2024-061
OF THE COUNCIL OF THE CITY OF FORT COLLINS
FINDING SUBSTANTIAL COMPLIANCE AND INITIATING ANNEXATION
PROCEEDINGS FOR THE I-25 & MULBERRY ANNEXATION

A. A written petition, together with four prints of an annexation map, have been filed with the City Clerk requesting the annexation of certain property to be known as the I-25 & Mulberry Annexation, as more particularly described below.

B. The City Council desires to initiate annexation proceedings for the I-25 & Mulberry Annexation in accordance with the Municipal Annexation Act, Colorado Revised Statutes ("C.R.S.") Section 31-12-101, et seq.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Council hereby accepts the annexation petition for the I-25 & Mulberry Annexation, located at the northeast corner of East Mulberry Street and Interstate 25 and more particularly described as situate in the County of Larimer, State of Colorado, to wit:

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF LARIMER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE SOUTHWEST CORNER BY A 3" BRASS CAP STAMPED " LS23503 2007" IN A RANGE BOX, AND AT THE WEST QUARTER CORNER BY A 2"ALUMINUM CAP STAMPED " LS 5028 1998" ASSUMED TO BEAR N00°09'34"W.
COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 10, THENCE N70°26'24"E A DISTANCE OF
648.39 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 25, AND THE POINT OF BEGINNING;

THENCE ON SAID EASTERLY RIGHT-OF-WAY LINE, THE FOLLOWING SIX (6) COURSES:

1. N58°42'20"W A DISTANCE OF 212.59 FEET;
2. N38°22'59"W A DISTANCE OF 442.05 FEET;
3. N14°16'20"W A DISTANCE OF 206.20 FEET;
4. N00°13'50"W A DISTANCE OF 37.90 FEET;
5. N00°31'20"W A DISTANCE OF 940.70 FEET;

6. N03°19'40"E A DISTANCE OF 245.20 FEET, TO THE SOUTHWESTERLY CORNER OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 20050043464;

THENCE ON THE SOUTHERLY LINE OF SAID PROPERTY, S89°19'40"E A DISTANCE OF 1241.28 FEET, TO A POINT ON THE WESTERLY LINE OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 2002051529;

THENCE ON SAID WESTERLY LINE, S00°20'18"W A DISTANCE OF 1727.08 FEET, TO THE NORTHEASTERLY CORNER OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 20120069518;

THENCE ON THE NORTHERLY AND WESTERLY LINES OF SAID PROPERTY, THE FOLLOWING FOUR (4) COURSES:

1. N69°41'20"W A DISTANCE OF 224.55 FEET;
2. N81°42'20"W A DISTANCE OF 504.90 FEET;
3. N58°42'20"W A DISTANCE OF 20.61 FEET;
4. S00°19'40"W A DISTANCE OF 300.00 FEET, TO THE POINT OF BEGINNING. CONTAINING A CALCULATED AREA OF 2,043,904 SQUARE FEET OR 46.9216 ACRES.

Section 2. The City Council hereby finds and determines that the annexation petition for the I-25 & Mulberry Annexation is in substantial compliance with the Municipal Annexation Act in that the annexation petition contains the following:

(1) An allegation that it is desirable and necessary that such area be annexed to the municipality;

(2) An allegation that the requirements of C.R.S. Sections 31-12-104 and 31-12-105 exist or have been met;

(3) An allegation that the signers of the petition comprise more than fifty percent of the landowners in the area and own more than fifty percent of the area proposed to be annexed, excluding public streets and alleys and any land owned by the annexing municipality;

(4) The signatures of such landowners;

(5) A request that the annexing municipality approve the annexation of the area proposed to be annexed;

(6) The mailing address of each such signer;

(7) The legal description of the land owned by such signer;

(8) The date of signing of each signature; and

(9) The affidavit of the circulator of such petition that each signature therein is the signature of the person whose name it purports to be.

Section 3. The City Council hereby finds and determines that the annexation map, four copies total, accompanying the annexation petition for the I-25 & Mulberry Annexation is in substantial compliance with the Municipal Annexation Act in that the map contains the following:

(1) A written legal description of the boundaries of the area proposed to be annexed;

(2) A map showing the boundary of the area proposed to be annexed;

(3) Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks; and

(4) Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the annexing municipality and the contiguous boundary of any other municipality abutting the area proposed to be annexed.

Section 4. The Notice attached hereto as Exhibit “A” is hereby adopted as a part of this Resolution. Said Notice establishes the date, time and place when a public hearing will be held regarding the passage of annexation and zoning ordinances pertaining to the above-described property. The City Clerk is directed to publish a copy of this Resolution and said Notice as provided in the Municipal Annexation Act.

Passed and adopted on April 16, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: April 16, 2024
Approving Attorney: Brad Yatabe

EXHIBIT A TO RESOLUTION 2024-061

**NOTICE**

TO ALL PERSONS INTERESTED:

PLEASE TAKE NOTICE that the City Council of the City of Fort Collins has adopted Resolution 2024-061 initiating annexation proceedings for the I-25 & Mulberry Annexation, consisting of approximately 47 acres and generally located at the northeast corner of East Mulberry Street and Interstate 25, and said Annexation being more particularly described in Resolution 2024-061, a copy of which is available from the City Clerk's Office. The area to be annexed will be concurrently reviewed for zoning to the General Commercial (C-G) zone and Industrial (I) zone districts. The area to be annexed is more particularly described as:

GENERAL COMMERCIAL ZONE DISTRICT:

A PORTION OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 2009006924 IN THE RECORDS OF THE LARIMER COUNTY CLERK AND RECORDER, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF LARIMER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE SOUTHWEST CORNER BY A 3" BRASS CAP STAMPED " LS23503 2007" IN A RANGE BOX, AND AT THE WEST QUARTER CORNER BY A 2"ALUMINUM CAP STAMPED " LS 5028 1998" ASSUMED TO BEAR N00°09'34"W.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 10, THENCE N70°26'24"E A DISTANCE OF
648.39 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 25, AND THE POINT OF BEGINNING;

THENCE ON SAID EASTERLY RIGHT-OF-WAY LINE, THE FOLLOWING SIX (6) COURSES:

1. N58°42'20"W A DISTANCE OF 212.59 FEET;
2. N38°22'59"W A DISTANCE OF 442.05 FEET;
3. N14°16'20"W A DISTANCE OF 206.20 FEET;
4. N00°13'50"W A DISTANCE OF 37.90 FEET;
5. THENCE N00°31'20"W A DISTANCE OF 940.70 FEET;

EXHIBIT A TO RESOLUTION 2024-061

6. N03°19'40"E A DISTANCE OF 245.20 FEET, TO THE SOUTHWESTERLY CORNER OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 20050043464;

THENCE ON THE SOUTHERLY LINE OF SAID PROPERTY, THENCE S89°19'40"E A DISTANCE OF 400.00 FEET; THENCE DEPARTING SAID SOUTHERLY LINE, THE FOLLOWING FIVE (5) COURSES:

1. S00°40'20"W A DISTANCE OF 591.74 FEET;
2. S44°30'21"W A DISTANCE OF 127.98 FEET;
3. S00°29'39"E A DISTANCE OF 256.82 FEET, TO A POINT OF CURVE;
4. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 600.00 FEET, A CENTRAL ANGLE OF
   88°52'35" AND AN ARC LENGTH OF 930.71 FEET, TO A POINT OF TANGENT;
5. S89°22'14"E A DISTANCE OF 333.27 FEET;

THENCE ON SAID WESTERLY LINE, S00°20'18"W A DISTANCE OF 198.69 FEET, TO THE NORTHEASTERLY CORNER OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 20120069518;

THENCE ON THE NORTHERLY AND WESTERLY LINES OF SAID PROPERTY, THE FOLLOWING FOUR (4) COURSES:

1. N69°41'20"W A DISTANCE OF 224.55 FEET;
2. N81°42'20"W A DISTANCE OF 504.90 FEET;
3. N58°42'20"W A DISTANCE OF 20.61 FEET;
4. S00°19'40"W A DISTANCE OF 300.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 753,127 SQUARE FEET OR 17.2894 ACRES.

INDUSTRIAL ZONE DISTRICT:

A PORTION OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 2009006924 IN THE RECORDS OF THE LARIMER COUNTY CLERK AND RECORDER, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST

EXHIBIT A TO RESOLUTION 2024-061

OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF LARIMER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE SOUTHWEST CORNER BY A 3" BRASS CAP STAMPED " LS23503 2007" IN A RANGE BOX, AND AT THE WEST QUARTER CORNER BY A 2"ALUMINUM CAP STAMPED " LS 5028 1998" ASSUMED TO BEAR N00°09'34"W.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 10, THENCE N3°41'03"E A DISTANCE OF 2153.64 FEET TO A POINT TO A POINT ON THE SOUTHERLY LINE OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 20050043464 AND THE POINT OF BEGINNING;

THENCE ON SAID SOUTHERLY LINE, S89°19'40"E A DISTANCE OF 841.28 FEET, TO A POINT ON THE WESTERLY LINE OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 2002051529;

THENCE ON THE SAID WESTERLY LINE, S00°20'18"W A DISTANCE OF 1528.39 FEET;

THENCE DEPARTING SAID WESTERLY LINE THE FOLLOWING FIVE (5) COURSES:

1. N89°22'14"W A DISTANCE OF 333.27 FEET, TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 600.00 FEET, A CENTRAL ANGLE OF 88°52'35" AND AN ARC LENGTH OF 930.71 FEET, TO A POINT OF TANGENT;
3. N00°29'39"W A DISTANCE OF 256.82 FEET;
4. N44°30'21"E A DISTANCE OF 127.98 FEET;
5. N00°40'20"E A DISTANCE OF 591.74 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 1,290,778 SQUARE FEET OR 29.6322 ACRES.

That, on May 21, 2024, at the hour of 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 upon the annexation petition and zoning request for the purpose of finding and determining whether the property proposed to be annexed meets the applicable requirements of Colorado law and is considered eligible for annexation and for the purpose of determining the appropriate zoning for the property included in the Annexation. At such hearing, any persons may appear and present such evidence as they may desire.

# EXHIBIT A TO RESOLUTION 2024-061

The Petitioner has requested that the Property included in the Annexation be placed in the General Commercial ("C-G") and Industrial (I) zone district.

Individuals who wish to address Council via remote public participation can do so through Zoom at **https://zoom.us/j/98241416497.** (The link and instructions are also posted at **www.fcgov.com/councilcomments/**). Individuals participating in the Zoom session should watch the meeting through that site, and not via FCTV, due to the streaming delay and possible audio interference.

Dated this _____ day of _____, 2024.

_____
Interim 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.

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.

# VICINITY MAP

## FCMaps

## Legend

- Street Names
- Parcels
- Growth Management Area
- Parks
- Schools
- Natural Areas
- City Limits

## Notes

1,143.0 0 571.50 1,143.0 Feet



eb_Mercator_Auxiliary_Sphere
ins - GIS

This map is a user generated static output from the City of Fort Collins FCMaps Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

# PETITION FOR ANNEXATION

THE UNDERSIGNED (hereinafter referred to as the "Petitioners") hereby petition the Council of the City of Fort Collins, Colorado for the annexation of an area, to be referred to as the **I-25 & Mulberry** Annexation to the City of Fort Collins. Said area, consisting of approximately **2,043,835.20 Sq. Ft.** (**46.92**) acres, is more particularly described on Attachment "A," attached hereto.

The Petitioners allege:

1. That it is desirable and necessary that such area be annexed to the City of Fort Collins.

2. That the requirements of Sections 31-12-104 and 31-12-105, C.R.S., exist or have been met.

3. That not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is contiguous with the boundaries of the City of Fort Collins.

4. That a community of interest exists between the area proposed to be annexed and the City of Fort Collins.

5. That the area to be annexed is urban or will be urbanized in the near future.

6. That the area proposed to be annexed is integrated with or capable of being integrated with the City of Fort Collins.

7. That the Petitioners herein comprise more that fifty percent (50%) of the landowners in the area and own more than fifty percent (50%) of the area to be annexed, excluding public streets, alleys and lands owned by the City of Fort Collins.

8. That the City of Fort Collins shall not be required to assume any obligations respecting the construction of water mains, sewer lines, gas mains, electric service lines, streets or any other services or utilities in connection with the property proposed to be annexed except as may be provided by the ordinance of the City of Fort Collins.

Further, as an express condition of annexation, Petitioners consent to the inclusion into the Municipal Subdistrict, Northern Colorado Water Conservancy District (the "Subdistrict") pursuant to §37-45-136(3.6) C.R.S., Petitioners acknowledge that, upon inclusion into the Subdistrict, Petitioners' property will be subject to the same mill levies and special assessments as are levied or will be levied on other similarly situated property in the Subdistrict at the time of inclusion of Petitioners' lands. Petitioners agree to waive any right to an election which may exist pursuant to Article X, §20 of the Colorado Constitution before the Subdistrict can impose such mill levies and special assessments as it has the authority to impose. Petitioners also agree to waive, upon inclusion, any right which may exist to a refund pursuant to Article X, §20 of the Colorado Constitution.

WHEREFORE, said Petitioners request that the Council of the City of Fort Collins approve the annexation of the area described on Attachment "A." Furthermore, the Petitioners request that said area be placed in the **CG & I** Zone District pursuant to the Land Use Code of the City of Fort Collins.

X (Check box if applicable). The Petitioners reserve the right to withdraw this petition and their signatures therefrom at any time prior to the commencement of the roll call of the City Council for the vote upon the second reading of the annexation ordinance.

Individual Petitioners signing this Petition represent that they own the portion(s) of the area described on Attachment "A" as more particularly described below:

A tract of land situate in the County of Larimer, State of Colorado, to-wit:

***INSTRUCTIONS*: INSERT HERE the legal description of individual parcels, or if only ownership, type "See Legal Description on Attachment 'A'."**

IN WITNESS WHEROF, I/we have executed this Petition for Annexation this 15th day of November, 2023.

By MILLER MOELLER, LLC
by MILLER FORT COLLINS, LLC, ITS MANAGER
by STEVEN SHOFLICK, ITS MANAGER

Petitioner's/Owner's Signature

Petitioner's/Owner's Signature

6900 E. Belleview Ave,
Address

Address

Greenwood Village, Co 80121
City State Zip

City State Zip

## ATTACHMENT “A”

## LEGAL DESCRIPTION OF I-25 & MULBERRY ANNEXATION AREA:

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF LARIMER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE SOUTHWEST CORNER BY A 3" BRASS CAP STAMPED " LS23503 2007" IN A RANGE BOX, AND AT THE WEST QUARTER CORNER BY A 2"ALUMINUM CAP STAMPED " LS 5028 1998" ASSUMED TO BEAR N00°09'34"W.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 10, THENCE N70°26'24"E A DISTANCE OF 648.39 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 25, AND THE POINT OF BEGINNING;

THENCE ON SAID EASTERLY RIGHT-OF-WAY LINE, THE FOLLOWING SIX (6) COURSES:

1. N58°42'20"W A DISTANCE OF 212.59 FEET;
2. N38°22'59"W A DISTANCE OF 442.05 FEET;
3. N14°16'20"W A DISTANCE OF 206.20 FEET;
4. N00°13'50"W A DISTANCE OF 37.90 FEET;
5. N00°31'20"W A DISTANCE OF 940.70 FEET;
6. N03°19'40"E A DISTANCE OF 245.20 FEET, TO THE SOUTHWESTERLY CORNER OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 20050043464;

THENCE ON THE SOUTHERLY LINE OF SAID PROPERTY, S89°19'40"E A DISTANCE OF 1241.28 FEET, TO A POINT ON THE WESTERLY LINE OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 2002051529;

THENCE ON SAID WESTERLY LINE, S00°20'18"W A DISTANCE OF 1727.08 FEET, TO THE NORTHEASTERLY CORNER OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 20120069518;

THENCE ON THE NORTHERLY AND WESTERLY LINES OF SAID PROPERTY, THE FOLLOWING FOUR (4) COURSES:

1. N69°41'20"W A DISTANCE OF 224.55 FEET;
2. N81°42'20"W A DISTANCE OF 504.90 FEET;
3. N58°42'20"W A DISTANCE OF 20.61 FEET;
4. S00°19'40"W A DISTANCE OF 300.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 2,043,904 SQUARE FEET OR 46.9216 ACRES.

## ATTACHMENT “A1”

## PARCEL 1 LEGAL DESCRIPTION: CG – GENERAL COMMERCIAL ZONE DISTRICT

A PORTION OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 2009006924 IN THE RECORDS OF THE LARIMER COUNTY CLERK AND RECORDER, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF LARIMER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE SOUTHWEST CORNER BY A 3" BRASS CAP STAMPED " LS23503 2007" IN A RANGE BOX, AND AT THE WEST QUARTER CORNER BY A 2"ALUMINUM CAP STAMPED " LS 5028 1998" ASSUMED TO BEAR N00°09'34"W.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 10, THENCE N70°26'24"E A DISTANCE OF 648.39 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 25, AND THE POINT OF BEGINNING;

THENCE ON SAID EASTERLY RIGHT-OF-WAY LINE, THE FOLLOWING SIX (6) COURSES:

1. N58°42'20"W A DISTANCE OF 212.59 FEET;
2. N38°22'59"W A DISTANCE OF 442.05 FEET;
3. N14°16'20"W A DISTANCE OF 206.20 FEET;
4. N00°13'50"W A DISTANCE OF 37.90 FEET;
5. THENCE N00°31'20"W A DISTANCE OF 940.70 FEET;
6. N03°19'40"E A DISTANCE OF 245.20 FEET, TO THE SOUTHWESTERLY CORNER OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 20050043464;

THENCE ON THE SOUTHERLY LINE OF SAID PROPERTY, THENCE S89°19'40"E A DISTANCE OF 400.00 FEET;

THENCE DEPARTING SAID SOUTHERLY LINE, THE FOLLOWING FIVE (5) COURSES:

1. S00°40'20"W A DISTANCE OF 591.74 FEET;
2. S44°30'21"W A DISTANCE OF 127.98 FEET;
3. S00°29'39"E A DISTANCE OF 256.82 FEET, TO A POINT OF CURVE;
4. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 600.00 FEET, A CENTRAL ANGLE OF 88°52'35" AND AN ARC LENGTH OF 930.71 FEET, TO A POINT OF TANGENT;
5. S89°22'14"E A DISTANCE OF 333.27 FEET;

THENCE ON SAID WESTERLY LINE, S00°20'18"W A DISTANCE OF 198.69 FEET, TO THE NORTHEASTERLY CORNER OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 20120069518;

THENCE ON THE NORTHERLY AND WESTERLY LINES OF SAID PROPERTY, THE FOLLOWING FOUR (4) COURSES:

1. N69°41'20"W A DISTANCE OF 224.55 FEET;
2. N81°42'20"W A DISTANCE OF 504.90 FEET;
3. N58°42'20"W A DISTANCE OF 20.61 FEET;
4. S00°19'40"W A DISTANCE OF 300.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 753,127 SQUARE FEET OR 17.2894 ACRES.

## ATTACHMENT “A2”

## PARCEL 2 LEGAL DESCRIPTION: I – INDUSTRIAL ZONE DISTRICT

A PORTION OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 2009006924 IN THE RECORDS OF THE LARIMER COUNTY CLERK AND RECORDER, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF LARIMER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE SOUTHWEST CORNER BY A 3" BRASS CAP STAMPED " LS23503 2007" IN A RANGE BOX, AND AT THE WEST QUARTER CORNER BY A 2"ALUMINUM CAP STAMPED " LS 5028 1998" ASSUMED TO BEAR N00°09'34"W.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 10, THENCE N3°41'03"E A DISTANCE OF 2153.64 FEET TO A POINT TO A POINT ON THE SOUTHERLY LINE OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 20050043464 AND THE POINT OF BEGINNING;

THENCE ON SAID SOUTHERLY LINE, S89°19'40"E A DISTANCE OF 841.28 FEET, TO A POINT ON THE WESTERLY LINE OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 2002051529;

THENCE ON THE SAID WESTERLY LINE, S00°20'18"W A DISTANCE OF 1528.39 FEET;

THENCE DEPARTING SAID WESTERLY LINE THE FOLLOWING FIVE (5) COURSES:

1. N89°22'14"W A DISTANCE OF 333.27 FEET, TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 600.00 FEET, A CENTRAL ANGLE OF 88°52'35" AND AN ARC LENGTH OF 930.71 FEET, TO A POINT OF TANGENT;
3. N00°29'39"W A DISTANCE OF 256.82 FEET;
4. N44°30'21"E A DISTANCE OF 127.98 FEET;
5. N00°40'20"E A DISTANCE OF 591.74 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 1,290,778 SQUARE FEET OR 29.6322 ACRES.

## ATTACHMENT "B"

STATE OF COLORADO )
)ss.
COUNTY OF ~~LARIMER~~ Arapahoe )

The undersigned, being first duly sworn upon his oath states:

That he was the circulator of the attached Petition for Annexation and that each signature therein is the signature of the person whose name it purports to be.

Circulator's Signature

Subscribed and sworn to before me this 15th day of November, 2023, by Steven Shoflick.

WITNESS my hand and official seal.

7/15/23
Commission Expiration

Notary Public

SARAH LEHR
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID# 20014019579
MY COMMISSION EXPIRES 7/15/2025

ATTACHMENT "C"

ATTORNEY CERTIFICATION

I, Timothy L. Goddard, an attorney licensed to practice in the State of Colorado, hereby certify that, as of the date of this certificate, the signers of this Annexation Petition* for the area referred to as the I25 & Mulberry Annexation to the City of Fort Collins are the owners of real property in the area proposed for annexation. Furthermore, I certify that said owners constitute more than 50% of the landowners in the area proposed for annexation, as said area is described on Attachment "A" of said Annexation Petition, and own more than 50% of the land in said area, exclusive of streets and alleys.

| November 17, 2023 | | 17645 |
|---|---|---|
| Date | Signature | Attorney Reg. No. |

*Miller Mokler, LLC, a Colorado limited liability company, is the record owner of the property being annexed.

## ATTACHMENT "D"

## I-25 & MULBERRY ANNEXATION NARRATIVE

**The following is the required narrative described in the Fort Collins Land Use Code for a proposed annexation. The Annexor does not propose any conditions of annexation with this Petition and Zoning request.**

***4(g) A statement as to why it is necessary and desirable for the City of Fort Collins to annex the area.***

The I-25 and Mulberry property is generally located at the northeast corner of I-25 and Mulberry Street. The property is currently vacant and has been historically used for irrigated agricultural farming activities. The subject property is located within the City's Growth Management Area (GMA) and therefore, is subject to the Intergovernmental Agreement (IGA) between the City of Fort Collins and Larimer County. The IGA requires that before urban development of the property can occur it must request to be annexed into the City of Fort Collins. The boundary of the GMA, together with the IGA, verifies that the City and County agree that the property should be annexed prior to its development. The applicant agrees that this is both appropriate and desirable.

The Owner of the property is requesting annexation and zoning for commercial, retail, and industrial uses consistent with the intent of the City's Structure Plan and the I-25 Subarea Plan. The Subject property is approximately 46.92 acres in size and meets the statutory requirements of one-sixth or greater contiguity to the City of Fort Collins Municipal Boundary in order to be considered for annexation. The proposal is to annex the property to the City of Fort Collins and Zone the western portion of the property, being approximately 17.29 acres, CG - General Commercial with the remaining eastern portion of the property, being 29.63 acres to be Zoned I - Industrial. Primary access to the subject property will be provided through the site with the construction of the realigned I-25 NE Frontage Road, which in the future will be extended to the intersection of Mulberry Street located just south of the property. The realigned I-25 Frontage Road will extend through the site and connect to the existing I-25 NE Frontage Road located at the Northwest corner of the property, additional there will be vehicular access provided to the east with a connection being made to Spruce Lane.

It is proposed to abandon the existing Northeast I-25 Frontage Road, which is located immediately south and along a large portion of the western boundary of the property. It will be relocated interior to the property. The Mulberry Frontage Metropolitan District ("MFMD") will complete the I-25 East Frontage Road realignment. CDOT and the MFMD believes it will be beneficial to relocate the Frontage Road based on the following:

- The realignment of the NE I-25 Frontage Road is necessary to help advance planned improvements to property adjacent to the realigned Frontage Road.
- The realignment of the NE I-25 Frontage Road is anticipated to improve operations at the intersection of Mulberry Street, I-25 Frontage Road, and Cloverleaf Way, which currently requires additional signal phases due to the current configuration.
- CDOT recognized the need in 2005 for the NE I-25 Frontage Road to be realigned as part of the I-25 & Mulberry Street interchange reconstruction and purchased a Deed of Covenant, reserving a portion of property on the north side of Mulberry Street for future development of a new I-25 frontage road.

As a result of the recent NE I-25 and Mulberry Street Interchange Improvements and the proposed abandonment and realignment of the NE I-25 Frontage Road coupled with other recent developments within close proximity of the subject property, the Owner of the subject property recognizes that the development of the property, consistent with the City's CG - General Commercial and I - Industrial Zone Districts would be the best possible use of the i-25 & Mulberry property. Additionally the Owner believes that the development of the property will provide a significant economic benefit to the City of Fort Collins and greatly improving the overall safety and traffic operations at the Mulberry and I-25 Intersection.

***4(h) A description of the zoning classification being requested and any condition requested for that zone district classification.***

The Applicant is requesting a Zone District Classification of CG - General Commercial: 17.29 acres and I – Industrial: 29.63 acres, which is in general conformance with the City of Fort Collins Structure Plan. There are no conditions of zoning being requested at this time.

***4(i) A statement of consistency of the requested zoning to the Structure Plan.***

The City's Structure Plan describes the southernmost third of the I-25 & Mulberry property as being a Suburban Mixed-Use District and the remaining northern portion as an Industrial District.

**City Plan Structure Plan states:**

*The Structure Plan Map and Place Types - or land use categories provide a framework for the ultimate buildout of Fort Collins and plays a critical role in helping the community achieve its vision over the next 10 - 20 years.*

*The City's Structure Plan and associated Place Types:*

- *Guides future growth and reinvestment and serves as official land use plan for the City;*
- *Informs planning for infrastructure and services;*
- *Fosters coordinated land use and transportation decisions within the city and region; and*
- *Helps implement principles and policies.*

**Suburban Mixed-Use District - Key Characteristics as stated by the City Plan Structure Plan**

**City Plan Structure Plan states:**

***Principal Land Use***

*Retail, restaurants, office and other commercial services*

***Supporting Land Use***

*High-Density Residential, Entertainment, Childcare Centers and other Supporting Uses*

***Density***

*Densities and building heights will vary; building heights will generally be between one and five stories, however, may be higher in some locations.*

***Key Characteristics/Considerations***

- *Walkable mixed-use districts that provide a range of retail and commercial services, as well as high-density residential.*
- *Uses should be supported by direct pedestrian and bicycle linkages to surrounding neighborhoods, as well as by BRT or High-frequency bus service.*

***Typical Types of Transit***

*Varies depending on density and surrounding context, but generally served by fixed-route service at frequencies of between 30 and 60 minutes; higher-frequency service may exist where densities are sufficient to support it.*

**Zoning Consistency with Structure Plan**

Based on the City Plan Structure Plan the Applicant requesting Annexation and Zoning believes that the CG - General Commercial Zone District will best promote the Goals and Objectives of the Suburban Mixed-Use District.

**Industrial District - Key Characteristics as stated by the City Plan Structure Plan**

**City Plan Structure Plan states:**

***Principal Land Use***

*Industrial land uses such as manufacturing, assembly plants, primary metal and related industries; vehicle-related commercial uses; warehouses, outdoor storage yards and distribution facilities; and flex space for small, local startups as well as large national or regional enterprises.*

***Supporting Land Use***

*Restaurants, convenience retail and other supporting services*

***Density***

*Varies*

***Key Characteristics/Considerations***

- *Areas dedicated for a variety of more-intensive work processes and other uses of similar character;*
- *Typically located away from residential neighborhoods.*
- *Transportation facilities in Industrial Districts should promote the efficient movement of commercial truck and/or access to rail.*
- *Supported by direct pedestrian and bicycle linkages from surrounding areas, as well as transit in some locations.*

***Typical Types of Transit***

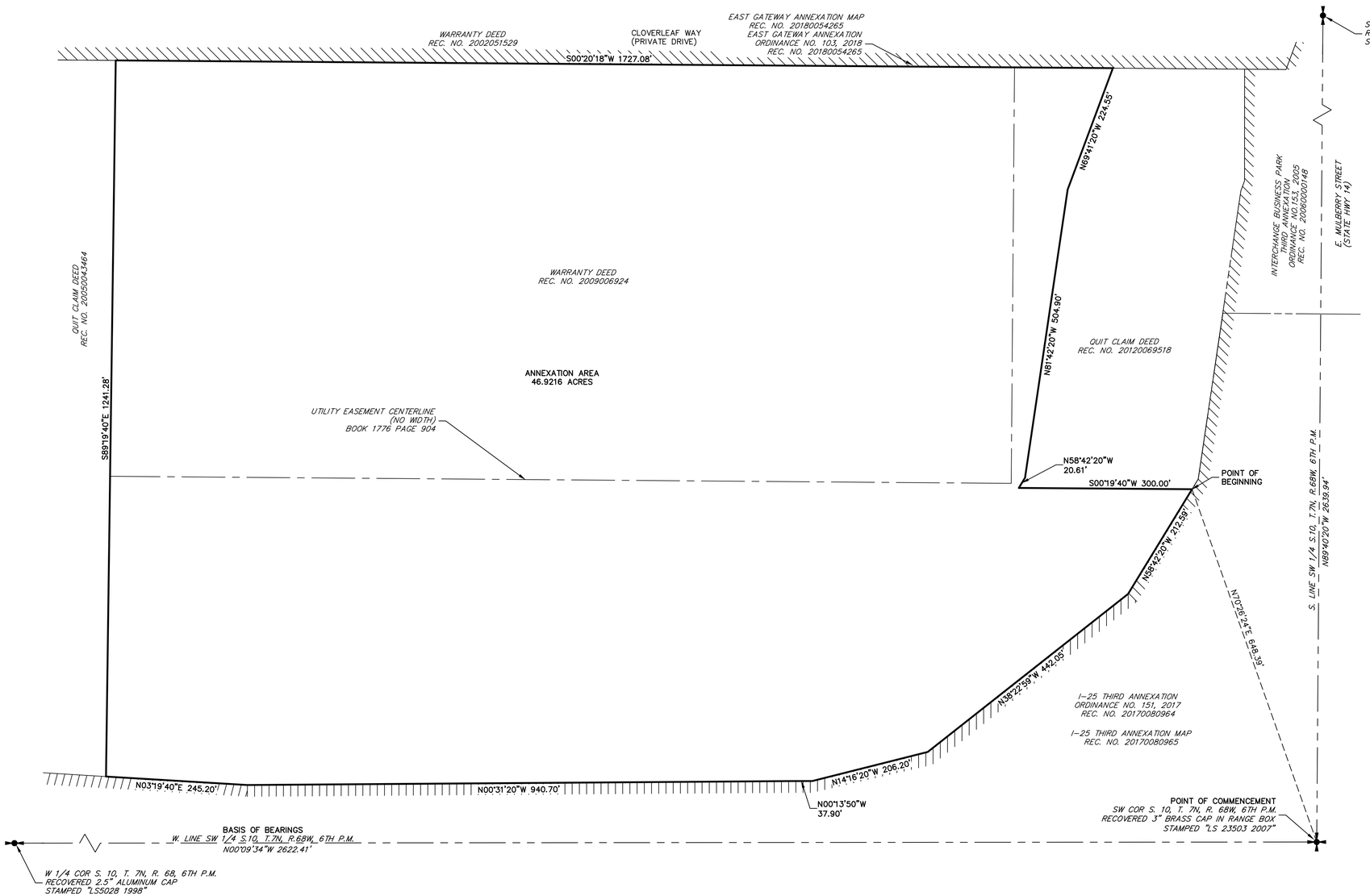
*Limited due to low population and low employment densities; however, fixed-route service at frequencies exist in some locations.*

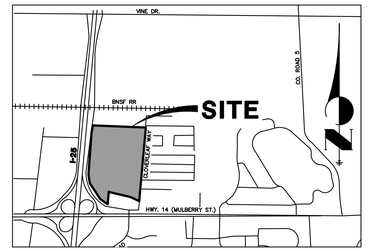
**Zoning Consistency with Structure Plan**

Based on the City Plan Structure Plan the Applicant requesting Annexation and Zoning believes that the I – Industrial Zone Districts will best promote the Goals and Objectives of the City's Structure Plan.

# I-25 AND MULBERRY ANNEXATION

## TO THE CITY OF FORT COLLINS, COLORADO
## LOCATED IN THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE SIXTH P.M.
## COUNTY OF LARIMER, STATE OF COLORADO




VICINITY MAP
SCALE: 1" =1000'

## DESCRIPTION:

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF LARIMER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE SOUTHWEST CORNER BY A 3" BRASS CAP STAMPED " LS23503 2007" IN A RANGE BOX, AND AT THE WEST QUARTER CORNER BY A 2"ALUMINUM CAP STAMPED " LS 5028 1998" ASSUMED TO BEAR N00°09'34"W.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 10, THENCE N70°26'24"E A DISTANCE OF 648.39 FEET TO A POINT ON THE EXISTING CITY OF FORT COLLINS BOUNDARY AS ANNEXED IN ORDINANCE NO. 151 SERIES OF 2017 RECORDED UNDER RECEPTION NO. 20170080964 IN THE RECORDS OF THE LARIMER COUNTY CLERK AND RECORDER, SAID POINT ALSO BEING THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 25, AND THE POINT OF BEGINNING;

THENCE ON SAID EXISTING CITY BOUNDARY LINE, THE FOLLOWING SIX (6) COURSES:

1. N58°42'20"W A DISTANCE OF 212.59 FEET;
2. N38°22'59"W A DISTANCE OF 442.05 FEET;
3. N14°16'20"W A DISTANCE OF 206.20 FEET;
4. N00°13'50"W A DISTANCE OF 37.90 FEET;
5. N00°31'20"W A DISTANCE OF 940.70 FEET;
6. N03°19'40"E A DISTANCE OF 245.20 FEET, TO THE SOUTHWESTERLY CORNER OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 20050043464;

THENCE ON THE SOUTHERLY LINE OF SAID PROPERTY, S89°19'40"E A DISTANCE OF 1241.28 FEET, TO A POINT ON THE EXISTING CITY OF FORT COLLINS BOUNDARY AS ANNEXED IN ORDINANCE NO. 103 SERIES OF 2018 RECORDED UNDER RECEPTION NO. 20180054265;

THENCE ON SAID EXISTING CITY BOUNDARY LINE, S00°20'18"W A DISTANCE OF 1727.08 FEET, TO THE NORTHEASTERLY CORNER OF THAT PROPERTY RECORDED UNDER RECEPTION NO. 20120069518;

THENCE ON THE NORTHERLY AND WESTERLY LINES OF SAID PROPERTY, THE FOLLOWING FOUR (4) COURSES:

1. N69°41'20"W A DISTANCE OF 224.55 FEET;
2. N81°42'20"W A DISTANCE OF 504.90 FEET;
3. N58°42'20"W A DISTANCE OF 20.61 FEET;
4. S00°19'40"W A DISTANCE OF 300.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 2,043,904 SQUARE FEET OR 46.9216 ACRES.

100 50 0 100

ORIGINAL SCALE: 1" = 100'

## LEGEND

EXISTING CITY BOUNDARY

## CONTIGUITY STATEMENT:

- TOTAL PERIMETER OF AREA CONSIDERED FOR ANNEXATION = 6,103.06 FEET.
- ONE-SIXTH OF TOTAL PERIMETER OF AREA = 1,017.18 FEET.
- PERIMETER OF THE AREA CONTIGUOUS WITH EXISTING CITY LIMITS = 3,811.72 FEET.

THE TOTAL CONTIGUOUS PERIMETER IS 62.46%, WHICH EXCEEDS THE ONE-SIXTH (1/6) AREA REQUIRED.

## CITY APPROVAL:

ON BEHALF OF THE CITY OF FOR COLLINS, THE UNDERSIGNED HEREBY APPROVE FOR FILING THE ACCOMPANYING ANNEXATION PLAT OF "I-25 AND MULBERRY"

_____ _____
CITY PLANNING DIRECTOR DATE

_____ _____
CITY ENGINEER DATE

THE ANNEXATION OF THE REAL PROPERTY SHOWN ON THIS PLAT IS APPROVED PURSUANT TO AN ORDINANCE MADE AND ADOPTED BY THE CITY OF FORT COLLINS, LARIMER COUNTY, COLORADO, BY ACTIONS OF THE CITY COUNCIL OF FORT COLLINS AT IT'S MEETING ON THE ____ DAY OF _____ 202____ A.D.

_____ _____
CITY CLERK DATE

## SURVEYORS CERTIFICATE:

I, JARROD ADAMS, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE MAP HEREIN IS A CORRECT DELINEATION OF THE DESCRIBED PARCEL OF LAND AND THAT IT IS CONTIGUOUS TO THE CITY OF FORT COLLINS, COLORADO AND MEETS THE REQUIREMENTS SET FORTH IN COLORADO REVISED STATUTES 31-12-104-(1) (a) THAT ONE-SIXTH (1/6) OR MORE OF THE PERIMETER TO BE ANNEXED IS CONTIGUOUS WITH THE ANNEXING MUNICIPALITY.

JARROD ADAMS, PROFESSIONAL LAND SURVEYOR
COLORADO NO. 38252
FOR AND ON BEHALF OF JR ENGINEERING, LLC
7200 S. ALTON WAY SUITE C400
CENTENNIAL CO, 80112

COLORADO LICENSED
JARROD ADAMS
38252
PROFESSIONAL LAND SURVEYOR

I-25 & MULBERRY
39789.00
8-2-2022
REV. 5-5-2023
SHEET 1 OF 1

J·R ENGINEERING
A Westrian Company

Centennial 303-740-9393 • Colorado Springs 719-593-2593
Fort Collins 970-491-9888 • www.jrengineering.com

# I-25 & MULBERRY STATEMENT OF CITY PLAN PRINCIPLES AND POLICIES ACHIEVED BY THE PROPOSED ANNEXATION/ZONING & ODP PLAN:

The I-25 and Mulberry property is generally located at the northeast corner of I-25 and Mulberry Street. The property is currently vacant and has been historically used for irrigated agricultural farming activities. The subject property is located within the City's Growth Management Area (GMA) and therefore, is subject to the Intergovernmental Agreement (IGA) between the City of Fort Collins and Larimer County. The IGA requires that before urban development of the property can occur it must request to be annexed into the City of Fort Collins. The boundary of the GMA, together with the IGA, verifies that the City and County agree that the property should be annexed prior to its development.

The Owner of the property is requesting annexation and zoning for commercial, retail, employment and industrial uses consistent with the intent of the City's Structure Plan and the I-25 Corridor & Subarea Plan. The Subject property is approximately 46.92 acres in size and meets the statutory requirements of one-sixth or greater contiguity to the City of Fort Collins Municipal Boundary in order to be considered for annexation. The proposal is to annex the property to the City of Fort Collins and Zone the western portion of the property, being approximately 17.29 acres, CG - General Commercial with the remaining eastern portion of the property, being 29.63 acres to be Zoned I - Industrial. The Annexation and Zoning submittal will also include an Overall Development Plan (ODP).

City Plan establishes the overall policy foundation for Development in the City of Fort Collins. This section includes the Principles and Policies achieved for each of the applicable "Outcome Area". The following is the supporting information for each Principle and Policy Area achieved by the proposed I-25 & Mulberry Annexation, Zoning and ODP.

## Principle LIV 1: Maintain a compact pattern of growth that is well served by public facilities and encourages the efficient use of land.

### POLICY LIV 1.1 - GROWTH MANAGEMENT AREA

*Continue to utilize the GMA surrounding Fort Collins as a tool to guide and manage growth outside of the City limits and delineate the extent of urban development in Fort Collins.*

The I-25 & Mulberry property is located within the City's Growth Management Area (GMA) boundary and is more than one-sixth Contiguous to the Municipal Boundary of the City. The proposed annexation is consistent with the Intergovernmental Agreement between the City and the Larimer County and is required to request the City to Annex prior to development.

Annexation of the property will ensure a compact land use pattern within the well-defined City of Fort Collins GMA Boundary, with adequate public facilities and infrastructure available to serve the future Development.

### 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.*

Public infrastructure is available within close proximity to the site and proposed future development will not exceed the capacity of the current infrastructure. The site can be adequately served by critical public facilities and services such as water, sewer, police, transportation, fire, stormwater management, in accordance with adopted levels of service for public facilities and services.

## Principle LIV 2: Promote infill and Redevelopment.

### POLICY LIV 2.2 - PRIORITY LOCATIONS FOR INFILL AND REDEVELOPMENT

*Ensure appropriate use of the City's public investments in infrastructure/improvements in the following areas to achieve the City's strategic goals:*

*» Downtown District;*

*» Urban Mixed-Use Districts;*

*» Mixed-Employment Districts; and*

*» Metro Districts.*

The I-25 & Mulberry property will be a "Catalyst" for the development and redevelopment of the I-25 & Mulberry Interchange and where applicable will follow the Goals and Objectives of City Plan the I-25 Corridor Plan and the proposed East Mulberry Plan.

## Principle LIV 3: Maintain and enhance our unique character and sense of place as the community grows.

### POLICY LIV 3.3 – GATEWAYS

*Enhance and accentuate the community's gateways, including Interstate 25 interchanges and College Avenue, to provide a coordinated and positive community entrance. Gateway design elements may include streetscape design, supportive land uses, building architecture, landscaping, signage, lighting and public art.*

Where applicable the proposed development will follow the Goals and Objectives of the I-25 Corridor Plan and proposed East Mulberry Plan once approved by the City.

The applicant has been and will continue to work with CDOT and City Staff throughout the development process regarding necessary streetscape improvements for the proposed I-25 NE Frontage Road Realignment. As development moves forward, creating a high quality gateway image will be achieved with building architecture, landscape, site signage and lighting. These elements will be designed and refined with future PDP and FDP submittal packages.

### POLICY LIV 3.4 - DESIGN STANDARDS AND GUIDELINES

*Maintain a robust set of citywide design standards as part of the City's Land Use Code to ensure a flexible, yet predictable, level of quality for future development that advances the community's sustainability goals, e.g., climate action. Continue to develop and adopt location-specific standards or guidelines where unique characteristics exist to promote the compatibility of infill redevelopment.*

The I-25 & Mulberry property will comply with the proposed Zoning, Permitted Uses and the City's Development and Engineering Design Standards.

A high quality Service Commercial, Employment, Retail and Industrial District is envisioned for the proposed I-25 & Mulberry development. The types of commercial, employment, retail and industrial developments that will be attracted to the subject property coupled with building architecture and site design will be key to contributing to and enhance the overall character and quality of the existing surrounding neighborhood and other development in close proximity to the subject property.

## Principle LIV 4: Enhance neighborhood livability.

### POLICY LIV 4.1 - NEW NEIGHBORHOODS

*Encourage creativity in the design and construction of new neighborhoods that:*

*» Provides a unifying and interconnected framework of streets, sidewalks, walkway spines and other public spaces.*

*» Improves access to services and* amenities.

The I-25 & Mulberry property will have a strong internal vehicular and pedestrian circulation system that will link the uses together to improve upon and avoid future vehicular and pedestrian conflicts and will be designed to support and encourage all modes of transportation.

Bicycle and Pedestrian access will be a key component of the site design phase of this project. The Applicant recognizes the need to coordinate with the City on future planning efforts and site design between adjacent development and the existing Cloverleaf Residential Neighborhood. The proposed development at the PDP & FDP stage of work will allow for interconnecting streets, pedestrian walks and access to future trail systems.

### 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:*

*» Continuing established block patterns and streets to improve access to services and amenities from the adjacent neighborhood;*

A 30' wide Landscape Buffer will be provided adjacent to the Cloverleaf Residential Community. An 80' wide Landscape Buffer will be provided along the I-25 North Bound ROW.

The proposed landscape buffers will help to screen parking to the greatest extent possible, with buildings fronting on the major roads and parking internal to the site. Future site planning efforts will focus on promoting pedestrian connectivity and access to the existing surrounding neighborhoods.

Where possible Public spaces will be incorporated into the site-specific PDP and FDP design of this development.

## Principle LIV 9: Encourage development that reduces impacts on natural ecosystems and promotes sustainability and resilience.

### POLICY LIV 9.2 - OUTDOOR WATER USE

*Promote reductions in outdoor water use by selecting low-water-use plant materials, using efficient irrigation, improving the soil before planting and exploring opportunities to use nonpotable water for irrigation.*

Reduction of impervious surfaces, minimizing earthwork, managing heat island effects of parking areas and building orientation for energy conservation are some of the tools available during the site-specific PDP and FDP design process. The I-25 & Mulberry landscape design will incorporate "waterwise" plant material and other landscape design principles.

### POLICY LIV 9.3 - URBAN HEAT ISLAND EFFECT

*Encourage the use of site and building features, such as shade trees and reflective materials, to reduce heat absorption by exterior surfaces, provide shade or otherwise mitigate the urban heat island effect.*

The Urban Heat Island Effects will be mitigated by reducing the size and locations of parking areas along with incorporating parking lot landscape island and medians to break up the overall size of proposed parking areas. These landscape islands and medians will be planted with large shade trees and shrubs on the ground plane in order to help shade paved areas to the extent possible. Building placement will also aid in providing additional shade and where possible concrete pavement surfaces rather than asphalt paving should be considered to reduce the effects of pavement heat absorption and the radiant heat effects that can result.

## Principle EH 1: Foster a vibrant, resilient and inclusive economy.

### POLICY EH 1.1 - EMPLOYMENT BASE

*Support the enhancement of the community's economic base and primary job creation by focusing on retention, expansion, incubation and recruitment efforts that create jobs and import income or dollars to the community, particularly businesses in the adopted Target Industry Clusters.*

The I-25 & Mulberry property will support job creation by developing an emerging Retail, Commercial, Industrial and Service Based Employment Center in the Northeast Quadrant of Fort Collins.

The development of the subject property will incorporate a mix of uses in order to support the employment-focused development of the CG - General Commercial and I – Industrial Zone Districts. This is a Primary Goal of the I-25 Corridor Plan at the Mulberry Interchange.

### POLICY EH 1.3 - SALES- AND USE-TAX REVENUE

*Support programs that encourage residents to spend retail dollars locally before looking elsewhere for goods and services. Emphasize the retention and recruitment of retailers or development projects that have a positive impact on sales-tax generation, specifically focused on increasing retail-sales inflow and reducing retail-sales leakage.*

The I-25 & Mulberry property will include new retail and restaurant uses that will contribute to the City Sales Tax Revenue.

## 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 EH 4.1 - TARGETED EMPLOYMENT AND MIXED-USE AREAS

*Create and maintain plans for targeted employment areas (Downtown, Midtown, Harmony Corridor, I-25 interchange areas and Mulberry Corridor) to support investment, development and redevelopment in these areas to create new places for employment to grow. Encourage and support higher-intensity employment uses through land use policies and investment in infrastructure and services, such as transit, that support these employment areas.*

The I-25 and Mulberry Interchange is one of the key interchange gateway to the City of Fort Collins. The applicant has been and will continue to work with City Staff throughout the ODO, PDP & FDP Development Review Process regarding proposed uses and there possible impact and value to growing the City's Employment Base. The proposed Concept Realignment of the I-25 Frontage Road and Mulberry Street intersection improvements submitted with the ODP shows how development will benefit and incorporated with future improvements to Mulberry Street.

### POLICY EH 4.4 - FUTURE EMPLOYMENT AREAS

*Align the Structure Plan and development regulations to support the areas that are desirable and suitable for future employment-growth needs. Identify deficiencies in these areas that need to be addressed to make them suitable and desirable.*

The proposed Zoning of the I-25 & Mulberry Property will incorporate a mix of uses to support the employment-focused development both in the CG - General Commercial and I – Industrial Zone Districts this is a primary Goal of the I-25 Corridor Plan at the Mulberry Interchange.

## Principle EH 5: Engage and help shape regional economic development efforts.

### POLICY EH 5.4 - REGIONAL INFRASTRUCTURE

*Actively participate in conversations with other municipalities, organizations and regional leaders to collaborate on upgrading transportation and other regional infrastructure to fulfill Fort Collins' goals. These discussions shall focus on the benefits that may be created for Fort Collins and consider the goals in this plan with respect to economic, environmental and human objectives.*

The existing Northeast I-25 Frontage Road which is located immediately adjacent to the south and west boundaries of the subject property, is proposed to be abandoned and will be relocated interior to the subject property. The Applicant Miller Mokler and the Mulberry Frontage Metropolitan District (MFMD) have been working closely with CDOT for more than 3 years to complete the proposed Concept Design for the I-25 East Frontage Road realignment as submitted with this ODP. CDOT, Miller Mokler and the MFMD believes it will be beneficial to relocate the Frontage Road based on the following:

- The realignment of the NE I-25 Frontage Road is necessary to help advance planned Improvements to property adjacent to the realigned Frontage Road.
- The realignment of the NE I-25 Frontage Road is anticipated to improve operations at the intersection of Mulberry Street, I-25 Frontage Road, and Cloverleaf Way which

currently requires additional signal phases due to its current configuration.

- CDOT recognized the need in 2005 for the NE I-25 Frontage Road to be realigned as part of the I-25 & Mulberry Street interchange reconstruction and purchased a Deed of Covenant, reserving a portion of property on the north side of Mulberry Street for future development of a new I-25 frontage road.

As a result of the recent NE I-25 and Mulberry Street Interchange Improvements and the proposed abandonment and realignment of the NE I-25 Frontage Road coupled with other recent developments within close proximity of the subject property, the Applicant believes that the development of the property will provide a significant economic benefit to the City of Fort Collins and greatly improving the overall safety and traffic operations at the I-25 Frontage Road and the Mulberry Intersection.

## Principle ENV 4: Protect human health and the environment by continually improving air quality.

### POLICY ENV 4.2 - AIR POLLUTANT SOURCES

*Implement a full spectrum of options—including engagement, incentives and regulation—that focus on prevention of air pollution at the source.*

The I-25 and Mulberry Project has proposed along with the Realignment of the I-25 NE Frontage Road to incorporate two proposed Roundabouts at key locations along the Realigned Frontage Road as shown in the ODP Submittal. The use of roundabouts rather than signalized intersections at these locations can be expected to help reduce the Carbon Emission Plum that is often associated with signalized intersections due to standing or stopped and idling vehicles. The use of roundabouts at these two locations will allow vehicles to keep moving through the intersections and reduce the amount of time vehicles are required to stop at these locations.

### POLICY ENV 4.6 - VEHICLES AND NON-ROAD ENGINES

*Promote efforts to reduce fuel consumption and associated pollutant emissions from vehicles and non-road engine sources, such as lawn and garden equipment.*

As stated above the implementation of Roundabouts at two key intersection locations along the Realigned Frontage Road will help to reduce pollution emissions and fuel consumption be reducing the time vehicles must be stopped at these locations.

## Principle ENV 6: Manage water resources in a manner that enhances and protects water quality, supply and reliability.

### POLICY ENV 6.6 - LOW IMPACT DEVELOPMENT

**Pursue and implement Low Impact Development (LID) as an effective approach to address stormwater quality and impacts to streams by urbanization. LID is a comprehensive land planning and engineering design approach with a goal of minimizing the impact of development on urban watersheds with various techniques aimed at mimicking predevelopment hydrology.**

The I-25 & Mulberry property will implement the required Low Impact Development (LID) measures and techniques as required by the City to assist in ground water infiltration and recharge and to protect the downstream water quality from the impacts of the development.

Low Impact Development (LID) measures may include the use of Permeable Pavers within private drives and/or parking lots, Sand Filters, Green Space Buffers and Bio-swales to minimize directly connected impervious areas and promote infiltration. Rain Gardens and/or Underground Detention coupled with Water Quality Isolator Rows may also be utilized to treat stormwater prior to entering detention areas. Water quality will also be provided within the proposed detention ponds as a final Water Quality Measure prior to release into the downstream conveyances.

### POLICY ENV 6.7 - BEST MANAGEMENT PRACTICES

*Utilize stormwater facility design criteria that follow national Best Management Practices (BMPs).*

Development of the site will incorporate many innovative concepts in stormwater management Low Impact Development and infiltration. These concepts will be further developed at the time of the PDP and FDP Phases of Work. The I-25 & Mulberry property will follow all of the current design criteria for stormwater facilities.

## Principle ENV 8: Create and maintain a safe, healthy and resilient urban forest.

### POLICY ENV 8.1 - HEALTH OF THE URBAN FOREST

*Practice sound arboriculture practices, including diversification of species; monitoring and managing insect and disease impacts (e.g. emerald ash borer); and preparing for unanticipated events such as drought, extreme weather and the long-term effects of climate change.*

Street, Parking Lot and Landscape Buffer Trees Plantings shall be used to create a new urban tree canopy within the I-25 and Mulberry Property. To the greatest extent feasible existing vegetation, although minimal on the subject property, that is deemed to be valuable will be protected in place. Street Tree Species shall comply with the City's List of Approved Street Tree.

## Principle SC 1: Create public spaces and rights-of-way that are safe and welcoming to all users.

### POLICY SC 1.2 - PUBLIC SAFETY THROUGH DESIGN

*Provide a sense of security and safety within buildings, parking areas, walkways, alleys, bike lanes, public spaces and streets through creative placemaking and environmental design considerations, such as appropriate lighting, public art, visibility, maintained landscaping and location of facilities.*

Security will be an important consideration during the PDP and FDP Design Phases of Work this will include the design of safe streets and pedestrian facilities, site lighting, pedestrian visability and landscape design.

## Principle T 1: Coordinate transportation plans, management and investments with land use plans and decisions.

### POLICY T 1.1 - DEVELOPMENT AND TRANSPORTATION INVESTMENT

*As development occurs, consider making concurrent transportation investments to support increased demands for multimodal travel.*

The street system will provide an interconnected network of streets for vehicles, bicycles and pedestrians while providing direct access to retail businesses, employment areas and commercial development and other points of interest and community amenities.

## Principle T 2: Build and maintain high-quality infrastructure that supports all modes of travel.

### POLICY T 2.1 – FUNDING

*Explore efficient and sustainable ways to allocate funding for transportation.*

The I-25 & Mulberry Property development will include an already approved Metopalitan District. The Mulberry Frontage Metropolitan District (MFMD) will assist in funding some of the Master Development Improvements in the realignment of the I-25 Frontage Road, Water, Sewer and Storm Drainage infrastructure.

### POLICY T 2.4 - STREET DESIGN CRITERIA

*Keep street and sidewalk design standards current with community values, new modes of travel, Americans with Disabilities Act (ADA) guidelines, and new technical and safety standards.*

The I-25 and Mulberry Project will design streets and pedestrian facilities to the most current City and LCUASS Design and Engineering Standards in place at the time of each PDP Submittal.

## Principle T 4: Pursue regional transportation solutions.

### POLICY T 4.2 - PARTNERSHIPS FOR INTERSTATE TRAVEL

*Develop partnerships among Colorado Department of Transportation (CDOT), Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Larimer County, North Front Range MPO, surrounding communities and private developers to build and improve regional and interstate facilities to increase mobility and make bicycle and pedestrian connections.*

The Applicant Miller Mokler and the Mulberry Frontage Metropolitan District (MFMD) have been working closely with CDOT for more than 3 years to complete the proposed Concept Design for the I-25 East Frontage Road realignment as submitted with this ODP. CDOT, Miller Mokler and the MFMD believes it will be beneficial to relocate the Frontage Road based on the following:

- The realignment of the NE I-25 Frontage Road is necessary to help advance planned improvements to property adjacent to the realigned Frontage Road.
- The realignment of the NE I-25 Frontage Road is anticipated to improve operations at the intersection of Mulberry Street, I-25 Frontage Road, and Cloverleaf Way which currently requires additional signal phases due to its current configuration.

### POLICY T 4.4 - REGIONAL CONNECTIONS

*Provide safe, sustainable, easy and effective connections to county, regional, state and national transportation corridors, as well as rail and air transportation systems. Principle T 6: Support bicycling as a safe, easy and convenient travel option for all ages and abilities by building a connected network of facilities.*

CDOT recognized the need in 2005 for the NE I-25 Frontage Road to be realigned as part of the I-25 & Mulberry Street interchange reconstruction. As such, the Applicant and MFMD will undertake the realignment of the I-25 Frontage Road as shown in the ODP.

## Principle T 6: Support bicycling as a safe, easy and convenient travel option for all ages and abilities by building a connected network of facilities.

### POLICY T 6.1 - CONNECTED BICYCLE FACILITIES

*Build and maintain bicycle facilities that form a continuous and dense low-stress bicycle network with seamless connections to public transit, bike- share and other shared-mobility vehicles, schools, neighborhoods, community destinations and the regional bicycle network.*

The I-25 and Mulberry development invasions a variety of land uses that will provide multiple opportunity for movement throughout this development. Bike lanes and bike trails will be used where appropriate to provide alternatives to carbon based vehicles. Streets will be designed to be safe for cars, pedestrian and bicycles as well as being visually attractive to the sites employees and visitors. The use of street trees and street lighting will contribute to the pedestrian and vehicle safety and be aesthetically pleasing to the community.

## Principle T 7: Support walking as a safe, easy and convenient travel option for all ages and abilities by building a connected network of sidewalks, paths and trails

### POLICY T 7.1 - PEDESTRIAN FACILITIES

*Implement ADA-accessible pedestrian facilities as detailed in the Pedestrian Plan and Sidewalk Prioritization Program.*

The I-25 and Mulberry Project will design its streets, pedestrian and ADA facilities to the most current City and LCUASS Design and Engineering Standards in place at the time of each PDP Submittal.

### POLICY T 7.2 - SAFE PEDESTRIAN FACILITIES

*Develop safe and secure pedestrian settings by developing and maintaining an appropriately lit pedestrian network, enforcing snow removal on sidewalks adjacent to residential properties and mitigating the impacts of vehicles. Connections will be clearly visible and accessible, incorporating markings, signage, lighting and paving materials.*

Safety and Security will be an important consideration during the PDP and FDP Design Phases of Work this will include the design of safe streets and pedestrian facilities, site lighting, pedestrian visibility and landscape design.

## Principle T 8: Manage the transportation system to ensure reliable traffic and transit flow through travel demand management and transportation system optimization.

### POLICY T 8.2 - SYSTEM OPTIMIZATION

*Manage traffic congestion through system optimization strategies such as intelligent transportation systems (ITS) and signal optimization.*

The I-25 and Mulberry Project has proposed along with the Realignment of the I-25 NE Frontage Road to incorporate two Roundabouts at two key locations as shown in the ODP Submittal. The proposed roundabouts coupled with the signalization and turn lane improvements at the Mulberry Intersection will greatly improve traffic congestion and overall operations of the intersection.

### POLICY T 8.6 - ROUNDABOUTS

*Consider roundabouts as a means of achieving transportation system safety and efficiency at intersections for all modes of travel.*

As mentioned above the I-25 and Mulberry Project has proposed along with the Realignment of the I-25 NE Frontage Road to incorporate two Roundabouts at key locations along the Realigned Frontage Road as shown in the ODP Submittal. The use of roundabouts rather than signalized intersections at these locations can be expected to help reduce the Carbon Emission Plum that is often associated with signalized intersections due to standing or stopped and idling vehicles. The use of roundabouts will also improve vehicular and pedestrian safety.

### POLICY T 8.10 - ADDRESSING BOTTLENECKS

*Implement improvements at strategic locations to address congestion/bottlenecks that are creating emissions and safety concerns.*

Addressed as part of Policy 8.6 above.

## Principle T 9: Utilize the transportation system to support a healthy and equitable community.

### POLICY T 9.8 - AIR QUALITY

*Support efforts to improve air quality through the prioritization of transportation infrastructure and travel demand programmatic investments that reduce vehicle miles traveled. Incorporate air quality impacts into transportation planning decisions through the use of the Fort Collins Air Quality Impacts Tool.*

The I-25 and Mulberry Project has proposed along with the Realignment of the I-25 NE Frontage Road to incorporate two Roundabouts at key locations along the Realigned Frontage Road as shown in the ODP Submittal. The use of roundabouts rather than signalized intersections at these locations can be expected to help reduce the Carbon Emission Plum that is often associated with signalized intersections due to standing or stopped and idling vehicles. The use of roundabouts at these two locations will allow vehicles to keep moving through the intersections and reduce the amount of time vehicles are required to stop at these locations.

## Principle T 10: Support and enhance safety for all modes.

### POLICY T 10.5 - STREET CROSSINGS

*Design street crossings at intersections consistent with the Fort Collins Traffic Code, the Land Use Code, the Manual on Uniform Traffic Control Devices (MUTCD), ADA and the Larimer County Urban Area Street Standards (LUCASS) with regard to crosswalks, lighting, median refuges, bike boxes, corner sidewalk widening, ramps, signs, signals and landscaping.*

The I-25 and Mulberry Project will design streets and pedestrian facilities based on the City's Land Use Code, Manual on Uniform Traffic Control Devices and to the most current City and LCUASS Design and Engineering Standards in place at the time of each PDP Submittal.

## Principle HI 1: Be a model for quitable, effective and transparent local governance.

### POLICY HI 1.7 - REGIONAL COLLABORATION

*Actively collaborate with other jurisdictions in Northern Colorado, school districts and institutions of higher learning, special districts, the NFRMPO, and other regional and state partners to develop cooperative solutions to regional issues and planning challenges.*

CDOT recognized the need in 2005 for the NE I-25 Frontage Road to be realigned as part of the I-25 & Mulberry Street interchange reconstruction. As such, the I-25 and Mulberry Applicant along with the MFMD have been working and collaborating with CDOT for over three years in the possible realignment of the I-25 Frontage Road and the Mulberry Intersection improvements. The Annexation and ODP for the I-25 & Mulberry property is the realization of this combined collaboration and effort to make these improvements a reality.

# SERVICE PLAN

# FOR

# MULBERRY FRONTAGE METROPOLITAN DISTRICT

## LARIMER COUNTY, COLORADO

August 14, 2017

PREPARED BY:

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# APPROVAL SUMMARY

This Service Plan (the "Service Plan") for Mulberry Frontage Metropolitan District (the "District") was approved by the Larimer County Board of County Commissioners on August 14, 2017. Resolution No. 09122017R002, approving this Service Plan, has been recorded at Reception No. 20170061487 on September 13, 2017. The organizational and TABOR elections took place on November 7, 2017. The court order and decree organizing the District was recorded with the Larimer County Clerk and Recorder on _____ ___, 2017 at Reception No. _____.

# EXECUTIVE SUMMARY

The District will serve the public improvement needs of the Mulberry Frontage Development. The District is generally located on the northeast side of the Interstate 25 and Mulberry Street interchange and contains approximately forty-seven (47) acres. The District will include approximately 433,853 square feet of retail and light industrial/flex space.

The District shall be authorized to provide the following services: sanitation and storm drainage, water, street improvements, traffic and safety control, parks and recreation, television relay and translation, mosquito control and other services as described in Sections 32-1-1001 and 1004, C.R.S., as amended.

The total authorized debt limit for the District shall be thirty-two million dollars ($32,000,000). The District anticipates the issuance of an initial series of bonds in the amount of seven million, six hundred and fifty-five thousand dollars ($7,655,000) in the year 2021. The initial debt service mill levy will be fifty (50) mills, with a Maximum Debt Service Mill Levy of fifty (50) mills. The initial operations and maintenance mill levy will be fifteen (15) mills, with a Maximum Operations and Maintenance Mill Levy of fifteen (15) mills. The combined initial mill levy for the District will be fifteen (15) mills, with a maximum combined mill levy of sixty-five (65) mills.

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# I. INTRODUCTION

## A. General Overview.

This Service Plan constitutes a service plan for a Title 32 special district proposed to be organized to serve the needs of a commercial and light industrial development project (also referred to as the "Development" or the "Project"). The owner of the property in the area to be developed is Miller Mokler, LLC, a Colorado limited liability company and any successor(s) in interest (collectively referred to as the "Developer"). The Developer anticipates the need for a single District at this time, and the proposed District is wholly located within Larimer County, Colorado ("Larimer County" or the "County") and is generally located north of Mulberry Street and east of Interstate 25.

This Service Plan addresses the public improvements which are to be provided by the District and demonstrates how the District will provide the necessary public improvements. The District will be formed to assist in the funding, construction, integration and coordination of infrastructure, services and facilities, both within and outside of the District's boundaries. Using funds provided by and through the District, certain public services and facilities necessary to serve the Development will be constructed, owned and operated by the District or will be dedicated to other entities and/or service providers, as appropriate.

The District will undertake the planning, design, acquisition, construction, installation, relocation, redevelopment and financing of those facilities and improvements described and authorized herein. The District will also undertake the operation and maintenance of those facilities and improvements described and authorized herein until, and unless, such facilities and improvements are dedicated and conveyed to another entity, Larimer County or its designee as appropriate.

The District intends to authorize and issue bonds and/or other forms of indebtedness in order to finance all or a portion of the infrastructure necessary to serve the Development. Additional details regarding such indebtedness can be found below in Section V "Financial Plan" below.

## B. Purpose and Intent.

The District is an independent unit of local government, separate and distinct from the County, and, except as may otherwise be provided for by State or local law or this Service Plan, its activities are subject to review by the County only insofar as they may deviate in a material matter from the requirements of the Service Plan. It is intended that the District will provide a part or all of various public improvements necessary and appropriate for the development of the Project. The public improvements will be constructed for the use and benefit of all anticipated inhabitants and taxpayers of the District. The primary purpose of the District will be to finance the construction of these public improvements. The District shall provide ongoing operations

and maintenance services for those facilities and services not otherwise dedicated and provided to another entity, the County or its designee, as specifically set forth in this Service Plan.

The purpose of this Service Plan is to establish public entities that can provide financing, participate in intergovernmental agreements and provide for operations for essential community-wide infrastructure and public facilities and services that will serve the Project. Without the District, the financing would be more expensive than necessary and the development of the Project, as well as the ongoing operations and maintenance, would be less certain.

C. Need for the District.

There are currently no other entities in existence in or near the Development that have the ability or desire to undertake the planning, design, financing, acquisition, construction, installation, relocation, redevelopment, operation and/or maintenance of the facilities and improvements that will be necessary to serve the Development.

East Larimer County Water District ("East Larimer") does not have the desire to finance, design or construct the improvements necessary to serve the Development. As described herein, it is anticipated that East Larimer will own and operate certain water infrastructure within the District, subject to the written consent of East Larimer. Prior to providing water service to the Development, East Larimer will confirm that the water infrastructure has been constructed in accordance with its standards and confirm its willingness to operate and maintain the same. The projected costs associated with designing and constructing these improvements are detailed in **Exhibit D** of this Service Plan.

Boxelder Sanitation District ("Boxelder") does not have the ability or desire to finance, design or construct the improvements necessary to serve the Development. As described herein, it is anticipated that Boxelder will own and operate certain sanitary sewer improvements within the District. Prior to providing sanitary sewer service to the Development, Boxelder will confirm that the sanitary sewer infrastructure has been constructed in accordance with its standards and confirm its willingness to operate and maintain the same. The projected costs associated with designing and constructing these improvements are detailed in **Exhibit D** of this Service Plan.

The County and the Colorado Department of Transportation ("CDOT") do not consider it feasible or practicable to finance, design or construct the required realignment of the frontage road bordering the Development. The District will have the ability to finance, design and construct this frontage road realignment and will do so in a manner that is consistent with the design and construction standards of the County and CDOT. The projected costs associated with designing and constructing these improvements are detailed in **Exhibit D** of this Service Plan.

As described above, there is an existing and projected need for the services contemplated by this Service Plan. The current services are inadequate to meet the needs of the Development and the District will be capable of providing these services in an economical and sufficient

manner. As it builds out, the Development is expected to generate sufficient tax revenue to support and discharge the District's debt. The tax revenue projections, build-out and absorption schedules, and debt issuance timeline are all detailed in **Exhibit F** of this Service Plan. Consequently, formation of the District is warranted in order to provide the facilities and improvements necessary to serve the Development.

D. Contents of Service Plan.

The assumptions contained within this Service Plan were derived from a variety of sources. Information regarding the present status of property within the District, as well as the current status and projected future level of services, was obtained from the Developer. Construction cost estimates were assembled by Golden Triangle Construction, Inc. A general description of the public improvements to be constructed was prepared Northern Engineering Services, Inc. of Fort Collins, Colorado. Legal advice in the preparation of this Service Plan was provided by White Bear Ankele Tanaka & Waldron, Professional Corporation, which represents numerous special districts in the State of Colorado. Financial recommendations and advice in the preparation of the Service Plan were provided by the Developer with the assistance of D.A. Davidson & Company.

Consultant contact information:

| | |
|---|---|
| Developer: | Miller Mokler, LLC<br>Attn: Steve Shoflick<br>6900 East Belleview Avenue, Suite 300<br>Greenwood Village, Colorado 80111 |
| District's Counsel: | White Bear Ankele Tanaka & Waldron, PC<br>2154 East Commons Avenue, Suite 2000<br>Centennial, Colorado 80122 |
| Financial Advisors: | D.A. Davidson & Company<br>1550 Market Street, Suite 300<br>Denver, CO 80202 |
| Engineer: | Northern Engineering Services, Inc.<br>301 North Howes Street, Suite 100<br>Fort Collins, CO 80521 |

E. Modification of Service Plan.

This Service Plan has been prepared with sufficient flexibility to enable the District to provide required services and facilities to meet the needs of the community under evolving circumstances. While the assumptions upon which this Service Plan are generally based are reflective of current zoning for the property within the proposed District, the cost estimates and

Financial Plan are sufficiently flexible to enable the District to provide the necessary services and facilities without the need for repeated amendments to the Service Plan. Modification of the proposed configuration of improvements, scheduling of construction of such improvements, and the locations and dimensions of various facilities and improvements shall be permitted to accommodate development needs, provided such modifications are consistent with zoning for the property and approved through the County land development procedures. Other types of modifications and the procedures for their review and approval are as specified herein. All improvements will be designed and constructed in accordance with the standards and specifications established by Larimer County or CDOT that are in effect from time-to-time, and with the applicable standards and specifications of other governing public entities having jurisdiction, unless otherwise approved in advance and in writing by Larimer County or CDOT. Specifically, the anticipated frontage road realignment will be constructed only after review and approval by the County or CDOT, as appropriate. Such review is anticipated to focus on conformance with the appropriate CDOT or County design and construction standards, as well as establishing ongoing ownership and maintenance responsibilities for the frontage road.

## II. BOUNDARIES OF THE DISTRICT AND FUTURE INCLUSIONS

Currently the boundaries of the District contain approximately forty-seven (47) acres of property. The service area of the District is generally described as all real property within the boundaries of the District. The boundaries of the District are more particularly depicted in the map contained in **Exhibit B**. A legal description of the boundaries of the District is attached as **Exhibit C**.

The District will work cooperatively with owners in evaluating and considering petitions for inclusions of property which meet the requirements of Section 32-1-401, C.R.S., Larimer County and other applicable utility service providers' design, construction and financing standards on a reasonable, financially feasible basis.

The "Service Area" of the District (the jurisdictional area which may legally be served) will consist of the entire area of the Development, as described in this Service Plan. The District will have the power to impose property taxes only within its legal boundaries but may also furnish services outside of its boundaries without County approval.

Any additional infrastructure or debt being proposed through or as a result of the inclusion of a petitioner's property into the District must be approved by and agreed to be subject to any requirements of the District, Larimer County, and/or any other public entity providing utilities and/or services to the inclusion area.

It is anticipated that the District's boundaries may change from time-to-time as they undergo inclusions and exclusions pursuant to Section 32-1-401, *et seq*., C.R.S., and Section 32-1-501, *et seq*., C.R.S., subject to the limitations set forth herein. Additional property may be included in the District in accordance with the provisions of the Special District Act (Section 32-

1-101, *et seq.*, of the Colorado Revised Statutes, as amended from time-to-time) (the "Act"), subject to compliance with Section 32-1-401, *et seq*., C.R.S. Under the Act, the fee owner or owners of 100% of any property proposed for inclusion may petition the Board of the District for the inclusion of property into the District. Further, less than all of the owners of an area may petition the District for inclusion, or the Board may adopt a resolution calling for an election on inclusion of the property within such area. Property may also be excluded from the District. Any inclusion of property into or exclusion of property from the District shall be considered a material modification, as described herein under Article X, and require an amendment to this Service Plan prior to any formal action on the inclusion or exclusion being taken by the Board of the District.

## III. PROPOSED USE, POPULATION PROJECTIONS, ASSESSED VALUATION

The initial Service Area of the District consists of approximately forty-seven (47) acres of land. The current assessed valuation within the District's boundaries is $0.00 for purposes of this Service Plan and, at build out, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan. The projected residential population of the District at build-out of the current boundaries is estimated to be zero (0) people. The addition of residential land uses to the Development shall be considered a material modification, as described herein under Article X, of this Service Plan and require an amendment in accordance with the Act and any County approvals set forth in the Intergovernmental Agreement with the County. Based upon the information currently available, the Financial Plan currently estimates the actual valuation of all property within the District at approximately $55,000,000 at full build out in 2024. The assessed valuation of property within the District set forth below and shown in the Financial Plan is based upon the Developer's projections of actual values of improved property and present State property tax law. The estimated assessed value at full build out in 2024, based upon information currently available, is projected to be approximately $12,400,000.

Approval of this Service Plan by the County does not imply approval of the development within the District, nor does it imply approval of the total site/floor area of commercial or industrial buildings identified in this Service Plan or any of the exhibits attached thereto, unless the same is contained within an Approved Development Plan or other applicable zoning ordinances, applicable provisions of the County or other applicable law.

## IV. DESCRIPTION OF THE DISTRICT'S POWERS, FACILITIES AND SERVICES

A. Powers of the District.

The District shall have the power and authority to provide the Public Improvements and related operation and maintenance services within and without the boundaries of the District as such power and authority is described in the Special District Act, and other applicable statutes, common law and the Constitution, subject to the limitations set forth herein. It is intended that the District will provide those facilities and services as defined by this Service Plan and will

continue to exist to operate and maintain all of those facilities not dedicated to, or otherwise owned by, the County or other entity having proper jurisdiction.

l. Sanitation and Storm Drainage. The design, acquisition, installation, construction, operation and maintenance of storm or sanitary sewers, or both, and/or the design, acquisition, installation, construction, as well as flood and surface drainage improvements including, but not limited to, water quality ponds and other storm water facilities, culverts, dams, retaining walls, access ways, inlets, sediment basins, detention ponds and paving, roadside swales and curb and gutter, treatment and disposal works and facilities, and all necessary or proper equipment and appurtenances incident thereto, together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities or systems. It is anticipated that the wastewater treatment services for the Development will be provided by Boxelder. Boxelder does not have the desire or ability to finance, design or construct the improvements necessary to serve the Development. As such, the District will be responsible for financing, designing and constructing the sanitation and storm drainage improvements to meet the needs of the Development. Overlap consent will be obtained from Boxelder in accordance with Article IV. D. of this Service Plan. Any sanitation and storm drainage improvements financed, designed or constructed by the District shall be done in accordance with all duly adopted Larimer County, regional or State of Colorado long-range water quality management plans applicable to the Development. It is also anticipated that after financing and construction, installation and/or acquisition of the wastewater treatment system, the District's sanitation powers related to wastewater treatment services described in this section will be needed only in the event that Boxelder and/or its systems are insufficient or unwilling to serve the needs of the Development on a reasonable, cost effective basis. The District may maintain storm drainage improvements, including but not limited to sediment basins, storm sewer and detention improvements. Where appropriate, all such storm drainage improvements will be designed and constructed in consultation with the Boxelder Stormwater Authority (the "Authority"). The District and the Authority will cooperate and coordinate their efforts with respect to the ongoing ownership and maintenance responsibilities of such improvements, and, when necessary, may negotiate and enter into certain intergovernmental agreements evidencing the same.

2. Water. The design, acquisition, installation, construction, operation and maintenance of a complete water and irrigation water system including, but not limited to, water rights, water supply, water quality, treatment, storage, transmission and distribution systems for domestic and other public or private purposes, together with all necessary and proper reservoirs, treatment works and facilities, wells, water rights, equipment and appurtenances incident thereto which may include, but not be limited to, transmission lines, distribution mains and laterals, storage facilities, land and easements, together with extensions of and improvements to said systems. Any water improvements financed, designed or constructed by the District shall be done in accordance with all duly adopted Larimer County, regional or State of Colorado long-range water quality management plans applicable to the Development. It is anticipated that the water services for the Development will be provided by East Larimer. East Larimer does not have the desire to finance, design or construct the improvements necessary to serve the Development. As such, the District

will be responsible for financing, designing and constructing the water improvements to meet the needs of the Development. It is also anticipated that East Larimer will provide for the operation and maintenance of the water facilities. Overlap consent will be obtained from East Larimer in accordance with Article IV. D. of this Service Plan.

3. Streets. The design, acquisition, installation, construction, operation and maintenance of street and roadway improvements including but not limited to curbs, gutters, culverts, storm sewers and other drainage facilities, detention ponds, retaining walls and appurtenances, as well as sidewalks, bridges, parking facilities, paving, lighting, grading, streetscaping or landscaping, undergrounding of public utilities, snow removal equipment, or tunnels and other street improvements, together with all necessary, incidental and appurtenant facilities, signage, land and easements, and all necessary extensions of and improvements to said facilities. The District intends to construct certain roadways within its boundaries in accordance with the applicable standards of Larimer County or any other public entity having jurisdiction over the particular roadway, including CDOT. Specifically, the County and CDOT do not consider it feasible or practicable to finance, design or construct the required realignment of the frontage road bordering the Development. Pursuant to the powers granted to the District by this Service Plan, the District will have the ability to finance, design and construct this frontage road realignment and will do so in a manner that is consistent with the design and construction standards of the County or CDOT.

4. Traffic and Safety Controls. The design, acquisition, installation, construction, operation and maintenance of traffic and safety protection facilities and services through traffic and safety controls and devices on arterial streets and highways, as well as other facilities and improvements including, but not limited to, signalization at intersections, traffic signs, area identification signs, directional assistance, and driver information signs, together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities. The District will dedicate all traffic and safety protection facilities to the County or another appropriate public entity for perpetual ownership and maintenance, pursuant to the applicable criteria.

5. Parks and Recreation. The design, acquisition, installation, construction, operation and maintenance of public park and recreation facilities or programs including but not limited to grading, soil preparation, sprinkler systems, playgrounds, bike and hiking trails, pedestrian trails, pedestrian bridges, picnic areas, common area landscaping and weed control, outdoor lighting of all types, community events, and other facilities, together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities or systems. The District shall own and maintain park and recreation facilities and open space improvements. It is not expected that the County will assume any of these duties or obligations.

6. Television Relay and Translation. The acquisition, construction, completion, installation and/or operation and maintenance of television relay and translator

facilities, together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities and systems both within and outside of the District's boundaries.

7. Mosquito Control. The design, acquisition, installation, construction, operation and maintenance of systems and methods for the elimination and control of mosquitoes.

8. Legal Powers. The District's powers will be exercised by and through its Board of Directors to the extent necessary to provide the public facilities and services contemplated in this Service Plan. The foregoing improvements and services, along with all other activities permitted by law, will be undertaken in accordance with, and pursuant to, the procedures and conditions contained in the Special District Act, other applicable statutes, and this Service Plan, as any or all of the same may be amended from time-to-time.

9. Other. In addition to the powers enumerated above, the District's Board of Directors shall have the power and authority:

a. To amend this Service Plan as needed, subject to Section 32-1-207, C.R.S., including, by written notice to the County pursuant to Section 32-1-207, C.R.S., to undertake proposed actions which the District believes are permitted by this Service Plan, but which may be unclear. It shall be the District's responsibility to contact the County to seek an interpretation as to whether a disputed proposed action is allowed by this Service Plan. If the County determines that the proposed action constitutes a material modification of the Service Plan, the District shall comply with Section 32-1-207, C.R.S., to amend the Service Plan; and

b. To forego, reschedule, or restructure the financing and construction of certain improvements and facilities in order to better accommodate the pace of growth, resource availability, and potential inclusions of property within the District, or if the development of the improvements and facilities would best be performed by another entity; and

c. To have and exercise all rights and powers necessary or incidental to, or implied from, the specific powers granted to the District in this Service Plan and the Act.

B. Description of Facilities and Improvements.

The District will be permitted to exercise its statutory powers and authority, as set forth herein, to finance, construct, acquire, operate and/or maintain the public facilities and improvements described in this Service Plan, either directly or by contract. Where appropriate, the District will contract with various public and/or private entities to undertake such functions.

The preliminary, conceptual layouts of the public facilities and improvements described in this Service Plan are shown in **Exhibit E**, attached hereto. Additional information for each type of improvement needed for the District is set forth in this section. It is important to note that the preliminary layouts are conceptual in nature only, and that modifications to the type, configuration,

and location of improvements may be necessary as development proceeds. All of the public facilities and improvements described in this Service Plan will be designed in such a way as to conform to the service criteria and standards of the County or any other applicable public entity.

1. Construction Standards Limitation. The District will ensure that the Public Improvements that are to be dedicated to the County or other governmental entities will be designed and constructed in accordance with the standards and specifications of the County and of other governmental entities having proper jurisdiction and of those special districts and other utility service providers utilized by the District to provide those services hereunder, together with all entities that qualify as "interested parties" under Section 32-1-204(1), C.R.S., as applicable. The District will obtain the County's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

C. Preliminary Engineering Survey of Costs of Improvements.

The District shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance and financing of the Public Improvements within and without the boundaries of the District, to be more specifically defined in an Approved Development Plan. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, operated, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property in the Service Area and attached as **Exhibit D**. The current estimated costs are approximately $13,266,426 based upon the anticipated build-out of 49,000 square feet of retail space and 384,853 square feet of light industrial/flex space. The figures provided are in uninflated 2017 dollars and represent a preliminary estimate of the actual capital costs associated with the planned improvements and facilities. Actual costs, as well as the timing and sequence of construction, may vary from the stated amounts and phasing to reflect fluctuations in general price levels, the pace and scope of improvements within the District, and other contingencies or unanticipated events.

It is understood that the initial capital cost estimates contained in this Service Plan may vary from actual construction costs and that the allotment of funds between categories of improvements may differ from the original estimates. All District improvements shall be constructed in accordance with the specifications and standards approved by Larimer County, CDOT and other applicable entities.

D. Consents to Overlap.

Portions of the legal boundaries of the District (as initially configured and as ultimately expanded) may overlap those of East Larimer County Water District, Boxelder Sanitation District and the Poudre Fire Authority (the "Overlapping Districts"). The District does not presently plan to own and operate water or sanitation facilities, but is authorized to do so under

this Service Plan. In connection with the provision of water or sanitary sewer, the District shall comply with the applicable provisions of Section 32-1-107, C.R.S. relating to districts with overlapping services. The District will not provide any fire services that overlap with those of the Poudre Fire Authority.

## V. FINANCIAL PLAN

### A. General.

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation, operation, maintenance and/or redevelopment of the Public Improvements from its revenues and by and through the proceeds of Debt to be issued by the District. The Financial Plan for the District attached hereto as **Exhibit F** demonstrates one method by which the District may finance and operate the District. The Financial Plan, as may be amended, demonstrates how to issue such Debt as the District can reasonably pay within the Maximum Debt Mill Levy Imposition Term from revenues derived from the Maximum Debt Mill Levy and other legally available revenues. The Debt Cap of the District shall be initially set at $32,000,000 and such debt shall be permitted to be issued on a schedule and in such year or years as the District determines shall meet the needs of the Financial Plan referenced above and shall be phased to serve development as it occurs. Should substantial inclusions and additional construction, acquisition, installation, financing, development, operations and maintenance be required, the District shall seek the necessary approvals of the County to modify the Debt Cap. All bonds and other Debt issued by the District may be payable from any and all legally available revenues of the District, including general *ad valorem* taxes to be imposed upon all taxable property within the District. The District will also rely upon various other revenue sources authorized by law. These will include the power to assess fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time-to-time.

The Financial Plan also provides an estimated cash flow analysis prepared by an independent financial advisor showing for each year, beginning with the year in which the District is organized and continuing on an annual basis, valuations for assessment of all taxable property in the District, mill levies, *ad valorem* tax receipts, utility fees, other revenues (including, without limitation, any Capital Facilities Fees expected to be received by the District), debt service, operation and maintenance expenses and annual and cumulative surpluses. The cash flow analysis includes an absorption schedule and estimated growth assumptions on which it is based and demonstrates one method by which the District formation and public infrastructure construction, operations and maintenance can be financially feasible. It is understood that the Financial Plan forecasts may vary from actual development and build-out because of events and circumstances that do not occur as projected.

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed fifteen percent (15%). The proposed maximum underwriting discount will be five percent (5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

C. Maximum Total Mill Levy.

A "Maximum Total Mill Levy" of sixty-five (65) mills is authorized to support debt service and operations and maintenance of the District. The "Maximum Debt Mill Levy" shall be the maximum mill levy a District is permitted to impose upon the taxable property within such District for payment of Debt, and shall be determined as follows:

1. For the portion of any aggregate Debt which exceeds fifty percent (50%) of the District's assessed valuation, the Maximum Debt Mill Levy for such portion of Debt shall be fifty (50) mills less the number of mills necessary to pay unlimited mill levy Debt described in Section V.C.2 below; provided that if, on or after January 1, 2017, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2017, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. For the portion of any aggregate Debt which is equal to or less than fifty percent (50%) of the District's assessed valuation, from and on the date of issuance or at any time thereafter, if either:

a. on the date of issuance, or

b. on or after a later date,

all or any portion of outstanding Debt is equal to or less than fifty percent (50%) of the District's assessed valuation on said date, then the mill levy to be imposed to repay such portion of debt shall not be subject to the Maximum Debt Levy and as a result, the mill levy may be such amount as is necessary to pay the Debt Service on such Debt, without limitation of rate.

3. For purposes of the foregoing, once Debt has been determined to be within Section V.C.2 above, so that the District is entitled to pledge to its payment an unlimited *ad*

*valorem* mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District's Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term "District" as used in this Service Plan shall be deemed to refer to the District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition.

All of the bonds issued by the District may be payable from any and all revenues legally available to the District, including general *ad valorem* taxes to be imposed upon all taxable property within the District's boundaries, subject to the following limitations:

a. For all general obligation debt, including refunding debt, the maximum mill levy the District can promise to impose to repay such debt shall be fifty (50) mills; provided, however, that this mill levy limitation may be increased or decreased to reflect changes in the method of calculating assessed valuation (with tax year 2016 as the base year for calculation of any such adjustments), such increases or decreases to be determined by the District's Board of Directors in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual value to assessed value shall be deemed a change in the method of calculating assessed valuation.

b. Bonds may be privately placed in accordance with either Section 11-59-110(1)(g), C.R.S., or the regulations for placement of securities with an accredited investor in accordance with the Rules promulgated under the Colorado Municipal Bond Supervision Act, as the same may be amended from time-to-time. Bonds may be issued to the Developer without regard to such statute or regulations. Any such private placement or issuance shall be subject to the Mill Levy Cap.

c. The District may repay its debt using any and all other revenues legally available to them.

D. Maximum Debt Mill Levy Imposition Term.

The District shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed for residential uses which exceeds forty (40) years after the year of the initial imposition of such mill levy unless a majority of the Board of Directors of the District are residents of the District and

have voted in favor of a refunding of a part or all of the Debt and such refunding will result in a net present value savings as set forth in Section 11-56-101, C.R.S., *et seq.*

E. Debt Repayment Sources.

The District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service and for operations and maintenance. The District may also rely upon various other revenue sources authorized by law. At the District's discretion, these may include the power to assess fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(l), C.R.S., as amended from time-to-time. In no event shall the debt service mill levy in any District exceed the Maximum Debt Mill Levy or, for residential property within a District, the Maximum Debt Mill Levy Imposition Term.

F. Security for Debt.

The District shall not pledge any revenue or property of the County as security for the indebtedness set forth in this Service Plan. Approval of this Service Plan shall not be construed as a guarantee by the County of payment of the District's obligations; nor shall anything in the Service Plan be construed so as to create any responsibility or liability on the part of the County in the event of default by the District in the payment of any such obligation.

G. TABOR Compliance.

The District will comply with the provisions of Article X Section 20 of the Colorado Constitution, as may be amended from time-to-time ("TABOR"). In the discretion of the Board, the District may set up other qualifying entities to manage, fund, construct and operate facilities, services, and programs. To the extent allowed by law, any entity created by the District will remain under the control of the District's Board.

H. District's Operating Costs.

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are estimated to be $150,000 in 2017, which organization and formation costs in that year only will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the District will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The first year's operating budget is estimated to be $50,000, which is anticipated to be derived from property taxes, developer advances and other revenues.

The Maximum Debt Mill Levy for the repayment of Debt shall not apply to the District's ability to increase their mill levies as necessary for provision of operations and maintenance services to their taxpayers and service users.

I. Enterprises.

The District may establish enterprises to manage, fund, and/or operate those public improvements contemplated herein that qualify for enterprise status. Such establishment shall be made in the discretion of the District's Board, using the procedures and criteria provided by TABOR and Colorado law. To the extent allowed by law, any enterprise created by the District will remain under the control of its Board.

J. Overlapping Debt.

A review of publicly available audited financials for 2015, indicates that the District's boundaries overlap with cities, counties and special districts having the following outstanding debt obligations.

| Overlapping Entity | Outstanding Debt |
|---|---|
| Larimer County | Total long term debt as of 2015: $22,600,000 |
| Poudre Valley Fire District | No outstanding debt as of 2015 |
| Poudre River Public Library District | No outstanding debt as of 2015 |
| Health District of Northern Larimer County | No outstanding debt as of 2015 |
| Northern Colorado Water Conservancy District | Total long term debt as of 2015: $15,240,548 |
| Boxelder Sanitation District | Total long term debt as of 2015: $8,874,780 |
| East Larimer County Water District | Total long term debt as of 2015: $5,735,000 |

## VI. ANNUAL REPORT

The County may request the District to file a special district annual report, not more than once per year. Such report shall be filed with the County, the Colorado Division of Local Government, and the State Auditor, and shall be deposited with the Larimer County Clerk and Recorder for public inspection. A copy of such report shall be made available by the District to any interested party pursuant to Section 32-1-207(3), C.R.S. The County may review the annual reports in a regularly scheduled public meeting, and such review shall be included as an agenda item in the public notice for such meeting.

For purposes of the foregoing, the District's fiscal year shall end on December 31st of each calendar year and the content of such report shall comply with the requirements of Section 32-1-207(3)(c), C.R.S.

## VII. DISSOLUTION

When all of the statutory requirements for dissolution of the District are satisfied, as stated in Section 32-1-701 *et seq.* C.R.S., as amended, the District may be dissolved.

## VIII. DISCLOSURE TO PURCHASERS

The District will use reasonable efforts to assure that all developers of the property located within the District provide written notice to all purchasers of property in the District regarding the Maximum Debt Mill Levy, as well as a general description of the District's authority to impose and collect rates, fees, tolls and charges.

## IX. PROPOSED AND EXISTING AGREEMENTS

An intergovernmental agreement shall be entered into between the District and the County to address the implementation of the Service Plan and specific requirements of the County. To the extent practicable, the District may enter into additional intergovernmental and/or private agreements to provide for the improvements and services contemplated herein, as well as for the effective management, operation and/or maintenance thereof. Similar agreements may also be entered into with property owner associations and/or other service providers. All such agreements must be for facilities, services and agreements lawfully authorized to be provided by the District, pursuant to Section 18(2) (a) of Article XIV of the Colorado Constitution and Section 29-1-201, *et seq.*, C.R.S.

## X. MATERIAL MODIFICATIONS

It shall be the District's responsibility to contact the County to seek an interpretation as to whether a questionable proposed action is allowed by this Service Plan. In the event that the District desires to make a modification to this Service Plan that may be material, the District shall submit the proposed modification to the Larimer County Community Development staff, which will determine whether the proposed modification is material. Larimer County Community Development staff shall look to Section 32-1-207(2)(a), C.R.S. with respect to making a determination as to whether a proposed action constitutes a material modification of this Service Plan. If the Larimer County Community Development staff determine that the proposed modification is material, then the District must obtain County approval, along with the written consent of any other public entity providing utilities and/or services to the District, before making any material modifications to this Service Plan in accordance with Section 32-1-207, *et seq.*, C.R.S., including, by written notice to the County pursuant to Section 32-1-207, C.R.S., modifications concerning proposed actions that the District believe are permitted by this Service Plan, but which may be unclear.

Material modifications shall include modifications of a basic or essential nature including, but not limited to, any additions to the types of services initially provided by the District or change

in debt limit. Approval shall not be required for mechanical modifications to this Service Plan necessary for the execution of the original Financial Plan. Material departures from the approved Service Plan shall require Larimer County approval of amendments to the approved Service Plan as required by Section 32-1-207, C.R.S.

This Service Plan has been designed with sufficient flexibility to enable the District to provide required services and facilities under evolving circumstances without the need for numerous amendments. While the assumptions upon which this Service Plan are generally based are reflective of anticipated zoning for the property within the District, the cost estimates and Financial Plan are sufficiently flexible to enable the District to provide necessary services and facilities without the need to amend this Service Plan as zoning changes. Modification of the services and facilities, and changes in proposed configurations, locations, or dimensions of various facilities and improvements shall be permitted to accommodate development needs consistent with then current zoning for the Development.

Any amendment to this Service Plan shall be processed in a manner that is consistent with the Act and any County approvals set forth in the Intergovernmental Agreement with the County. The District shall be required to execute this Intergovernmental Agreement in substantially the form attached hereto as **Exhibit G** and satisfactory to Larimer County.

In the event that the District takes any action that constitutes a material modification of this Service Plan without approval from the County, the County shall utilize the remedies set forth by statute to seek to enjoin the District's actions.

## XI. RESOLUTION OF APPROVAL

The District agrees to incorporate the County's Resolution of Approval into the Petition for Organization presented to the District Court in and for Larimer County, Colorado. The form of said resolution is attached hereto and incorporated herein as **Exhibit A**.

## XII. CONCLUSION

It is submitted that this Service Plan for the District, as required by Section 32-1-203(2), C.R.S. establishes that:

1. There is sufficient existing and projected need for organized service in the area to be serviced by the District;

2. The existing service in the area to be served by the District is inadequate for present and projected needs;

3. The District is capable of providing economical and sufficient service to the area within its proposed boundaries;

4. The area to be included in the District does have, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis;

5. Adequate service is not, and will not be, available to the area through Larimer County, or through other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis;

6. The facility and service standards of the District are compatible with the facility and service standards of the County, other appropriate entities and those of each interested party under Section 32-1-204(3), C.R.S.;

7. The proposal is in compliance with any duly adopted County, regional or State long-range water quality management plan for the area;

8. The proposal is in substantial compliance with the County's Master Plan;

9. The creation of the District is in the best interests of the area proposed to be served; and

10. The creation of the District is in the best interests of the residents and future residents and taxpayers of the area proposed to be served.

Therefore, it is hereby respectfully requested that the Board of County Commissioners for Larimer County, Colorado, which has jurisdiction to approve this Service Plan by virtue of Section 32-1-204, C.R.S., *et seq*., as amended, adopt a resolution, which approves this "Service Plan for Mulberry Frontage Metropolitan District," as submitted.

Respectfully submitted this 27th day of April, 2017.

WHITE BEAR ANKELE TANAKA & WALDRON, P.C.

**EXHIBIT A**
Form of Larimer County Resolution of Approval

Commissioner _____ moved that the following Resolution be adopted:

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF THE COUNTY OF LARIMER

STATE OF COLORADO

RESOLUTION NO. _____

In The Matter Of: Mulberry Frontage Metropolitan District

WHEREAS, pursuant to the provisions of the "Special District Act," Part 2 of Article 1 of Title 32, C.R.S. 1973, the Petitioners formally presented a Service Plan (the "Service Plan") for Mulberry Frontage Metropolitan District (the "District"); and

WHEREAS, pursuant to the provisions of Section 32-1-204(2), C.R.S., the Larimer County Planning Commission held a public hearing on the Service Plan on July 19, 2017, at which time the Planning Commission did, by resolution, recommend approval of the Service Plan based upon its belief that there is sufficient existing and projected need for the provision of services by the District; and

WHEREAS, pursuant to the provisions of Section 32-1-202(1), C.R.S., the Board of County Commissioners of Larimer County, Colorado, held a public hearing and set a date for a public hearing on the Service Plan for August 14, 2017, 2017; and

WHEREAS, notice of the date, time, location and purpose of the aforesaid hearing was duly published in the *Coloradoan*, a newspaper of general circulation, on July 21, 2017; notice was provided to the division of local government in the department of local affairs of the name and type of the special district; notice of the date, time and location of the hearing was provided to the Petitioners and to the governing body of each municipality and of each special district which had levied an *ad valorem* tax within the next preceding tax year and which had boundaries within a radius of three (3) miles of the Petitioners' District, as required by Section 32-1-204(1), C.R.S.; and notice of the time, date, location and purpose of the District was not sent to property owners within the District via letter mailing pursuant to Section 32-1-204(1.5), C.R.S. because the Petitioners own 100% of the property within the proposed District; and

WHEREAS, this Board did, on August 14, 2017, hold a full, public hearing on this matter, taking evidence establishing the jurisdiction of the Board to hear this matter and further taking evidence regarding the substantive issues set forth in Section 32-1-203, C.R.S.; and

WHEREAS, this Board has fully considered the testimony and other evidence presented to it in this matter.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Larimer County, Colorado:

1. That the Board does hereby determine that all of the jurisdictional and other requirements of Sections 32-1-202 and 32-1-204, C.R.S., have been fulfilled, including those relating to the filing of the Service Plan and the form and timing of the public notice of the hearing and the public hearing held herein.

2. The Board does hereby find and determine that:

(a) There is sufficient existing and projected need for organized service in the area as provided in the Service Plan;

(b) The existing service in the area to be served by the proposed District is inadequate for present and projected needs;

(c) The District, as outlined in the Service Plan, is capable of providing economical and sufficient service to the area within its proposed boundaries;

(d) The area included in the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis;

(e) Adequate service is not, and will not be, available to the area through the County, other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis;

(f) The facility and service standards of the District are compatible with the facility and service standards of Larimer County and of adjacent municipalities and special districts;

(g) The proposal is in substantial compliance with the County's master plan adopted pursuant to Section 30-28-106 and Section 30-28-108, C.R.S.; and

(h) The proposal is in compliance with duly adopted long-range water and quality management plans for the area, if any.

3. That the Board further finds and determines that creation of the District is in the best interests of the area proposed to be served.

4. That the Service Plan of the District to finance and construct public improvements anticipated in the Service Plan, be and hereby is approved.

5. That, pursuant to Section 32-1-204(4), the Board of County Commissioners hereby issues this Resolution of final approval to the District.

Commissioner _____ seconded the adoption of the foregoing Resolution. The roll having been called, the vote was as follows:

Commissioner Gaiter - Yes

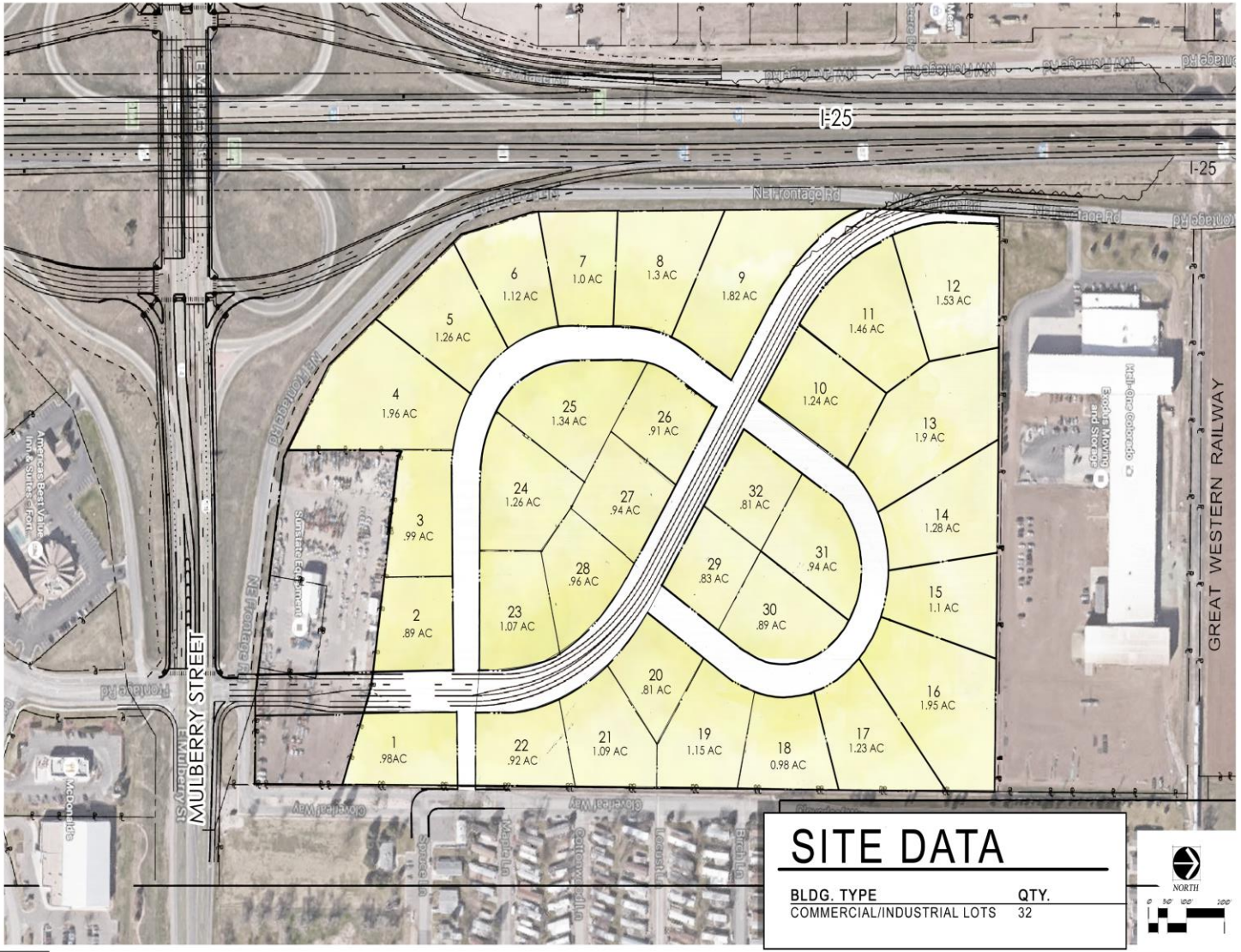
Commissioner Johnson - Yes

Commissioner Donnelly - No

The Resolution was adopted by majority vote of the Board of County Commissioners of the County of Larimer, State of Colorado.

**EXHIBIT B**

Map Showing the Boundaries of the District




RIPLEY DESIGN INC.
land planning
landscape architecture
urban design
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# I-25 AND MULBERRY (NE QUADRANT)

10.03.2016

419 Canyon Ave., Suite 200
Fort Collins, Colorado 80521
970.224.5828
www.ripleydesigninc.com

# EXHIBIT C

Legal Description of the Boundaries of the District

A TRACT OF LAND SITUATE IN THE SW 1/4 OF SECTION 10, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

CONSIDERING THE SOUTH LINE OF SAID SW 1/4 AS BEARING S 89 DEGREES 15' 00" E AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO: COMMENCING AT THE SW CORNER OF SAID SECTION 10; THENCE S 89 DEGREES 15' 00" E, 1427.40 FEET; THENCE N 00 DEGREES 45' 00" W, 30.90 FEET TO THE NORTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY NO. 25; THENCE ALONG SAID RIGHT OF WAY LINE, N 69 DEGREES 16' 00" W, 319.20 FEET; THENCE N 81 DEGREES 17' 00" W, 504.90 FEET; THENCE N 58 DEGREES 17' 00" W, 20.61 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID RIGHT OF WAY, N 58 DEGREES 17' 00" W, 212.59 FEET; THENCE N 37 DEGREES 57' 39" W, 442.05 FEET; THENCE N 13 DEGREES 51' 00" W, 206.20 FEET; THENCE N 00 DEGREES 11' 30" E, 37.90 FEET; THENCE N 00 DEGREES 06' 00" W, 940.70 FEET; THENCE N 03 DEGREES 45' 00" E, 245.20 FEET; THENCE LEAVING SAID RIGHT OF WAY LINE, S 88 DEGREES 54' 07" E, 1241.49 FEET; THENCE S 00 DEGREES 46' 10" W, 1726.98 FEET; THENCE N 69 DEGREES 16' 00" W, 224.49 FEET; THENCE N 81 DEGREES 17' 00" W, 504.90 FEET; THENCE N 58 DEGREES 17' 00" W, 20.61 FEET; THENCE S 00 DEGREES 45' W, 300.00 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

**EXHIBIT D**

Engineering Survey of Estimated Costs of Public Improvements

**Opinion of Probable Public Improvement Costs**

Date: 6/20/2017

Client: Miller Mokler, LLC

By: Brian Laartz

Project: Mulberry Frontage Metropolitan District

| | Quantity | Unit | Unit Price (1) | Cost | |
|---|---|---|---|---|---|
| **A Roads** | | | | | |
| CDOT Frontage Road | 2,682 | ft | | | |
| Curb & Gutter | 5,364 | lf | $19.52 | $104,711 | |
| Concrete Pans | 1,056 | sf | $8.80 | $9,295 | |
| Corner Returns | 4 | ea | $254.02 | $1,016 | |
| Pavement 5" | 19,668 | sy | $23.56 | $463,378 | |
| Base 10" | 19,668 | sy | $11.94 | $234,811 | |
| Grade, compact, backup | 29,800 | sy | $4.13 | $123,007 | |
| Traffic Control | 1 | ls | $19,051.20 | $19,051 | |
| Traffic barricades | 2 | ea | $3,175.20 | $6,350 | |
| Handicap Ramps | 4 | ea | $1,016.06 | $4,064 | |
| Street Signs | 12 | ea | $508.03 | $6,096 | |
| Sidewalk (Concrete 4") | 32,184 | sf | $5.61 | $180,673 | |
| Lighting | 18 | ea | $10,160.64 | $181,672 | |
| Local Commercial Street | 2,946 | ft | | | |
| Curb & Gutter | 5,892 | lf | $19.52 | $115,018 | |
| Concrete Pans | 2,400 | sf | $8.80 | $21,124 | |
| Corner Returns | 12 | ea | $254.02 | $3,048 | |
| Pavement 4.5" | 15,712 | sy | $21.15 | $332,259 | |
| Base 9" | 15,712 | sy | $10.80 | $169,622 | |
| grade, compact, backup | 23,568 | sy | $4.13 | $97,283 | |
| Traffic Control | 1 | | $12,700.80 | $12,701 | |
| Handicap Ramps | 4 | ea | $1,016.06 | $4,064 | |
| Street Signs | 8 | ea | $508.03 | $4,064 | |
| Sidewalk (Concrete 4") | 29,460 | sf | $5.61 | $165,381 | |
| Lighting | 20 | ea | $10,160.64 | $201,587 | |
| Landscaping/ Irrigation | | | | | |
| Frontage road ROW | 75,096 | sf | $5.72 | $429,201 | |
| Commercial street ROW | 41,244 | sf | $3.81 | $157,150 | |
| Electrical service (Controller) | 1 | | $19,051.20 | $19,051 | |
| Right of Way Purchase (2) | 386,896 | sq ft | $6.76 | $2,615,503 | |
| Subtotal Roads | | | | | $5,681,182 |

**Opinion of Probable Public Improvement Costs**

Client: Miller Mokler, LLC

Project: Mulberry Frontage Metropolitan District

Date: 6/20/2017

By: Brian Laartz

| | Quantity | Unit | Unit Price (1) | Cost | |
|---|---|---|---|---|---|
| **B Utilities** | | | | | |
| Water | | | | | |
| 12' Water Main | 5,000 | ft | $134.63 | $673,142 | |
| Valves | 21 | Each | $381.02 | $8,002 | |
| Hydrants | 8 | Each | $8,255.52 | $66,044 | |
| Sanitary Sewer | | | | | |
| 8" Sanitary Sewer | 1,810 | ft | $50.10 | $90,689 | |
| 10" Sanitary Sewer | 2,050 | ft | $75.76 | $155,309 | |
| Manholes | 20 | Each | $9,525.60 | $190,512 | |
| Storm Sewer | | | | | |
| 15" Storm Sewer | 482 | ft | $67.71 | $32,635 | |
| 18" Storm Sewer | 2,836 | ft | $74.48 | $211,218 | |
| 24" Storm Sewer | 393 | ft | $101.56 | $39,911 | |
| 30" Storm Sewer | 479 | ft | $128.28 | $61,445 | |
| 36" Storm Sewer | 534 | ft | $154.95 | $82,743 | |
| 48" Storm Sewer | 762 | ft | $181.62 | $138,396 | |
| Manholes | 18 | Each | $10,160.64 | $182,892 | |
| Inlets | 29 | Each | $8,890.56 | $257,826 | |
| Pond Outlet Structure | 1 | Each | $10,160.64 | $10,161 | |
| Flared End Sections | 1 | Each | $9,525.60 | $9,526 | |
| Drainage Channel | 1,970 | ft | $15.24 | $30,025 | |
| Subtotal Utilities | | | | | $2,240,475 |
| **C Detention Pond** | | | | | |
| Land Acquisition (2) | 219,868 | sq ft | $6.76 | $1,486,356 | |
| Retaining Wall | 2,550 | ft | $220.99 | $563,534 | |
| Fence wood | 774 | ft | $22.86 | $17,695 | |
| Fence vinyl chain link | 1,776 | ft | $40.62 | $72,136 | |
| Subtotal Detention Pond | | | | | $2,139,722 |
| **D Erosion Control** | | | | | |
| Silt Fence | 13,000 | LF | $2.16 | $28,069 | |
| Vehicle Tracking PAD | 4 | Each | $2,794.18 | $11,177 | |
| curb socks | 40 | Each | $312.44 | $12,498 | |
| concrete washout | 2 | Each | $1,270.08 | $2,540 | |
| Inlet Filters | 40 | Each | $463.58 | $18,543 | |
| Temporary Seeding | 33 | Acres | $3,175.20 | $104,782 | |
| Subtotal Erosion Control | | | | | $177,608 |
| **E Professional Fees/ Approvals** | | | | | |
| Civil (Northern Engineering) | 1 | Unit | $130,980.00 | $130,980 | |

**Opinion of Probable Public Improvement Costs** 6/20/2017 Date:

Client: Miller Mokler, LLC Brian Laartz By:

Project: Mulberry Frontage Metropolitan District

| | Quantity | Unit | Unit Price (1) | Cost | |
|---|---|---|---|---|---|
| Construction Engineering | 47 | acre | $571.54 | $26,805 | |
| Construction Staking | 47 | acre | $889.06 | $41,697 | |
| Construction Testing | 47 | acre | $1,270.08 | $59,567 | |
| Subtotal Professional | | | | | $259,049 |
| **F Other** | | | | | |
| Grading (see details below) | | | | $879,862 | |
| Relocate power poles | 3 | ea | $44,452.80 | $133,358 | |
| Relocate telephone pedestals | 3 | ea | $8,255.52 | $24,767 | |
| Subtotal Other | | | | | $1,037,987 |
| Subtotal Cost (A-F) | | | | | $11,536,023 |
| Contingency | | | | 15.0% | $1,730,403 |
| **Total Cost with Contingency** | | | | | **$13,266,426** |

Notes:

1 OH/ Profit, Escalation and Development Fee included in unit prices

2 See below for average land price/ sf

BACKGROUND DATA

| Site Summary | Sq. Ft. | Acres | % of Total |
|---|---|---|---|
| Gross Site | 2,042,964 | 46.90 | 100.0% |
| Right of Way | 386,896 | 8.88 | 18.9% |
| Detention Pond | 219,868 | 5.05 | 10.8% |
| Net Site | 1,436,200 | 32.97 | 70.3% |

| Grading Calculation | | | | |
|---|---|---|---|---|
| Cut | 51,319 | cu yd | $1.59 | $81,474 |
| Fill | 51,319 | cu yd | $1.59 | $81,474 |
| Import | 26,623 | cy yd | $20.32 | $541,013 |
| Strip,stockpile,re-spread | 47 | acre | $1,905.12 | $89,350 |
| Grade off | 47 | acre | $1,845.43 | $86,550 |
| Total Grading Costs | | | | $879,862 |

| Additional Fees Included in Unit Costs | |
|---|---|
| Overhead and Profit | 12.0% |
| Price Escalation | 8.0% |
| Developer Development Fee | 5.0% |

| Average Land Cost | |
|---|---|
| Estimated Sales Price | $11,163,557 |
| Total Usable Acres | 37.91 |
| Average Cost/ SF | $6.76 |

**EXHIBIT E**

Facilities Diagrams Depicting Public Improvements

CLOVERLEAF COMMUNITY
4412 E. MULBERRY STREET

4224 E. MULBERRY STREET

BOXELDER CREEK

WILLOW LANE
ASPEN CIRCLE
ASPEN CIRCLE
BIRCH LANE
LOCUST LANE
COTTONWOOD LANE
MAPLE LANE
SPRUCE LANE

MULBERRY STREET

CLOVERLEAF WAY

EXISTING OVERHEAD POWERLINE
EXISTING PROPERTY LINE
EXISTING 20' WIDE SANITARY SEWER EASEMENT PER BOOK 1960, PAGE 545
S00°46'10"W 1726.98'
PROPOSED DRAINAGE CHANNEL
RELOCATE POWER POLE & TELEPHONE PEDESTAL
EXISTING STABILIZER POLE
EXISTING DRAINAGE EASEMENT PER BOOK 1960, PAGE 545
EXISTING 24" RCP CULVERT

LOT 17
LOT 18
LOT 19
LOT 21
LOT 22
LOT 1
LOT 16
LOT 20
LOT 30
LOT 15
LOT 29
LOT 28
LOT 23
LOT 31
LOT 14
LOT 32
LOT 27
LOT 24
LOT 13
LOT 10
LOT 26
LOT 25
LOT 11
LOT 12
LOT 9
LOT 8
LOT 7
LOT 6

72' ROW
100' ROW
N69°16'00"W 224.49'
EXISTING ELLIPTICAL 24" RCP CULVERT
FRONTAGE RD
RELOCATE POWER POLE & TELEPHONE PEDESTAL
CENTERLINE OF UTILITY EASEMENT (NO WIDTH GIVEN) PER BOOK 1776, PAGE 904
PROPOSED DETENTION & WATER QUALITY POND
4228 EAST MULBERRY ST.
PRIVATE DRIVEWAY
EXISTING PROPERTY LINE
N81°17'00"W 504.90'
6' HIGH WOOD PANEL FENCE
PROPOSED 6' HIGH RETAINING WALL
PRESERVE & PROTECT EXISTING FRONTAGE ROAD TO END OF WESTERN DRIVEWAY.
N58°17'00"W 20.61'
S00°45'00"W 300.00'
INSTALL ROAD BARRICADE
EXISTING IRRIGATION FLOWS INTO EXISTING CULVERT. DESTINATION OF EXISTING CULVERT IS UNKNOWN.

PROPOSED 5' WIDE SIDEWALK (TYP. FOR COMMERCIAL LOCAL ROADS)
PROPOSED RIGHT-OF-WAY
PROPOSED 6' WIDE SIDEWALK (TYP. FOR CDOT FRONTAGE ROAD)
M S88°54'43"E 1241.30'
R S88°54'07"E 1241.49'
120 NORTHEAST FRONTAGE ROAD
COMMERCIAL LOCAL ROAD
RELOCATE NE FRONTAGE ROAD
EXISTING TREES
PROPOSED 6' HIGH RETAINING WALL
PROPOSED 2' WIDE CONCRETE VALLEY PAN (TYP.)
PROPOSED DETENTION & WATER QUALITY POND
PROPOSED CDOT RIGHT-OF-WAY
EXISTING CDOT RIGHT-OF-WAY
N37°57'39"W 442.05'
NE FRONTAGE ROAD (ABANDON IN PLACE)
RELOCATE POWER POLE & TELEPHONE PEDESTALS
EX. OVERHEAD POWERLINE
N13°51'00"W 206.20'
EXISTING IRRIGATION DITCH PER BOOK 151, PAGE 511
NE FRONTAGE ROAD
M N03°41'41"E 245.04'
R N03°45'00"E 245.20'
M N00°04'46"W 940.63'
R N00°06'00"E 940.70'
N00°11'30"W 37.90'
INSTALL ROAD BARRICADE
INTERSTATE 25
INTERSTATE 25

100 0 100 200 300
( IN FEET )
1 INCH = 100 FEET

## LEGEND:

- EXISTING RIGHT-OF-WAY/PROPERTY LINE
- PROPOSED RIGHT-OF-WAY
- PROPOSED LOT LINE
- EXISTING STORM SEWER
- EXISTING GUY WIRE
- EXISTING UTILITY POLE
- EXISTING ELECTRICAL BOX
- EXISTING CABLE PEDESTAL
- EXISTING TELEPHONE PEDESTAL
- EXISTING FIRE HYDRANT
- EXISTING WATER VALVE
- EXISTING SIGN
- EXISTING TREES

| ROAD LENGTHS | |
|---|---|
| CLASSIFICATION | LENGTH (FT) |
| CDOT FRONTAGE ROAD | 2682 |
| COMMERCIAL LOCAL | 2946 |

| PROJECT AREAS | | |
|---|---|---|
| DESCRIPTION | AREA ($FT^2$) | AREA (ACRES) |
| GROSS AREA OF SITE | 2,042,964 | 46.9 |
| ON-SITE RIGHT-OF-WAY | 386,896 | 8.9 |
| DETENTION POND (6-FT DEEP) | 219,868 | 5.0 |
| NET DEVELOPABLE AREA | 1,436,200 | 33.0 |

CALL UTILITY NOTIFICATION CENTER OF COLORADO
811
Know what's below.
Call before you dig.
CALL 2 BUSINESS DAYS IN ADVANCE BEFORE YOU DIG, GRADE, OR EXCAVATE FOR THE MARKING OF UNDERGROUND MEMBER UTILITIES.

Revisions:
No. | Date:
1 | 4.20.2017 | REVIEW SET NOT FOR CONSTRUCTION

These drawings are instruments of service provided by Northern Engineering Services, Inc. and are not to be used for any purpose or project unless signed and sealed by a Professional Engineer in the employ of Northern Engineering Services, Inc.

NORTHERN ENGINEERING
PHONE: 970.221.4158
www.northernengineering.com
301 North Howes Street, Suite 100
Fort Collins, Colorado 80521

PROJECT: 251-002
DESIGNED BY: F. Weigert
DRAWN BY: F. Weigert
DATE: 4.20.2017
SCALE: 1" = 100'
REVIEWED BY: R. Provencio

I-25 / MULBERRY STREET PROJECT
CONCEPTUAL SITE PLAN

Sheet
C100
C100 of 5

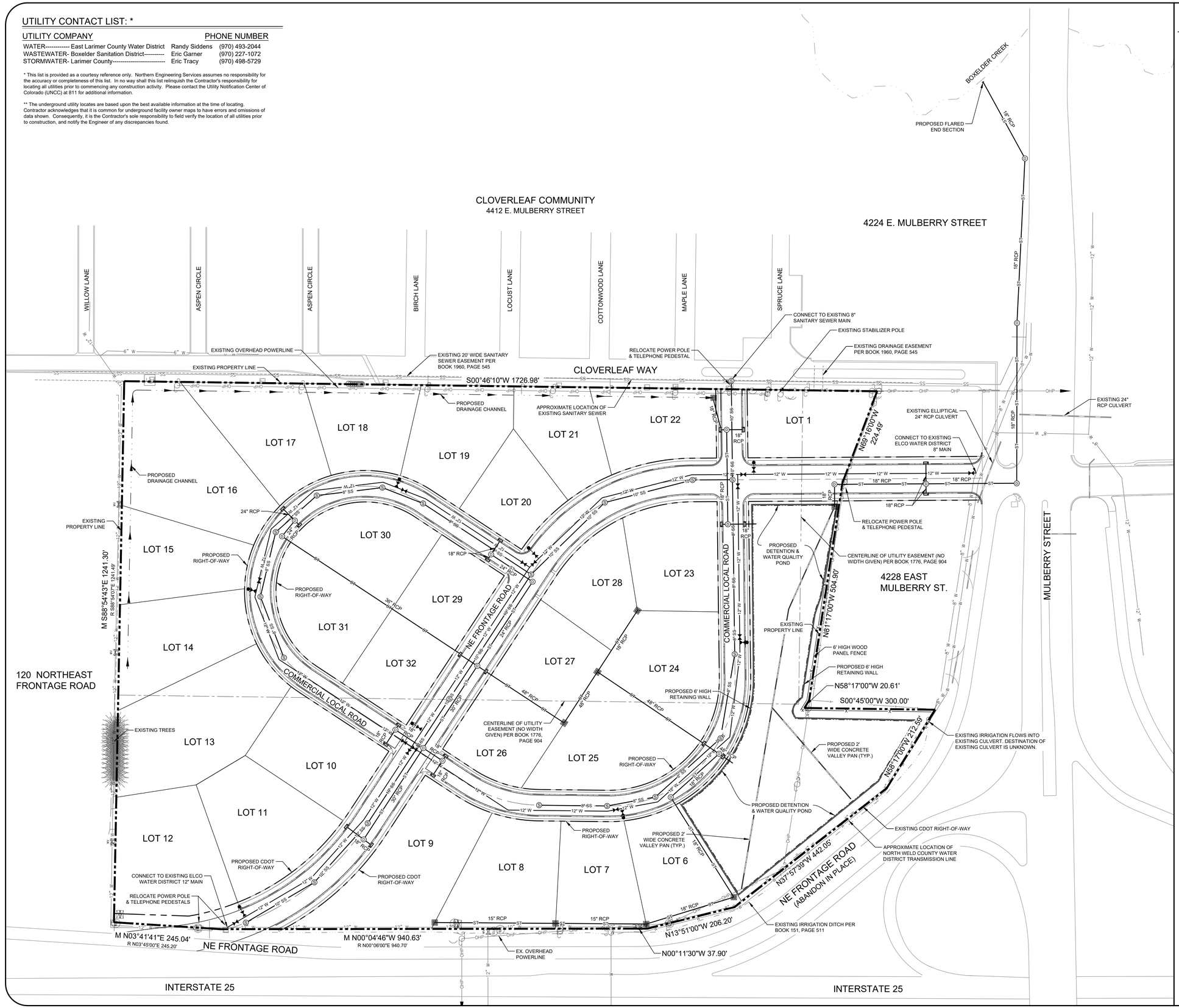
DRAWING FILENAME: \\pncnvs4\engineers\Projects\251-002\Dwg\Site\251-002_Site_Concept.dwg LAYOUT NAME: C100 DATE: Apr 20, 2017 - 12:46pm CAD OPERATOR: fred
LIST OF XREFS: [251-002_ALIGN] [NES-standard] [251-002_GATE]

## UTILITY CONTACT LIST: *

| UTILITY COMPANY | | PHONE NUMBER |
|---|---|---|
| WATER---------- East Larimer County Water District | Randy Siddens | (970) 493-2044 |
| WASTEWATER- Boxelder Sanitation District---------- | Eric Garner | (970) 227-1072 |
| STORMWATER- Larimer County---------- | Eric Tracy | (970) 498-5729 |

* This list is provided as a courtesy reference only. Northern Engineering Services assumes no responsibility for the accuracy or completeness of this list. In no way shall this list relinquish the Contractor's responsibility for locating all utilities prior to commencing any construction activity. Please contact the Utility Notification Center of Colorado (UNCC) at 811 for additional information.

** The underground utility locates are based upon the best available information at the time of locating. Contractor acknowledges that it is common for underground facility owner maps to have errors and omissions of data shown. Consequently, it is the Contractor's sole responsibility to field verify the location of all utilities prior to construction, and notify the Engineer of any discrepancies found.




100 0 100 200 300
( IN FEET )
1 INCH = 100 FEET

## LEGEND:

- EXISTING RIGHT-OF-WAY/PROPERTY LINE
- PROPOSED RIGHT-OF-WAY
- PROPOSED LOT LINE
- EXISTING STORM SEWER
- EXISTING OVERHEAD POWERLINE (OHP)
- EXISTING GUY WIRE
- EXISTING UTILITY POLE
- EXISTING ELECTRICAL BOX
- EXISTING CABLE PEDESTAL
- EXISTING TELEPHONE PEDESTAL
- PROPOSED 12" WATER MAIN (12" W)
- EXISTING 12" WATER MAIN (12" W)
- EXISTING 10" WATER MAIN (10" W)
- EXISTING 8" WATER MAIN (8" W)
- EXISTING 6" WATER MAIN (6" W)
- EXISTING NORTH WELD COUNTY WATER DISTRICT TRANSMISSION LINE (W)
- PROPOSED FIRE HYDRANT
- EXISTING FIRE HYDRANT
- PROPOSED WATER VALVE
- EXISTING WATER VALVE (WV)
- PROPOSED 8" SANITARY SEWER (8" SS)
- PROPOSED 10" SANITARY SEWER (10" SS)
- PROPOSED SANITARY SEWER MANHOLE (S)
- EXISTING SANITARY SEWER (SS)
- PROPOSED STORM SEWER MANHOLE (D)
- PROPOSED STORM INLET
- PROPOSED STORM SEWER (ST)
- EXISTING SIGN
- EXISTING TREES

### WATER QUANTITIES

| DESCRIPTION | QUANTITY | UNITS |
|---|---|---|
| 12" WATER MAIN | 5000 | FT |
| VALVES | 21 | EACH |
| HYDRANTS | 8 | EACH |

### SANITARY SEWER QUANTITIES

| DESCRIPTION | QUANTITY | UNITS |
|---|---|---|
| 8" SANITARY SEWER | 1810 | FT |
| 10" SANITARY SEWER | 2050 | FT |
| MANHOLES | 20 | EACH |

### STORM SEWER QUANTITIES

| DESCRIPTION | QUANTITY | UNITS |
|---|---|---|
| 15" STORM SEWER | 482 | FT |
| 18" STORM SEWER | 2836 | FT |
| 24" STORM SEWER | 393 | FT |
| 30" STORM SEWER | 479 | FT |
| 36" STORM SEWER | 534 | FT |
| 48" STORM SEWER | 762 | FT |
| MANHOLES | 18 | EACH |
| INLETS | 29 | EACH |
| POND OUTLET STRUCTURE | 1 | EACH |
| FLARED END SECTIONS | 1 | EACH |
| DRAINAGE CHANNEL | 1970 | FT |

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Revisions: No. Date:
REVIEW SET NOT FOR CONSTRUCTION 4.20.2017

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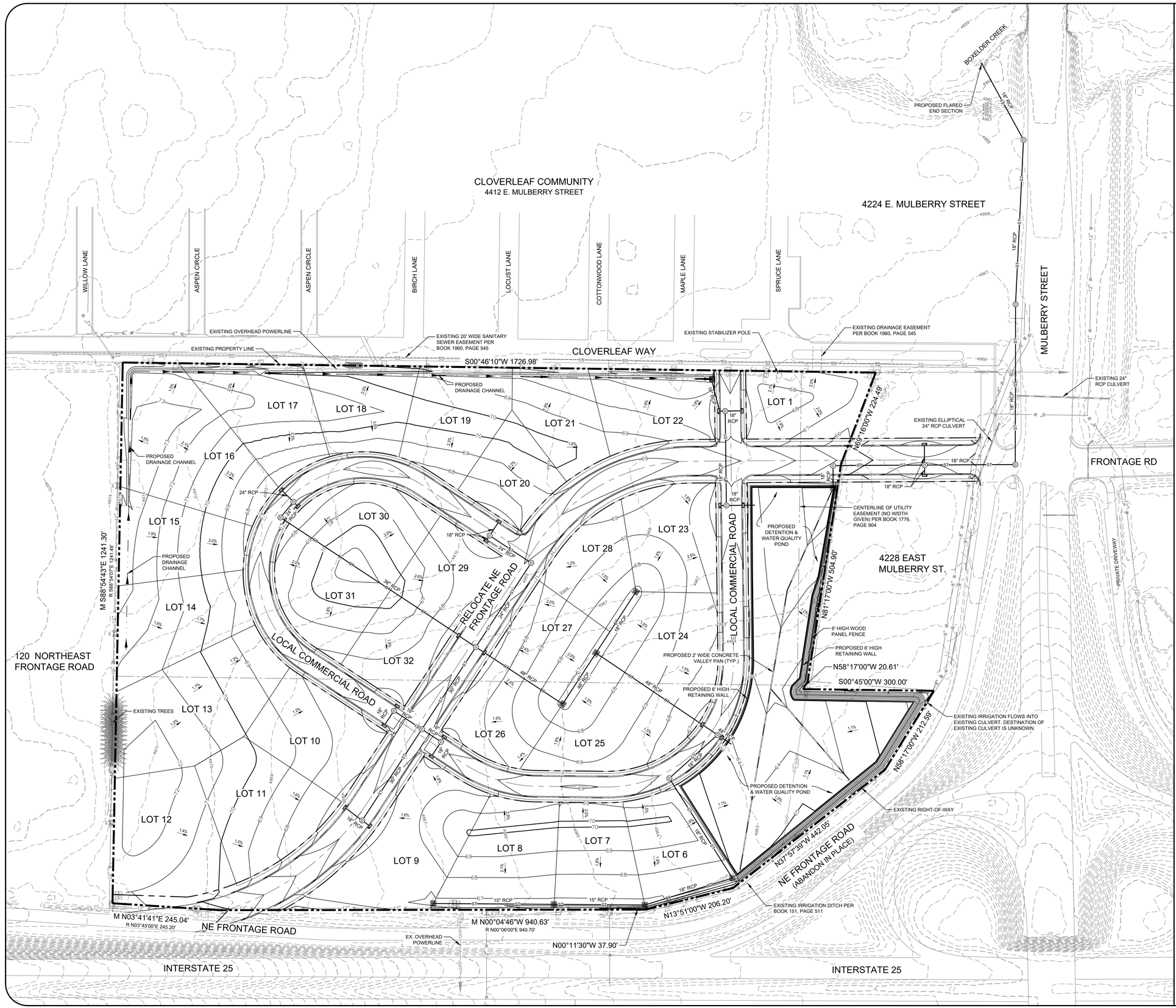
NORTHERN ENGINEERING
PHONE: 970.221.4158
www.northernengineering.com
NE
301 North Howes Street, Suite 100
Fort Collins, Colorado 80521

DATE: 4.20.2017
SCALE: 1" = 100'
REVIEWED BY: R. Provencio
PROJECT: 251-002
DESIGNED BY: F. Wegert
DRAWN BY: F. Wegert

# I-25 / MULBERRY STREET PROJECT
# CONCEPTUAL UTILITY PLAN

Sheet
C200
C200 of 5

DRAWING FILENAME: \\Jonnas\engineering\Projects\251-002\Civil\251_002_UTIL_Conceptual.dwg LAYOUT NAME: C200 DATE: Apr 20, 2017 - 12:46pm CAD OPERATOR: fred
LIST OF XREFS: [251-002_xSHEET] [NES-standard] [251-002_xDETAIL] [251-002_xUTIL]




100 0 100 200 300
( IN FEET )
1 INCH = 100 FEET

## LEGEND:

- EXISTING RIGHT-OF-WAY/PROPERTY LINE
- PROPOSED RIGHT-OF-WAY
- PROPOSED LOT LINE
- EXISTING STORM SEWER
- EXISTING OVERHEAD POWERLINE (OHP)
- EXISTING GUY WIRE
- EXISTING UTILITY POLE
- EXISTING ELECTRICAL BOX
- EXISTING CABLE PEDESTAL
- EXISTING TELEPHONE PEDESTAL
- EXISTING FIRE HYDRANT
- EXISTING WATER VALVE
- EXISTING SANITARY SEWER (SS)
- PROPOSED STORM SEWER MANHOLE
- PROPOSED STORM INLET
- PROPOSED STORM SEWER (ST)
- EXISTING SIGN
- EXISTING TREES

| RETAINING WALL | |
|---|---|
| DESCRIPTION | LENGTH (FT) |
| 6-FT HIGH RETAINING WALL | 2,550 |

| EARTHWORK* | |
|---|---|
| DESCRIPTION | VOLUME (YD$^3$) |
| CUT (RAW) | 51,319 |
| FILL (RAW) | 72,984 |
| NET FILL | 21,665 |

* - EARTHWORK NUMBERS DO NOT TAKE INTO ACCOUNT COMPACTION, SHRINK/SWELL, PAVEMENT SECTION, BUILDING SPOILS, UTILITY TRENCHES, TOPSOIL, ETC.

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Revisions:
No.
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301 North Howes Street, Suite 100
Fort Collins, Colorado 80521

PROJECT: 251-002
DESIGNED BY: F. Wegert
DRAWN BY: F. Wegert
DATE: 4.20.2017
SCALE: 1" = 100'
REVIEWED BY: R. Provencio

# I-25 / MULBERRY STREET PROJECT
# CONCEPTUAL GRADING PLAN

Sheet
C300
C300 of 5

DRAWING FILENAME: \\Ironcad\engineer\Projects\251-002\Dwg\3D Data_251-002\Proposed\251-002_C3D_Grad_Conceptual.dwg LAYOUT NAME: C300 DATE: Apr 20, 2017 - 12:46pm CAD OPERATOR: fred
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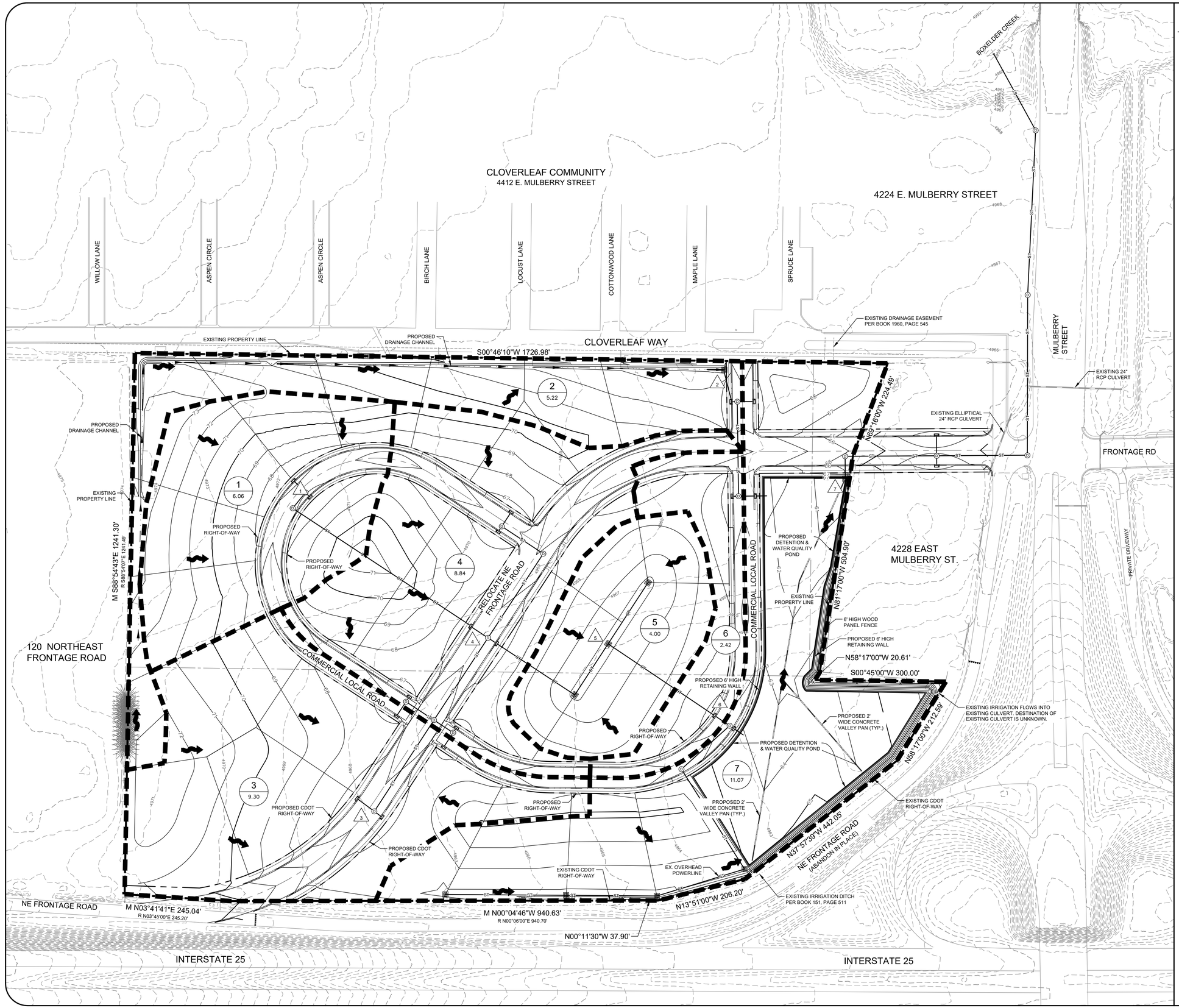


100 0 100 200 300
( IN FEET )
1 INCH = 100 FEET

## LEGEND:

- EXISTING RIGHT-OF-WAY/PROPERTY LINE
- PROPOSED RIGHT-OF-WAY
- PROPOSED LOT LINE
- EXISTING STORM SEWER
- PROPOSED STORM SEWER MANHOLE
- PROPOSED STORM INLET
- PROPOSED STORM SEWER
- EXISTING SIGN
- EXISTING TREES
- EXISTING MAJOR CONTOUR 5015
- EXISTING MINOR CONTOUR 5013
- PROPOSED CONTOURS 80 / 75
- DESIGN POINT
- FLOW ARROWS
- DRAINAGE BASIN LABEL (BASIN DESIGNATION B2, BASIN AREA (AC) 1.45 ac)
- DRAINAGE BASIN BOUNDARY

Revisions:

| No. | Date: |
|---|---|
| | REVIEW SET NOT FOR CONSTRUCTION 4.20.2017 |

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301 North Howes Street, Suite 100
Fort Collins, Colorado 80521

| | | |
|---|---|---|
| PROJECT: 251-002 | DATE: 4.20.2017 | REVIEWED BY: R. Provencio |
| DESIGNED BY: F. Weigert | SCALE: 1" = 100' | |
| DRAWN BY: F. Weigert | | |

# I-25 / MULBERRY STREET PROJECT
# CONCEPTUAL DRAINAGE PLAN

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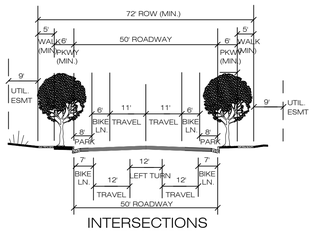
Sheet
C400
C400 of 5

DRAWING FILENAME: \\procnas\engineers\Projects\251-002\Dwg\251-002_Dmg_Conceptual.dwg LAYOUT NAME: C400 DATE: Apr 20, 2017 - 12:46pm CAD OPERATOR: fred
LIST OF XREFS: [251-002_ADS07] [251-002_ARTE] [ADS--Boundary] [251-002_ALTA]




INTERSECTIONS
(WHERE NEEDED)

ROADWAY WIDTH: 50' wide

RIGHT OF WAY WIDTH: 72' (min.)

TRAVEL LANES: Two lanes, 11' wide.

LEFT TURN LANES: 12' wide, provided at certain intersections where needed.

BIKE LANES: Two lanes, 6' wide, 7' wide where a left turn lane is provided.

PARKING: Two lanes, 8' wide. None provided at intersections or where a left turn lane is required.

PARKWAY: 6' (min.) width. Additional width optional.

SIDEWALK: 5' (min.) width. Additional width may be required within and leading to activity areas.

MEDIAN: Not required, except where necessary to control access and/or to provide pedestrian refuge. Additional roadway and right of way width may be required.

WHERE USED: These specifications shall apply to streets used in commercial areas for local access and circulation, when the traffic volume on the street is anticipated to be 2,500 vpd or less.

DESIGN SPEED: 30 MPH

SPEED LIMIT: 25 MPH

ACCESS: Access will be limited. Points of access must be approved by the Local Entity.

CONTINUITY: Streets are limited in length to 1320 feet.

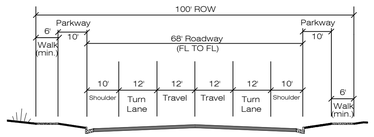
CURB AND GUTTER: Vertical curb and gutter.

| COMMERCIAL LOCAL STREET | | | |
|---|---|---|---|
| LARIMER COUNTY URBAN AREA STREET STANDARDS | DESIGN FIGURE | REVISION NO: DATE: 11/16/00 | FIGURE 7-6F |

TYPICAL SECTION
LOCAL COMMERCIAL STREET

NOT TO SCALE

TYPICAL SECTION




ROADWAY WIDTH: 68' (typical)

RIGHT OF WAY WIDTH: 100' (min.) plus 30' (min.) utility easement.

TRAVEL LANES: Four lanes, 12' wide (typical).

LEFT TURN LANES: 12' wide at intersections per CDOT.

RIGHT TURN LANES: 12' wide at intersections per CDOT.

BIKE LANES: None (Two 10' wide shoulders per CDOT)

PARKING: None

PARKWAY: Per CDOT

SIDEWALK: 6' (min.) wide. Additional width may be required for higher pedestrian traffic in and leading to activity areas.

MEDIAN: Not required, except where necessary to control access and/or to provide pedestrian refuge or where Developer requested medians are approved by the local entity. Additional roadway and right of way width may be required.

WHERE USED: Per CDOT

DESIGN SPEED: Per CDOT

SPEED LIMIT: Per CDOT

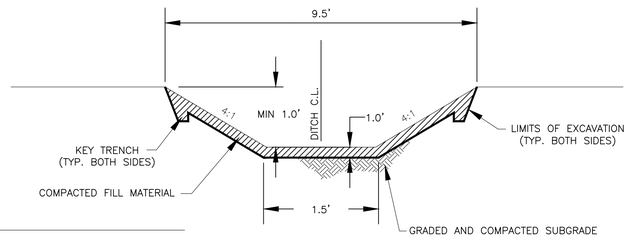
ACCESS: Access will be limited. Points of access must be approved by the Local Entity.

CONTINUITY: Unlimited

CURB AND GUTTER: Vertical.

TYPICAL SECTION
CDOT FRONTAGE ROAD

NOT TO SCALE




NOTE:

1.) STRIP ORGANIC MATERIAL (APPROXIMATELY 10").
2.) OVEREXCAVATE TO 1' BELOW FINISHED GRADE.
3.) REMOVE STONES AND DEBRIS FROM EXCAVATED MATERIAL.
4.) EXCAVATED MATERIAL TO BE COMPACTED TO 95% STANDARD PROCTOR.

TYPICAL SECTION
DRAINAGE CHANNEL

NOT TO SCALE

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|---|---|---|
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DESIGNED BY: F. Weigert
DRAWN BY: F. Weigert
DATE: 4.20.2017
SCALE: Not to Scale
REVIEWED BY: R. Provencio

I-25 / MULBERRY STREET PROJECT

DETAILS

Sheet
C500

C500 of 5

DRAWING FILENAME: \\procnas\engineers\Projects\251-002\Dwg\Details\251-002 Typical Sections.dwg LAYOUT NAME: C500 DATE: Apr 20, 2017 - 12:46pm CAD OPERATOR: fred
LIST OF XREFS: [NES-Border]

**EXHIBIT F**

Financial Plan

D.A. Davidson & Co. member SIPC

April 21, 2017

Proposed Mulberry Frontage Metropolitan District
C/o Blair Dickhoner
White Bear Ankele Tanaka & Waldron
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122

***RE: Proposed Mulberry Frontage Metropolitan District***

We have analyzed the bonding capacity for the proposed Mulberry Frontage Metropolitan District ("the District"). The analysis presented summarizes and presents information provided by Miller Real Estate Investments, LLC ("the Developer") and does not include independently verifying the accuracy of the information or assumptions.

Development and Revenue Assumptions

The following assumptions have been provided by the Developer and form the basis of the analysis.

1. The development consists of 433,853 square feet of retail and industrial/flex uses. The retail development schedule totals 49,000 square feet at an average market value of $200/sq. ft. The retail absorption begins with the first completed lots in 2019 and continues through 2022. Retail users are modeled to produce $200/ sq. ft. of taxable sales upon which the Add-on PIF will be collected (see below). The industrial/flex development schedule totals 384,853 square feet at an average market value of $100/sq. ft. The industrial/flex absorption begins with the first completed lots in 2019 and continues through 2024. Until build out, projected market values are inflated at 2% annually to account for estimated inflation.

2. The District's assessed value is shown in the year of tax collection, which lags 2 years from the year of construction. The assessed value for commercial/industrial property is 29% of the market value, which is the effective commercial/industrial assessment ratio. At buildout in 2024 the District's expected assessed value will be approximately $12.1 million. This plan also assumes biennial reassessment of 2% during and after buildout.

3. It is projected that 98% of property taxes levied will be collected and available to the District (for both the Debt Service and Operations levies).

4. The debt service mill levy target is 50 mills (with a cap of 50 mills). The District further expects specific ownership taxes estimated at 6% to be additionally available revenue. In addition, the District anticipates an Add-on PIF of 3.0% through 2023 and 1.0% thereafter. The debt service mill levy target is 50 mills (with a cap of 50 mills).

5. The District expects operating expenses to be met with a mill levy of 15 mills upon full development.

Estimate of Potential Bonding Capacity

1. The District is modeled to issue senior bonds in December, 2021 with a par of $7,655,000. An interest rate of 5.5% was modeled based upon 30-year debt. At issuance, it is projected that the District will fund $104,597 for Capitalized Interest, $606,850 for a Debt Service Reserve Fund and $306,200 in costs of issuance with bond proceeds. The remaining $6,637,353 is projected to reimburse the Developer for eligible expenses.

2. The District is modeled to issue senior bonds in December, 2024 with a par of $5,350,000. An interest rate of 5.5% was modeled based upon 30-year debt. At issuance, it is projected that the District will fund $72,993 for Capitalized Interest, $533,529 for a Debt Service Reserve Fund and $214,000 in costs of issuance with bond proceeds. The remaining $4,529,478 is projected to reimburse the Developer for eligible expenses.

3. The Senior Bond Surplus Fund is sized to $1,300,500 and is funded overtime with surplus revenues above the annual combined senior bond debt service.

4. The District is modeled to issue subordinate bonds in December, 2024 with a par of $2,041,000. An interest rate of 7.75% was modeled based upon 30-year, cash flow debt. At issuance, it is projected that the District will fund $61,230 in costs of issuance with bond proceeds. The remaining $1,979,770 is projected to reimburse the Developer for eligible expenses.

5. Based upon these assumptions, the plan demonstrates the District's ability to support $15.0 million in limited tax General Obligation debt, raising a total of $13.1 million in proceeds net of issuance costs, capitalized interest and a debt service reserve fund.

Potential Risks of Financing and Credit Enhancement

To the extent the development does not occur as projected, the District revenues including the collection of the District's Limited Mill Levy may be insufficient to meet the District's debt service payments. This risk is borne by the District's bondholder. If the bonds are sold to third parties, they will likely require some level of builder activity or credit enhancement to reduce this risk. This credit enhancement may take the form of a facility fee guarantee, a debt service guarantee, escrowed bond proceeds or other developer security.

Description of the Financial Flexibility Built into the Financial Plan

The senior bonds have a 50 mill levy cap and are structured with 1.2x coverage. This means that projections have significant cushion and the bonds would still be repaid. The subordinate bonds are structured as cash flow bonds and only receive revenue when and if it is available. This ensures the ultimate flexibility in repayment for those bonds. It is important to note that the district's inability to make a debt service payment when levying at the cap will not constitute an event of default under the financial obligations. As such, the inability to repay debt is born by the investor. Finally, as noted above, credit enhancement in the form of a facility fee guarantee, surplus fund, a debt service guarantee, escrowed bond proceeds or other developer security would act as an additional buffer.

Mill Levy Comparison, Mill Levy Statement & Estimate of Taxes

1. Mill Levy Comparison:

| Metro District | County | District Mills | Non-District Mills | **Total Mill Levy** |
|---|---|---|---|---|
| Arista MD | Broomfield | 77.48 | 90.28 | **167.75** |
| Flatiron Meadows MD | Boulder | 50.00 | 106.15 | **156.15** |
| Foothills MD | Larimer | 60.22 | 91.29 | **151.51** |
| Proposed Mulberry Interchange MD | Larimer | 55.00 | 92.09 | **147.09** |
| Johnstown Plaza MD & Thompson Crossing MD No.2 | Larimer | 42.50 | 96.47 | **138.97** |
| Centerra MD No.2 | Larimer | 47.60 | 73.34 | **120.94** |

2. Mill Levy Statement:

| **TAX AUTHORITY** | **MILL LEVY** |
|---|---|
| HEALTH DIST OF NO LARIMER CTY | 2.17 |
| LARIMER CO PEST CTRL DST | 0.14 |
| LARIMER COUNTY | 22.52 |
| N COLO WATER CONS DIST | 1.00 |
| POUDRE R-1 BOND PAYMENT | 13.07 |
| POUDRE R-1 GENERAL FUD | 39.56 |
| POUDRE RIVER PUBLIC LIBRARY DIST | 3.03 |
| POUDRE VALLEY FIRE DIST | 10.60 |
| | 92.09 |

3. Estimate of Taxes:

   There are no plans for residential development within the District. As such the average taxes paid within the District for commercial users would be as follows:

   $1,000,000 market value of commercial
   29.00% residential assessment ratio
   157.09 mills

   $1,000,000 x 29% = $290,000 assessed value per $1 million commercial value x 157.09 mills = $45,556.10 taxes per year

Conclusion

Based upon the assumptions contained therein and D.A. Davidson's professional opinion as underwriter, the Issuing District is expected to retire all Debt referenced in the Financial Plan within the restrictions set forth in the Service Plan.

The assumptions disclosed in the Financial Plan are those of the Developer and have not been independently reviewed by D.A. Davidson. Those assumptions identified are believed to be the

significant factors in determining financial feasibility; however, they are likely not to be all-inclusive. There will usually be differences between forecasted and actual results, because events and circumstances frequently do not occur as projected, and those differences may be material. Key assumptions — like those relating to market values of real property improvements and the build out schedule of such property — are particularly sensitive in terms of the timing necessary to create the tax base for the District. A small variation in these variables, and to their timing, can have a large effect on the forecasted results. There is a high probability that the forecasted results will differ from realized future tax base factors and such variations can be material. Additionally, other key assumptions relating to inflation, assessment ratios, interest rates, and infrastructure, administrative, and operating costs may, and likely will, vary from those projected.

Because D.A. Davidson has not independently evaluated or reviewed the assumptions that the financial model is based upon, we do not vouch for the achievability (and disclaim any opinion) of the information provided. Furthermore, because of the inherent nature of future events, which are subject to change and variation as events and circumstances change, the actual results may vary materially from the results presented here. D.A. Davidson has no responsibility or obligation to update this information or this financial model for events occurring after the date of this report.

Respectfully submitted,

***D.A. DAVIDSON & CO. FIXED INCOME CAPITAL MARKETS***

Sam Sharp

Managing Director, Public Finance

D|A DAVIDSON
FIXED INCOME CAPITAL MARKETS

***MULBERRY FRONTAGE METROPOLITAN DISTRICT***

**Development Projection at 50.000 (target) District Mills + District's share of PIF Revenues**

**Series 2021 & Series 2024, G.O. Bonds, Non-Rated, 120x, 30-yr. Maturities, plus Series 2024B Cash-Flow Subs.**

| | < Platted/Developed Lots > | | < < < < < < < Commercial > > > > > > > | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| YEAR | Cumulative Market Value | As'ed Value @ 29.00% of Market (2-yr lag) | Total Comm'l Sq. Ft. | Mkt Value Biennial Reasses'mt @ 2.0% | Cumulative Market Value | As'ed Value @ 29.00% of Market (2-yr lag) | Total Assessed Value | District D/S Mill Levy [50.00 Target] [50.00 Cap] | District D/S Mill Levy Collections @ 98% | District S.O. Taxes Collected @ 6% |
| 2016 | 0 | | 0 | | $0 | | $0 | | | |
| 2017 | 0 | 0 | 0 | | 0 | 0 | 0 | 50.000 | 0 | 0 |
| 2018 | 1,474,980 | 0 | 0 | 0 | 0 | 0 | 0 | 50.000 | 0 | 0 |
| 2019 | 489,430 | 0 | 125,498 | | 15,652,606 | 0 | 0 | 50.000 | 0 | 0 |
| 2020 | 914,310 | 427,744 | 43,943 | 313,052 | 21,263,406 | 0 | 427,744 | 50.000 | 20,959 | 1,258 |
| 2021 | 878,230 | 141,935 | 79,431 | | 31,358,127 | 4,539,256 | 4,681,190 | 50.000 | 229,378 | 13,763 |
| 2022 | 673,010 | 265,150 | 77,823 | 627,163 | 41,875,586 | 6,166,388 | 6,431,538 | 50.000 | 315,145 | 18,909 |
| 2023 | 398,570 | 254,687 | 67,301 | | 49,606,355 | 9,093,857 | 9,348,543 | 50.000 | 458,079 | 27,485 |
| 2024 | 0 | 195,173 | 39,857 | 992,127 | 55,268,365 | 12,143,920 | 12,339,093 | 50.000 | 604,616 | 36,277 |
| 2025 | 0 | 115,585 | 0 | | 55,268,365 | 14,385,843 | 14,501,428 | 50.000 | 710,570 | 42,634 |
| 2026 | 0 | 0 | 0 | 1,105,367 | 56,373,732 | 16,027,826 | 16,027,826 | 50.000 | 785,363 | 47,122 |
| 2027 | 0 | 0 | 0 | | 56,373,732 | 16,027,826 | 16,027,826 | 50.000 | 785,363 | 47,122 |
| 2028 | 0 | 0 | 0 | 1,127,475 | 57,501,207 | 16,348,382 | 16,348,382 | 50.000 | 801,071 | 48,064 |
| 2029 | 0 | 0 | 0 | | 57,501,207 | 16,348,382 | 16,348,382 | 50.000 | 801,071 | 48,064 |
| 2030 | 0 | 0 | 0 | 1,150,024 | 58,651,231 | 16,675,350 | 16,675,350 | 50.000 | 817,092 | 49,026 |
| 2031 | 0 | 0 | 0 | | 58,651,231 | 16,675,350 | 16,675,350 | 50.000 | 817,092 | 49,026 |
| 2032 | 0 | 0 | 0 | 1,173,025 | 59,824,256 | 17,008,857 | 17,008,857 | 50.000 | 833,434 | 50,006 |
| 2033 | 0 | 0 | 0 | | 59,824,256 | 17,008,857 | 17,008,857 | 50.000 | 833,434 | 50,006 |
| 2034 | 0 | 0 | 0 | 1,196,485 | 61,020,741 | 17,349,034 | 17,349,034 | 50.000 | 850,103 | 51,006 |
| 2035 | 0 | 0 | 0 | | 61,020,741 | 17,349,034 | 17,349,034 | 50.000 | 850,103 | 51,006 |
| 2036 | 0 | 0 | 0 | 1,220,415 | 62,241,155 | 17,696,015 | 17,696,015 | 50.000 | 867,105 | 52,026 |
| 2037 | 0 | 0 | | | 62,241,155 | 17,696,015 | 17,696,015 | 50.000 | 867,105 | 52,026 |
| 2038 | 0 | 0 | | 1,244,823 | 63,485,979 | 18,049,935 | 18,049,935 | 50.000 | 884,447 | 53,067 |
| 2039 | 0 | 0 | | | 63,485,979 | 18,049,935 | 18,049,935 | 50.000 | 884,447 | 53,067 |
| 2040 | 0 | 0 | | 1,269,720 | 64,755,698 | 18,410,934 | 18,410,934 | 50.000 | 902,136 | 54,128 |
| 2041 | 0 | 0 | | | 64,755,698 | 18,410,934 | 18,410,934 | 50.000 | 902,136 | 54,128 |
| 2042 | 0 | 0 | | 1,295,114 | 66,050,812 | 18,779,152 | 18,779,152 | 50.000 | 920,178 | 55,211 |
| 2043 | 0 | 0 | | | 66,050,812 | 18,779,152 | 18,779,152 | 50.000 | 920,178 | 55,211 |
| 2044 | 0 | 0 | | 1,321,016 | 67,371,828 | 19,154,736 | 19,154,736 | 50.000 | 938,582 | 56,315 |
| 2045 | 0 | 0 | | | 67,371,828 | 19,154,736 | 19,154,736 | 50.000 | 938,582 | 56,315 |
| 2046 | 0 | 0 | | 1,347,437 | 68,719,265 | 19,537,830 | 19,537,830 | 50.000 | 957,354 | 57,441 |
| 2047 | 0 | 0 | | | 68,719,265 | 19,537,830 | 19,537,830 | 50.000 | 957,354 | 57,441 |
| 2048 | 0 | 0 | | 1,374,385 | 70,093,650 | 19,928,587 | 19,928,587 | 50.000 | 976,501 | 58,590 |
| 2049 | 0 | 0 | | | 70,093,650 | 19,928,587 | 19,928,587 | 50.000 | 976,501 | 58,590 |
| 2050 | 0 | 0 | | 1,401,873 | 71,495,523 | 20,327,159 | 20,327,159 | 50.000 | 996,031 | 59,762 |
| 2051 | 0 | 0 | | | 71,495,523 | 20,327,159 | 20,327,159 | 50.000 | 996,031 | 59,762 |
| 2052 | 0 | 0 | | 1,429,910 | 72,925,434 | 20,733,702 | 20,733,702 | 50.000 | 1,015,951 | 60,957 |
| 2053 | 0 | 0 | | | 72,925,434 | 20,733,702 | 20,733,702 | 50.000 | 1,015,951 | 60,957 |
| 2054 | 0 | 0 | | 1,458,509 | 74,383,942 | 21,148,376 | 21,148,376 | 50.000 | 1,036,270 | 62,176 |
| | | | 433,853 | 21,047,919 | | | | | 28,465,713 | 1,707,943 |

***MULBERRY FRONTAGE METROPOLITAN DISTRICT***

**Development Projection at 50.000 (target) District Mills + District's share of PIF Revenues**

**Series 2021 & Series 2024, G.O. Bonds, Non-Rated, 120x, 30-yr. Maturities, plus Series 2024B Cash-Flow Subs.**

| YEAR | Annual Taxable Sales Revenue infl. @ 1% | Annual Sales Add-on PIF* @ 3.00% @ 1.00% | Net Available for Debt Svc | Series 2021 $7,655,000 Par [Net $6.637 MM] Net Debt Service | Ser. 2024 $5,350,000 Par [Net $4.529 MM] Net Debt Service | Annual Surplus | Surplus Release @ 50% D/A to $1,300,500 | Cumulative Surplus $1,300,500 Target | Senior Debt/ Assessed Ratio | Senior Debt/ Act'l Value Ratio | Cov. of Net DS: @ 50.00 Target | Cov. of Net DS: @ 50.00 Cap |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2016 | $0 | $0 | $0 | | | n/a | | $0 | n/a | n/a | 0.0% | 0.0% |
| 2017 | 0 | 0 | 0 | | | n/a | | 0 | n/a | n/a | 0.0% | 0.0% |
| 2018 | 0 | 0 | 0 | | | n/a | | 0 | n/a | n/a | 0.0% | 0.0% |
| 2019 | 2,266,662 | 68,000 | 68,000 | | | n/a | | 0 | 0% | 0% | 0.0% | 0.0% |
| 2020 | 3,371,557 | 101,147 | 123,364 | | | n/a | | 0 | 120% | 17% | 0.0% | 0.0% |
| 2021 | 6,148,409 | 184,452 | 427,593 | $0 | | 427,593 | | 427,593 | 119% | 18% | 0.0% | 0.0% |
| 2022 | 9,362,608 | 280,878 | 614,932 | 315,162 | | 299,770 | 0 | 727,364 | 82% | 15% | 195.1% | 195.1% |
| 2023 | 10,506,926 | 315,208 | 800,771 | 599,811 | | 200,960 | 0 | 928,324 | 61% | 14% | 133.5% | 133.5% |
| 2024 | 10,611,996 | 106,120 | 747,012 | 469,911 | $0 | 277,101 | 0 | 1,205,425 | 88% | 23% | 159.0% | 159.0% |
| 2025 | 10,718,116 | 107,181 | 860,385 | 471,611 | 220,154 | 168,620 | 73,545 | 1,300,500 | 79% | 23% | 124.4% | 124.4% |
| 2026 | 10,825,297 | 108,253 | 940,738 | 478,036 | 303,183 | 159,519 | 159,519 | 1,300,500 | 79% | 22% | 120.4% | 120.4% |
| 2027 | 10,933,550 | 109,335 | 941,821 | 478,911 | 302,633 | 160,277 | 160,277 | 1,300,500 | 77% | 22% | 120.5% | 120.5% |
| 2028 | 11,042,885 | 110,429 | 959,564 | 489,511 | 307,083 | 162,970 | 162,970 | 1,300,500 | 76% | 22% | 120.5% | 120.5% |
| 2029 | 11,153,314 | 111,533 | 960,668 | 489,286 | 311,258 | 160,124 | 160,124 | 1,300,500 | 74% | 21% | 120.0% | 120.0% |
| 2030 | 11,264,847 | 112,648 | 978,766 | 498,786 | 315,158 | 164,822 | 164,822 | 1,300,500 | 73% | 21% | 120.2% | 120.2% |
| 2031 | 11,377,496 | 113,775 | 979,893 | 497,461 | 318,783 | 163,648 | 163,648 | 1,300,500 | 71% | 20% | 120.0% | 120.0% |
| 2032 | 11,491,271 | 114,913 | 998,353 | 505,861 | 322,133 | 170,358 | 170,358 | 1,300,500 | 70% | 20% | 120.6% | 120.6% |
| 2033 | 11,606,183 | 116,062 | 999,502 | 508,436 | 320,208 | 170,858 | 170,858 | 1,300,500 | 67% | 19% | 120.6% | 120.6% |
| 2034 | 11,722,245 | 117,222 | 1,018,331 | 520,461 | 323,283 | 174,587 | 174,587 | 1,300,500 | 66% | 19% | 120.7% | 120.7% |
| 2035 | 11,839,468 | 118,395 | 1,019,504 | 521,386 | 326,083 | 172,034 | 172,034 | 1,300,500 | 63% | 18% | 120.3% | 120.3% |
| 2036 | 11,957,862 | 119,579 | 1,038,710 | 526,761 | 338,608 | 173,340 | 173,340 | 1,300,500 | 62% | 18% | 120.0% | 120.0% |
| 2037 | 12,077,441 | 120,774 | 1,039,905 | 531,311 | 330,308 | 178,286 | 178,286 | 1,300,500 | 59% | 17% | 120.7% | 120.7% |
| 2038 | 12,198,215 | 121,982 | 1,059,496 | 540,036 | 342,283 | 177,177 | 177,177 | 1,300,500 | 58% | 16% | 120.1% | 120.1% |
| 2039 | 12,320,198 | 123,202 | 1,060,716 | 542,661 | 338,433 | 179,621 | 179,621 | 1,300,500 | 55% | 16% | 120.4% | 120.4% |
| 2040 | 12,443,400 | 124,434 | 1,080,698 | 549,461 | 349,583 | 181,654 | 181,654 | 1,300,500 | 53% | 15% | 120.2% | 120.2% |
| 2041 | 12,567,834 | 125,678 | 1,081,942 | 550,161 | 349,908 | 181,873 | 181,873 | 1,300,500 | 50% | 14% | 120.2% | 120.2% |
| 2042 | 12,693,512 | 126,935 | 1,102,324 | 560,036 | 354,958 | 187,330 | 187,330 | 1,300,500 | 48% | 14% | 120.5% | 120.5% |
| 2043 | 12,820,447 | 128,204 | 1,103,594 | 563,536 | 354,458 | 185,599 | 185,599 | 1,300,500 | 45% | 13% | 120.2% | 120.2% |
| 2044 | 12,948,651 | 129,487 | 1,124,383 | 570,936 | 363,683 | 189,764 | 189,764 | 1,300,500 | 42% | 12% | 120.3% | 120.3% |
| 2045 | 13,078,138 | 130,781 | 1,125,678 | 571,961 | 362,083 | 191,634 | 191,634 | 1,300,500 | 39% | 11% | 120.5% | 120.5% |
| 2046 | 13,208,919 | 132,089 | 1,146,884 | 581,886 | 370,208 | 194,790 | 194,790 | 1,300,500 | 36% | 10% | 120.5% | 120.5% |
| 2047 | 13,341,009 | 133,410 | 1,148,205 | 585,161 | 367,508 | 195,536 | 195,536 | 1,300,500 | 33% | 9% | 120.5% | 120.5% |
| 2048 | 13,474,419 | 134,744 | 1,169,835 | 597,061 | 374,533 | 198,241 | 198,241 | 1,300,500 | 30% | 8% | 120.4% | 120.4% |
| 2049 | 13,609,163 | 136,092 | 1,171,182 | 597,036 | 375,733 | 198,413 | 198,413 | 1,300,500 | 26% | 7% | 120.4% | 120.4% |
| 2050 | 13,745,254 | 137,453 | 1,193,245 | 605,636 | 386,383 | 201,226 | 201,226 | 1,300,500 | 22% | 6% | 120.3% | 120.3% |
| 2051 | 13,882,707 | 138,827 | 1,194,620 | 610,461 | 380,933 | 203,225 | 203,225 | 1,300,500 | 15% | 4% | 120.5% | 120.5% |
| 2052 | 14,021,534 | 140,215 | 1,217,124 | 0 | 1,010,208 | 206,916 | 206,916 | 1,300,500 | 11% | 3% | 120.5% | 120.5% |
| 2053 | 14,161,749 | 141,617 | 1,218,526 | 0 | 1,014,283 | 204,243 | 204,243 | 1,300,500 | 7% | 2% | 120.1% | 120.1% |
| 2054 | 14,303,367 | 143,034 | 1,241,480 | 0 | 1,032,079 | 209,402 | 1,509,902 | 0 | 0% | 0% | 120.3% | 120.3% |
| | | 4,784,090 | 34,957,745 | 15,928,740 | 12,166,130 | 6,671,512 | 6,671,512 | | | | | |

[ CApr1017 20nrlbC ] [ CApr1017 23nrlbC ]

[*] 3.00% thru 2023; 1.00% thereafter

***MULBERRY FRONTAGE METROPOLITAN DISTRICT***

**Development Projection at 50.000 (target) District Mills + District's share of PIF Revenues**

**Series 2021 & Series 2024, G.O. Bonds, Non-Rated, 120x, 30-yr. Maturities, plus Series 2024B Cash-Flow Subs.**

**Cash-Flow Subs. >>>**

| YEAR | Surplus Available for Sub Debt Service | Date Bonds Issued | Total Available for Sub Debt Service | Sub Bond Interest on Balance 7.75% | Less Payments Toward Sub Bond Interest | Accrued Interest + Int. on Bal. @ 7.75% | Less Payments Toward Accrued Interest | Balance of Accrued Interest | Sub Bonds Principal Issued | Less Payments Toward Bond Principal | Balance of Sub Bond Principal | Total Sub Bond Pmts. | Surplus Cash Flow to District |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2016 | | | | | | | | | | | | | |
| 2017 | | | | | | | | | | | | | |
| 2018 | 0 | | | | | | | | | | | | |
| 2019 | 0 | | | | | | | | | | | | |
| 2020 | 0 | | | | | | | | | | | | |
| 2021 | 0 | | | | | | | | | | | | |
| 2022 | 0 | | | | | | | | | | | | |
| 2023 | 0 | | | | | | | | | | | | |
| 2024 | 0 | 12/1/24 | 0 | 6,151 | 0 | 6,151 | 0 | 6,151 | 2,041,000 | 0 | 2,041,000 | 0 | $0 |
| 2025 | 73,545 | | 73,545 | 158,178 | 73,545 | 85,110 | 0 | 91,261 | | 0 | 2,041,000 | 73,545 | 0 |
| 2026 | 159,519 | | 159,519 | 158,178 | 158,178 | 7,073 | 1,342 | 96,992 | | 0 | 2,041,000 | 159,519 | 0 |
| 2027 | 160,277 | | 160,277 | 158,178 | 158,178 | 7,517 | 2,099 | 102,410 | | 0 | 2,041,000 | 160,277 | 0 |
| 2028 | 162,970 | | 162,970 | 158,178 | 158,178 | 7,937 | 4,792 | 105,555 | | 0 | 2,041,000 | 162,970 | 0 |
| 2029 | 160,124 | | 160,124 | 158,178 | 158,178 | 8,180 | 1,946 | 111,789 | | 0 | 2,041,000 | 160,124 | 0 |
| 2030 | 164,822 | | 164,822 | 158,178 | 158,178 | 8,664 | 6,644 | 113,808 | | 0 | 2,041,000 | 164,822 | 0 |
| 2031 | 163,648 | | 163,648 | 158,178 | 158,178 | 8,820 | 5,471 | 117,157 | | 0 | 2,041,000 | 163,648 | 0 |
| 2032 | 170,358 | | 170,358 | 158,178 | 158,178 | 9,080 | 12,181 | 114,056 | | 0 | 2,041,000 | 170,358 | 0 |
| 2033 | 170,858 | | 170,858 | 158,178 | 158,178 | 8,839 | 12,680 | 110,215 | | 0 | 2,041,000 | 170,858 | 0 |
| 2034 | 174,587 | | 174,587 | 158,178 | 158,178 | 8,542 | 16,410 | 102,347 | | 0 | 2,041,000 | 174,587 | 0 |
| 2035 | 172,034 | | 172,034 | 158,178 | 158,178 | 7,932 | 13,857 | 96,422 | | 0 | 2,041,000 | 172,034 | 0 |
| 2036 | 173,340 | | 173,340 | 158,178 | 158,178 | 7,473 | 15,163 | 88,732 | | 0 | 2,041,000 | 173,340 | 0 |
| 2037 | 178,286 | | 178,286 | 158,178 | 158,178 | 6,877 | 20,109 | 75,500 | | 0 | 2,041,000 | 178,286 | 0 |
| 2038 | 177,177 | | 177,177 | 158,178 | 158,178 | 5,851 | 18,999 | 62,352 | | 0 | 2,041,000 | 177,177 | 0 |
| 2039 | 179,621 | | 179,621 | 158,178 | 158,178 | 4,832 | 21,444 | 45,741 | | 0 | 2,041,000 | 179,621 | 0 |
| 2040 | 181,654 | | 181,654 | 158,178 | 158,178 | 3,545 | 23,476 | 25,810 | | 0 | 2,041,000 | 181,654 | 0 |
| 2041 | 181,873 | | 181,873 | 158,178 | 158,178 | 2,000 | 23,695 | 4,114 | | 0 | 2,041,000 | 181,873 | 0 |
| 2042 | 187,330 | | 187,330 | 158,178 | 158,178 | 319 | 4,433 | 0 | | 24,000 | 2,017,000 | 186,611 | 719 |
| 2043 | 185,599 | | 185,599 | 156,318 | 156,318 | 0 | 0 | 0 | | 29,000 | 1,988,000 | 185,318 | 282 |
| 2044 | 189,764 | | 189,764 | 154,070 | 154,070 | 0 | 0 | 0 | | 35,000 | 1,953,000 | 189,070 | 694 |
| 2045 | 191,634 | | 191,634 | 151,358 | 151,358 | 0 | 0 | 0 | | 40,000 | 1,913,000 | 191,358 | 277 |
| 2046 | 194,790 | | 194,790 | 148,258 | 148,258 | 0 | 0 | 0 | | 46,000 | 1,867,000 | 194,258 | 532 |
| 2047 | 195,536 | | 195,536 | 144,693 | 144,693 | 0 | 0 | 0 | | 50,000 | 1,817,000 | 194,693 | 843 |
| 2048 | 198,241 | | 198,241 | 140,818 | 140,818 | 0 | 0 | 0 | | 57,000 | 1,760,000 | 197,818 | 423 |
| 2049 | 198,413 | | 198,413 | 136,400 | 136,400 | 0 | 0 | 0 | | 62,000 | 1,698,000 | 198,400 | 13 |
| 2050 | 201,226 | | 201,226 | 131,595 | 131,595 | 0 | 0 | 0 | | 69,000 | 1,629,000 | 200,595 | 631 |
| 2051 | 203,225 | | 203,225 | 126,248 | 126,248 | 0 | 0 | 0 | | 76,000 | 1,553,000 | 202,248 | 978 |
| 2052 | 206,916 | | 206,916 | 120,358 | 120,358 | 0 | 0 | 0 | | 86,000 | 1,467,000 | 206,358 | 558 |
| 2053 | 204,243 | | 204,243 | 113,693 | 113,693 | 0 | 0 | 0 | | 90,000 | 1,377,000 | 203,693 | 551 |
| 2054 | 1,509,902 | | 1,509,902 | 106,718 | 106,718 | 0 | 0 | 0 | | 1,377,000 | 0 | 1,483,718 | 26,184 |
| | 6,671,512 | | 6,671,512 | 4,483,869 | 4,393,085 | 204,741 | 204,741 | | 2,041,000 | 2,041,000 | | 6,638,826 | 32,686 |

**COI (est.):** **61,230**
**Proceeds:** **1,979,770**

***MULBERRY FRONTAGE METROPOLITAN DISTRICT***

**Operations Revenue and Expense Projection**

| YEAR | Total Assessed Value | Oper'ns Mill Levy | Total Collections @ 98% | S.O. Taxes Collected @ 6% | Total Available For O&M | Total Mills |
|---|---|---|---|---|---|---|
| 2016 | | | | | | |
| 2017 | 0 | 15.000 | 0 | 0 | 0 | 65.000 |
| 2018 | 0 | 15.000 | 0 | 0 | 0 | 65.000 |
| 2019 | 0 | 15.000 | 0 | 0 | 0 | 65.000 |
| 2020 | 427,744 | 15.000 | 6,288 | 377 | 6,665 | 65.000 |
| 2021 | 4,681,190 | 15.000 | 68,813 | 4,129 | 72,942 | 65.000 |
| 2022 | 6,431,538 | 15.000 | 94,544 | 5,673 | 100,216 | 65.000 |
| 2023 | 9,348,543 | 15.000 | 137,424 | 8,245 | 145,669 | 65.000 |
| 2024 | 12,339,093 | 15.000 | 181,385 | 10,883 | 192,268 | 65.000 |
| 2025 | 14,501,428 | 15.000 | 213,171 | 12,790 | 225,961 | 65.000 |
| 2026 | 16,027,826 | 15.000 | 235,609 | 14,137 | 249,746 | 65.000 |
| 2027 | 16,027,826 | 15.000 | 235,609 | 14,137 | 249,746 | 65.000 |
| 2028 | 16,348,382 | 15.000 | 240,321 | 14,419 | 254,740 | 65.000 |
| 2029 | 16,348,382 | 15.000 | 240,321 | 14,419 | 254,740 | 65.000 |
| 2030 | 16,675,350 | 15.000 | 245,128 | 14,708 | 259,835 | 65.000 |
| 2031 | 16,675,350 | 15.000 | 245,128 | 14,708 | 259,835 | 65.000 |
| 2032 | 17,008,857 | 15.000 | 250,030 | 15,002 | 265,032 | 65.000 |
| 2033 | 17,008,857 | 15.000 | 250,030 | 15,002 | 265,032 | 65.000 |
| 2034 | 17,349,034 | 15.000 | 255,031 | 15,302 | 270,333 | 65.000 |
| 2035 | 17,349,034 | 15.000 | 255,031 | 15,302 | 270,333 | 65.000 |
| 2036 | 17,696,015 | 15.000 | 260,131 | 15,608 | 275,739 | 65.000 |
| 2037 | 17,696,015 | 15.000 | 260,131 | 15,608 | 275,739 | 65.000 |
| 2038 | 18,049,935 | 15.000 | 265,334 | 15,920 | 281,254 | 65.000 |
| 2039 | 18,049,935 | 15.000 | 265,334 | 15,920 | 281,254 | 65.000 |
| 2040 | 18,410,934 | 15.000 | 270,641 | 16,238 | 286,879 | 65.000 |
| 2041 | 18,410,934 | 15.000 | 270,641 | 16,238 | 286,879 | 65.000 |
| 2042 | 18,779,152 | 15.000 | 276,054 | 16,563 | 292,617 | 65.000 |
| 2043 | 18,779,152 | 15.000 | 276,054 | 71,774 | 347,827 | 65.000 |
| 2044 | 19,154,736 | 15.000 | 281,575 | 73,209 | 354,784 | 65.000 |
| 2045 | 19,154,736 | 15.000 | 281,575 | 73,209 | 354,784 | 65.000 |
| 2046 | 19,537,830 | 15.000 | 287,206 | 74,674 | 361,880 | 65.000 |
| 2047 | 19,537,830 | 15.000 | 287,206 | 74,674 | 361,880 | 65.000 |
| 2048 | 19,928,587 | 15.000 | 292,950 | 76,167 | 369,117 | 65.000 |
| 2049 | 19,928,587 | 15.000 | 292,950 | 76,167 | 369,117 | 65.000 |
| 2050 | 20,327,159 | 15.000 | 298,809 | 77,690 | 376,500 | 65.000 |
| 2051 | 20,327,159 | 15.000 | 298,809 | 77,690 | 376,500 | 65.000 |
| 2052 | 20,733,702 | 15.000 | 304,785 | 79,244 | 384,030 | 65.000 |
| 2053 | 20,733,702 | 15.000 | 304,785 | 79,244 | 384,030 | 65.000 |
| 2054 | 21,148,376 | 15.000 | 310,881 | 80,829 | 391,710 | 65.000 |
| | | | 8,539,714 | 1,215,900 | 9,755,614 | |

***MULBERRY FRONTAGE METROPOLITAN DISTRICT***

**Development Projection -- Buildout Plan (updated 4/21/17)**

**Commercial Development**

**Commercial Summary**

| YEAR | Retail: SF Devel'd | Retail: Incr/(Decr) in Finished Lot Value @ 10% | Retail: Square Ft Completed 49,000 | Retail: per Sq Ft, Inflated @ 2% | Retail: Market Value | Retail: $ Sales per Sq Ft, Inflated @ 1% | Retail: Stab. / Lease-Up % | Retail: Annual Sales Revenue @ 100% factor | Industrial / Flex: SF Devel'd | Industrial / Flex: Incr/(Decr) in Finished Lot Value @ 10% | Industrial / Flex: Square Ft Completed 384,853 | Industrial / Flex: per Sq Ft, Inflated @ 2% | Industrial / Flex: Market Value | Total Commercial Market Value | Total Commercial Sq Ft | Total Annual Sales Rev. | Value of Platted & Developed Lots: Adjustment [1] | Value of Platted & Developed Lots: Adjusted Value |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2016 | 0 | 0 | | $200.00 | $0 | $200.00 | | $0 | 0 | 0 | | $100.00 | $0 | 0 | 0 | 0 | *0* | 0 |
| 2017 | 0 | 0 | | 204.00 | 0 | 202.00 | | 0 | 0 | 0 | | 102.00 | 0 | 0 | 0 | 0 | *0* | 0 |
| 2018 | 22,000 | 440,000 | | 208.08 | 0 | 204.02 | | 0 | 103,498 | 1,034,980 | | 104.04 | 0 | 0 | 0 | 0 | *0* | 1,474,980 |
| 2019 | 5,000 | (340,000) | 22,000 | 212.24 | 4,669,315 | 206.06 | 50% | 2,266,662 | 38,943 | (645,550) | 103,498 | 106.12 | 10,983,291 | 15,652,606 | 125,498 | 2,266,662 | *0* | (985,550) |
| 2020 | 12,000 | 140,000 | 5,000 | 216.49 | 1,082,432 | 208.12 | 60% | 3,371,557 | 67,431 | 284,880 | 38,943 | 108.24 | 4,215,316 | 5,297,748 | 43,943 | 3,371,557 | *0* | 424,880 |
| 2021 | 10,000 | (40,000) | 12,000 | 220.82 | 2,649,794 | 210.20 | 75% | 6,148,409 | 67,823 | 3,920 | 67,431 | 110.41 | 7,444,927 | 10,094,721 | 79,431 | 6,148,409 | *0* | (36,080) |
| 2022 | 0 | (200,000) | 10,000 | 225.23 | 2,252,325 | 212.30 | 90% | 9,362,608 | 67,301 | (5,220) | 67,823 | 112.62 | 7,637,971 | 9,890,296 | 77,823 | 9,362,608 | *0* | (205,220) |
| 2023 | 0 | 0 | 0 | 229.74 | 0 | 214.43 | 100% | 10,506,926 | 39,857 | (274,440) | 67,301 | 114.87 | 7,730,769 | 7,730,769 | 67,301 | 10,506,926 | *0* | (274,440) |
| 2024 | 0 | 0 | 0 | 234.33 | 0 | 216.57 | 100% | 10,611,996 | 0 | (398,570) | 39,857 | 117.17 | 4,669,883 | 4,669,883 | 39,857 | 10,611,996 | *0* | (398,570) |
| 2025 | 0 | 0 | 0 | 239.02 | 0 | 218.74 | 100% | 10,718,116 | 0 | 0 | 0 | 119.51 | 0 | 0 | 0 | 10,718,116 | *0* | 0 |
| 2026 | 0 | 0 | 0 | 243.80 | 0 | 220.92 | 100% | 10,825,297 | 0 | 0 | 0 | 121.90 | 0 | 0 | 0 | 10,825,297 | *0* | 0 |
| 2027 | 0 | 0 | 0 | 248.67 | 0 | 223.13 | 100% | 10,933,550 | 0 | 0 | 0 | 124.34 | 0 | 0 | 0 | 10,933,550 | *0* | 0 |
| 2028 | 0 | 0 | 0 | 253.65 | 0 | 225.37 | 100% | 11,042,885 | 0 | 0 | 0 | 126.82 | 0 | 0 | 0 | 11,042,885 | *0* | 0 |
| 2029 | 0 | 0 | 0 | 258.72 | 0 | 227.62 | 100% | 11,153,314 | 0 | 0 | 0 | 129.36 | 0 | 0 | 0 | 11,153,314 | *0* | 0 |
| 2030 | 0 | 0 | 0 | 263.90 | 0 | 229.89 | 100% | 11,264,847 | 0 | 0 | 0 | 131.95 | 0 | 0 | 0 | 11,264,847 | *0* | 0 |
| 2031 | 0 | 0 | 0 | 269.17 | 0 | 232.19 | 100% | 11,377,496 | 0 | 0 | 0 | 134.59 | 0 | 0 | 0 | 11,377,496 | *0* | 0 |
| 2032 | 0 | 0 | 0 | 274.56 | 0 | 234.52 | 100% | 11,491,271 | 0 | 0 | 0 | 137.28 | 0 | 0 | 0 | 11,491,271 | *0* | 0 |
| 2033 | 0 | 0 | 0 | 280.05 | 0 | 236.86 | 100% | 11,606,183 | 0 | 0 | 0 | 140.02 | 0 | 0 | 0 | 11,606,183 | *0* | 0 |
| 2034 | 0 | 0 | 0 | 285.65 | 0 | 239.23 | 100% | 11,722,245 | 0 | 0 | 0 | 142.82 | 0 | 0 | 0 | 11,722,245 | *0* | 0 |
| 2035 | 0 | 0 | 0 | 291.36 | 0 | 241.62 | 100% | 11,839,468 | 0 | 0 | 0 | 145.68 | 0 | 0 | 0 | 11,839,468 | *0* | 0 |
| 2036 | | 0 | 0 | 297.19 | 0 | 244.04 | 100% | 11,957,862 | | 0 | 0 | 148.59 | 0 | 0 | 0 | 11,957,862 | *0* | 0 |
| | 49,000 | 0 | 49,000 | | 10,653,866 | | | 178,200,692 | 384,853 | 0 | 384,853 | | 42,682,157 | 53,336,023 | 433,853 | 178,200,692 | 0 | 0 |

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FIXED INCOME CAPITAL MARKETS

## SOURCES AND USES OF FUNDS

**MULBERRY FRONTAGE METROPOLITAN DISTRICT**
**GENERAL OBLIGATION BONDS, SERIES 2021**
**50.00 (target) Mills + District's share of Add-on PIF Reveneues**
**Non-Rated, 120x, 30-yr. Maturity**
**(Sized on Growth thru 2021)**
**[ Preliminary -- for discussion only ]**

| | |
|---|---|
| Dated Date | 12/01/2021 |
| Delivery Date | 12/01/2021 |

| **Sources:** | |
|---|---|
| Bond Proceeds: | |
| Par Amount | 7,655,000.00 |
| | 7,655,000.00 |

| **Uses:** | |
|---|---|
| Project Fund Deposits: | |
| Project Fund | 6,637,352.89 |
| Other Fund Deposits: | |
| Capitalized Interest | 104,597.11 |
| Debt Service Reserve Fund | 606,850.00 |
| | 711,447.11 |
| Cost of Issuance: | |
| Other Cost of Issuance | 306,200.00 |
| | 7,655,000.00 |

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FIXED INCOME CAPITAL MARKETS

# BOND SUMMARY STATISTICS

**MULBERRY FRONTAGE METROPOLITAN DISTRICT**
**GENERAL OBLIGATION BONDS, SERIES 2021**
**50.00 (target) Mills + District's share of Add-on PIF Reveneues**
**Non-Rated, 120x, 30-yr. Maturity**
**(Sized on Growth thru 2021)**
**[ Preliminary -- for discussion only ]**

| | |
|---|---|
| Dated Date | 12/01/2021 |
| Delivery Date | 12/01/2021 |
| First Coupon | 06/01/2022 |
| Last Maturity | 12/01/2051 |
| Arbitrage Yield | 5.500000% |
| True Interest Cost (TIC) | 5.500000% |
| Net Interest Cost (NIC) | 5.500000% |
| All-In TIC | 5.846373% |
| Average Coupon | 5.500000% |
| Average Life (years) | 21.428 |
| Duration of Issue (years) | 12.243 |
| Par Amount | 7,655,000.00 |
| Bond Proceeds | 7,655,000.00 |
| Total Interest | 9,021,650.00 |
| Net Interest | 9,021,650.00 |
| Bond Years from Dated Date | 164,030,000.00 |
| Bond Years from Delivery Date | 164,030,000.00 |
| Total Debt Service | 16,676,650.00 |
| Maximum Annual Debt Service | 1,218,525.00 |
| Average Annual Debt Service | 555,888.33 |
| Underwriter's Fees (per $1000) | |
| Average Takedown | |
| Other Fee | |
| Total Underwriter's Discount | |
| Bid Price | 100.000000 |

| Bond Component | Par Value | Price | Average Coupon | Average Life | Average Maturity Date | PV of 1 bp change |
|---|---|---|---|---|---|---|
| Term Bond due 2051 | 7,655,000.00 | 100.000 | 5.500% | 21.428 | 05/06/2043 | 11,176.30 |
| | 7,655,000.00 | | | 21.428 | | 11,176.30 |

| | TIC | All-In TIC | Arbitrage Yield |
|---|---|---|---|
| Par Value | 7,655,000.00 | 7,655,000.00 | 7,655,000.00 |
| + Accrued Interest | | | |
| + Premium (Discount) | | | |
| - Underwriter's Discount | | | |
| - Cost of Issuance Expense | | -306,200.00 | |
| - Other Amounts | | | |
| Target Value | 7,655,000.00 | 7,348,800.00 | 7,655,000.00 |
| Target Date | 12/01/2021 | 12/01/2021 | 12/01/2021 |
| Yield | 5.500000% | 5.846373% | 5.500000% |

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FIXED INCOME CAPITAL MARKETS

# BOND DEBT SERVICE

## MULBERRY FRONTAGE METROPOLITAN DISTRICT
## GENERAL OBLIGATION BONDS, SERIES 2021
## 50.00 (target) Mills + District's share of Add-on PIF Reveneues
## Non-Rated, 120x, 30-yr. Maturity
## (Sized on Growth thru 2021)
## [ Preliminary -- for discussion only ]

| Period Ending | Principal | Coupon | Interest | Debt Service | Annual Debt Service |
|---|---|---|---|---|---|
| 06/01/2022 | | | 210,512.50 | 210,512.50 | |
| 12/01/2022 | | | 210,512.50 | 210,512.50 | 421,025 |
| 06/01/2023 | | | 210,512.50 | 210,512.50 | |
| 12/01/2023 | 180,000 | 5.500% | 210,512.50 | 390,512.50 | 601,025 |
| 06/01/2024 | | | 205,562.50 | 205,562.50 | |
| 12/01/2024 | 60,000 | 5.500% | 205,562.50 | 265,562.50 | 471,125 |
| 06/01/2025 | | | 203,912.50 | 203,912.50 | |
| 12/01/2025 | 65,000 | 5.500% | 203,912.50 | 268,912.50 | 472,825 |
| 06/01/2026 | | | 202,125.00 | 202,125.00 | |
| 12/01/2026 | 75,000 | 5.500% | 202,125.00 | 277,125.00 | 479,250 |
| 06/01/2027 | | | 200,062.50 | 200,062.50 | |
| 12/01/2027 | 80,000 | 5.500% | 200,062.50 | 280,062.50 | 480,125 |
| 06/01/2028 | | | 197,862.50 | 197,862.50 | |
| 12/01/2028 | 95,000 | 5.500% | 197,862.50 | 292,862.50 | 490,725 |
| 06/01/2029 | | | 195,250.00 | 195,250.00 | |
| 12/01/2029 | 100,000 | 5.500% | 195,250.00 | 295,250.00 | 490,500 |
| 06/01/2030 | | | 192,500.00 | 192,500.00 | |
| 12/01/2030 | 115,000 | 5.500% | 192,500.00 | 307,500.00 | 500,000 |
| 06/01/2031 | | | 189,337.50 | 189,337.50 | |
| 12/01/2031 | 120,000 | 5.500% | 189,337.50 | 309,337.50 | 498,675 |
| 06/01/2032 | | | 186,037.50 | 186,037.50 | |
| 12/01/2032 | 135,000 | 5.500% | 186,037.50 | 321,037.50 | 507,075 |
| 06/01/2033 | | | 182,325.00 | 182,325.00 | |
| 12/01/2033 | 145,000 | 5.500% | 182,325.00 | 327,325.00 | 509,650 |
| 06/01/2034 | | | 178,337.50 | 178,337.50 | |
| 12/01/2034 | 165,000 | 5.500% | 178,337.50 | 343,337.50 | 521,675 |
| 06/01/2035 | | | 173,800.00 | 173,800.00 | |
| 12/01/2035 | 175,000 | 5.500% | 173,800.00 | 348,800.00 | 522,600 |
| 06/01/2036 | | | 168,987.50 | 168,987.50 | |
| 12/01/2036 | 190,000 | 5.500% | 168,987.50 | 358,987.50 | 527,975 |
| 06/01/2037 | | | 163,762.50 | 163,762.50 | |
| 12/01/2037 | 205,000 | 5.500% | 163,762.50 | 368,762.50 | 532,525 |
| 06/01/2038 | | | 158,125.00 | 158,125.00 | |
| 12/01/2038 | 225,000 | 5.500% | 158,125.00 | 383,125.00 | 541,250 |
| 06/01/2039 | | | 151,937.50 | 151,937.50 | |
| 12/01/2039 | 240,000 | 5.500% | 151,937.50 | 391,937.50 | 543,875 |
| 06/01/2040 | | | 145,337.50 | 145,337.50 | |
| 12/01/2040 | 260,000 | 5.500% | 145,337.50 | 405,337.50 | 550,675 |
| 06/01/2041 | | | 138,187.50 | 138,187.50 | |
| 12/01/2041 | 275,000 | 5.500% | 138,187.50 | 413,187.50 | 551,375 |
| 06/01/2042 | | | 130,625.00 | 130,625.00 | |
| 12/01/2042 | 300,000 | 5.500% | 130,625.00 | 430,625.00 | 561,250 |
| 06/01/2043 | | | 122,375.00 | 122,375.00 | |
| 12/01/2043 | 320,000 | 5.500% | 122,375.00 | 442,375.00 | 564,750 |
| 06/01/2044 | | | 113,575.00 | 113,575.00 | |
| 12/01/2044 | 345,000 | 5.500% | 113,575.00 | 458,575.00 | 572,150 |
| 06/01/2045 | | | 104,087.50 | 104,087.50 | |
| 12/01/2045 | 365,000 | 5.500% | 104,087.50 | 469,087.50 | 573,175 |
| 06/01/2046 | | | 94,050.00 | 94,050.00 | |
| 12/01/2046 | 395,000 | 5.500% | 94,050.00 | 489,050.00 | 583,100 |
| 06/01/2047 | | | 83,187.50 | 83,187.50 | |
| 12/01/2047 | 420,000 | 5.500% | 83,187.50 | 503,187.50 | 586,375 |
| 06/01/2048 | | | 71,637.50 | 71,637.50 | |
| 12/01/2048 | 455,000 | 5.500% | 71,637.50 | 526,637.50 | 598,275 |
| 06/01/2049 | | | 59,125.00 | 59,125.00 | |
| 12/01/2049 | 480,000 | 5.500% | 59,125.00 | 539,125.00 | 598,250 |
| 06/01/2050 | | | 45,925.00 | 45,925.00 | |
| 12/01/2050 | 515,000 | 5.500% | 45,925.00 | 560,925.00 | 606,850 |
| 06/01/2051 | | | 31,762.50 | 31,762.50 | |
| 12/01/2051 | 1,155,000 | 5.500% | 31,762.50 | 1,186,762.50 | 1,218,525 |
| | 7,655,000 | | 9,021,650.00 | 16,676,650.00 | 16,676,650 |

## NET DEBT SERVICE

**MULBERRY FRONTAGE METROPOLITAN DISTRICT**
**GENERAL OBLIGATION BONDS, SERIES 2021**
**50.00 (target) Mills + District's share of Add-on PIF Reveneues**
**Non-Rated, 120x, 30-yr. Maturity**
**(Sized on Growth thru 2021)**
**[ Preliminary -- for discussion only ]**

| Period Ending | Principal | Interest | Total Debt Service | Debt Service Reserve Fund | Capitalized Interest | Net Debt Service |
|---|---|---|---|---|---|---|
| 12/01/2022 | | 421,025 | 421,025 | -606.85 | -105,256.25 | 315,161.90 |
| 12/01/2023 | 180,000 | 421,025 | 601,025 | -1,213.70 | | 599,811.30 |
| 12/01/2024 | 60,000 | 411,125 | 471,125 | -1,213.70 | | 469,911.30 |
| 12/01/2025 | 65,000 | 407,825 | 472,825 | -1,213.70 | | 471,611.30 |
| 12/01/2026 | 75,000 | 404,250 | 479,250 | -1,213.70 | | 478,036.30 |
| 12/01/2027 | 80,000 | 400,125 | 480,125 | -1,213.70 | | 478,911.30 |
| 12/01/2028 | 95,000 | 395,725 | 490,725 | -1,213.70 | | 489,511.30 |
| 12/01/2029 | 100,000 | 390,500 | 490,500 | -1,213.70 | | 489,286.30 |
| 12/01/2030 | 115,000 | 385,000 | 500,000 | -1,213.70 | | 498,786.30 |
| 12/01/2031 | 120,000 | 378,675 | 498,675 | -1,213.70 | | 497,461.30 |
| 12/01/2032 | 135,000 | 372,075 | 507,075 | -1,213.70 | | 505,861.30 |
| 12/01/2033 | 145,000 | 364,650 | 509,650 | -1,213.70 | | 508,436.30 |
| 12/01/2034 | 165,000 | 356,675 | 521,675 | -1,213.70 | | 520,461.30 |
| 12/01/2035 | 175,000 | 347,600 | 522,600 | -1,213.70 | | 521,386.30 |
| 12/01/2036 | 190,000 | 337,975 | 527,975 | -1,213.70 | | 526,761.30 |
| 12/01/2037 | 205,000 | 327,525 | 532,525 | -1,213.70 | | 531,311.30 |
| 12/01/2038 | 225,000 | 316,250 | 541,250 | -1,213.70 | | 540,036.30 |
| 12/01/2039 | 240,000 | 303,875 | 543,875 | -1,213.70 | | 542,661.30 |
| 12/01/2040 | 260,000 | 290,675 | 550,675 | -1,213.70 | | 549,461.30 |
| 12/01/2041 | 275,000 | 276,375 | 551,375 | -1,213.70 | | 550,161.30 |
| 12/01/2042 | 300,000 | 261,250 | 561,250 | -1,213.70 | | 560,036.30 |
| 12/01/2043 | 320,000 | 244,750 | 564,750 | -1,213.70 | | 563,536.30 |
| 12/01/2044 | 345,000 | 227,150 | 572,150 | -1,213.70 | | 570,936.30 |
| 12/01/2045 | 365,000 | 208,175 | 573,175 | -1,213.70 | | 571,961.30 |
| 12/01/2046 | 395,000 | 188,100 | 583,100 | -1,213.70 | | 581,886.30 |
| 12/01/2047 | 420,000 | 166,375 | 586,375 | -1,213.70 | | 585,161.30 |
| 12/01/2048 | 455,000 | 143,275 | 598,275 | -1,213.70 | | 597,061.30 |
| 12/01/2049 | 480,000 | 118,250 | 598,250 | -1,213.70 | | 597,036.30 |
| 12/01/2050 | 515,000 | 91,850 | 606,850 | -1,213.70 | | 605,636.30 |
| 12/01/2051 | 1,155,000 | 63,525 | 1,218,525 | -608,063.70 | | 610,461.30 |
| | 7,655,000 | 9,021,650 | 16,676,650 | -642,654.15 | -105,256.25 | 15,928,739.60 |

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FIXED INCOME CAPITAL MARKETS

## BOND SOLUTION

**MULBERRY FRONTAGE METROPOLITAN DISTRICT**
**GENERAL OBLIGATION BONDS, SERIES 2021**
**50.00 (target) Mills + District's share of Add-on PIF Reveneues**
**Non-Rated, 120x, 30-yr. Maturity**
**(Sized on Growth thru 2021)**
**[ Preliminary -- for discussion only ]**

| Period Ending | Proposed Principal | Proposed Debt Service | Debt Service Adjustments | Total Adj Debt Service | Revenue Constraints | Unused Revenues | Debt Serv Coverage |
|---|---|---|---|---|---|---|---|
| 12/01/2022 | | 421,025 | -105,863 | 315,162 | 557,610 | 242,448 | 176.92818% |
| 12/01/2023 | 180,000 | 601,025 | -1,214 | 599,811 | 723,215 | 123,403 | 120.57369% |
| 12/01/2024 | 60,000 | 471,125 | -1,214 | 469,911 | 566,244 | 96,333 | 120.50028% |
| 12/01/2025 | 65,000 | 472,825 | -1,214 | 471,611 | 567,089 | 95,478 | 120.24501% |
| 12/01/2026 | 75,000 | 479,250 | -1,214 | 478,036 | 577,578 | 99,541 | 120.82300% |
| 12/01/2027 | 80,000 | 480,125 | -1,214 | 478,911 | 578,439 | 99,528 | 120.78215% |
| 12/01/2028 | 95,000 | 490,725 | -1,214 | 489,511 | 589,138 | 99,627 | 120.35227% |
| 12/01/2029 | 100,000 | 490,500 | -1,214 | 489,286 | 590,017 | 100,731 | 120.58725% |
| 12/01/2030 | 115,000 | 500,000 | -1,214 | 498,786 | 600,930 | 102,143 | 120.47835% |
| 12/01/2031 | 120,000 | 498,675 | -1,214 | 497,461 | 601,826 | 104,365 | 120.97948% |
| 12/01/2032 | 135,000 | 507,075 | -1,214 | 505,861 | 612,957 | 107,096 | 121.17097% |
| 12/01/2033 | 145,000 | 509,650 | -1,214 | 508,436 | 613,872 | 105,435 | 120.73718% |
| 12/01/2034 | 165,000 | 521,675 | -1,214 | 520,461 | 625,225 | 104,764 | 120.12907% |
| 12/01/2035 | 175,000 | 522,600 | -1,214 | 521,386 | 626,158 | 104,772 | 120.09490% |
| 12/01/2036 | 190,000 | 527,975 | -1,214 | 526,761 | 637,739 | 110,978 | 121.06796% |
| 12/01/2037 | 205,000 | 532,525 | -1,214 | 531,311 | 638,691 | 107,380 | 120.21030% |
| 12/01/2038 | 225,000 | 541,250 | -1,214 | 540,036 | 650,503 | 110,467 | 120.45551% |
| 12/01/2039 | 240,000 | 543,875 | -1,214 | 542,661 | 651,474 | 108,813 | 120.05174% |
| 12/01/2040 | 260,000 | 550,675 | -1,214 | 549,461 | 663,523 | 114,062 | 120.75887% |
| 12/01/2041 | 275,000 | 551,375 | -1,214 | 550,161 | 664,514 | 114,352 | 120.78524% |
| 12/01/2042 | 300,000 | 561,250 | -1,214 | 560,036 | 676,804 | 116,767 | 120.84996% |
| 12/01/2043 | 320,000 | 564,750 | -1,214 | 563,536 | 677,814 | 114,278 | 120.27866% |
| 12/01/2044 | 345,000 | 572,150 | -1,214 | 570,936 | 690,350 | 119,414 | 120.91538% |
| 12/01/2045 | 365,000 | 573,175 | -1,214 | 571,961 | 691,380 | 119,419 | 120.87888% |
| 12/01/2046 | 395,000 | 583,100 | -1,214 | 581,886 | 704,167 | 122,281 | 121.01455% |
| 12/01/2047 | 420,000 | 586,375 | -1,214 | 585,161 | 705,218 | 120,057 | 120.51693% |
| 12/01/2048 | 455,000 | 598,275 | -1,214 | 597,061 | 718,261 | 121,200 | 120.29937% |
| 12/01/2049 | 480,000 | 598,250 | -1,214 | 597,036 | 719,333 | 122,297 | 120.48403% |
| 12/01/2050 | 515,000 | 606,850 | -1,214 | 605,636 | 732,637 | 127,001 | 120.96978% |
| 12/01/2051 | 1,155,000 | 1,218,525 | -608,064 | 610,461 | 733,731 | 123,270 | 120.19286% |
| | 7,655,000 | 16,676,650 | -747,910 | 15,928,740 | 19,386,439 | 3,457,699 | |

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FIXED INCOME CAPITAL MARKETS

## SOURCES AND USES OF FUNDS

**MULBERRY FRONTAGE METROPOLITAN DISTRICT**
**GENERAL OBLIGATION BONDS, SERIES 2024**
**50.00 (target) Mills + District's share of Add-on PIF Reveneues**
**Non-Rated, 120x, 30-yr. Maturity**
**(Sized on All Growth)**
**[ Preliminary -- for discussion only ]**

| | |
|---|---|
| Dated Date | 12/01/2024 |
| Delivery Date | 12/01/2024 |

| **Sources:** | |
|---|---|
| Bond Proceeds: | |
| Par Amount | 5,350,000.00 |
| | 5,350,000.00 |

| **Uses:** | |
|---|---|
| Project Fund Deposits: | |
| Project Fund | 4,529,478.35 |
| Other Fund Deposits: | |
| Capitalized Interest | 72,992.48 |
| Debt Service Reserve Fund | 533,529.17 |
| | 606,521.65 |
| Cost of Issuance: | |
| Other Cost of Issuance | 214,000.00 |
| | 5,350,000.00 |

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FIXED INCOME CAPITAL MARKETS

# BOND SUMMARY STATISTICS

**MULBERRY FRONTAGE METROPOLITAN DISTRICT**
**GENERAL OBLIGATION BONDS, SERIES 2024**
**50.00 (target) Mills + District's share of Add-on PIF Reveneues**
**Non-Rated, 120x, 30-yr. Maturity**
**(Sized on All Growth)**
**[ Preliminary -- for discussion only ]**

| | |
|---|---|
| Dated Date | 12/01/2024 |
| Delivery Date | 12/01/2024 |
| First Coupon | 06/01/2025 |
| Last Maturity | 12/01/2054 |
| Arbitrage Yield | 5.500000% |
| True Interest Cost (TIC) | 5.500000% |
| Net Interest Cost (NIC) | 5.500000% |
| All-In TIC | 5.810885% |
| Average Coupon | 5.500000% |
| Average Life (years) | 25.335 |
| Duration of Issue (years) | 13.634 |
| Par Amount | 5,350,000.00 |
| Bond Proceeds | 5,350,000.00 |
| Total Interest | 7,454,700.00 |
| Net Interest | 7,454,700.00 |
| Bond Years from Dated Date | 135,540,000.00 |
| Bond Years from Delivery Date | 135,540,000.00 |
| Total Debt Service | 12,804,700.00 |
| Maximum Annual Debt Service | 1,566,675.00 |
| Average Annual Debt Service | 426,823.33 |
| Underwriter's Fees (per $1000) | |
| Average Takedown | |
| Other Fee | |
| Total Underwriter's Discount | |
| Bid Price | 100.000000 |

| Bond Component | Par Value | Price | Average Coupon | Average Life | Average Maturity Date | PV of 1 bp change |
|---|---|---|---|---|---|---|
| Term Bond due 2054 | 5,350,000.00 | 100.000 | 5.500% | 25.335 | 04/02/2050 | 7,811.00 |
| | 5,350,000.00 | | | 25.335 | | 7,811.00 |

| | TIC | All-In TIC | Arbitrage Yield |
|---|---|---|---|
| Par Value | 5,350,000.00 | 5,350,000.00 | 5,350,000.00 |
| + Accrued Interest | | | |
| + Premium (Discount) | | | |
| - Underwriter's Discount | | | |
| - Cost of Issuance Expense | | -214,000.00 | |
| - Other Amounts | | | |
| Target Value | 5,350,000.00 | 5,136,000.00 | 5,350,000.00 |
| Target Date | 12/01/2024 | 12/01/2024 | 12/01/2024 |
| Yield | 5.500000% | 5.810885% | 5.500000% |

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FIXED INCOME CAPITAL MARKETS

# BOND DEBT SERVICE

## MULBERRY FRONTAGE METROPOLITAN DISTRICT
## GENERAL OBLIGATION BONDS, SERIES 2024
## 50.00 (target) Mills + District's share of Add-on PIF Reveneues
## Non-Rated, 120x, 30-yr. Maturity
## (Sized on All Growth)
## [ Preliminary -- for discussion only ]

| Period Ending | Principal | Coupon | Interest | Debt Service | Annual Debt Service |
|---|---|---|---|---|---|
| 06/01/2025 | | | 147,125.00 | 147,125.00 | |
| 12/01/2025 | | | 147,125.00 | 147,125.00 | 294,250 |
| 06/01/2026 | | | 147,125.00 | 147,125.00 | |
| 12/01/2026 | 10,000 | 5.500% | 147,125.00 | 157,125.00 | 304,250 |
| 06/01/2027 | | | 146,850.00 | 146,850.00 | |
| 12/01/2027 | 10,000 | 5.500% | 146,850.00 | 156,850.00 | 303,700 |
| 06/01/2028 | | | 146,575.00 | 146,575.00 | |
| 12/01/2028 | 15,000 | 5.500% | 146,575.00 | 161,575.00 | 308,150 |
| 06/01/2029 | | | 146,162.50 | 146,162.50 | |
| 12/01/2029 | 20,000 | 5.500% | 146,162.50 | 166,162.50 | 312,325 |
| 06/01/2030 | | | 145,612.50 | 145,612.50 | |
| 12/01/2030 | 25,000 | 5.500% | 145,612.50 | 170,612.50 | 316,225 |
| 06/01/2031 | | | 144,925.00 | 144,925.00 | |
| 12/01/2031 | 30,000 | 5.500% | 144,925.00 | 174,925.00 | 319,850 |
| 06/01/2032 | | | 144,100.00 | 144,100.00 | |
| 12/01/2032 | 35,000 | 5.500% | 144,100.00 | 179,100.00 | 323,200 |
| 06/01/2033 | | | 143,137.50 | 143,137.50 | |
| 12/01/2033 | 35,000 | 5.500% | 143,137.50 | 178,137.50 | 321,275 |
| 06/01/2034 | | | 142,175.00 | 142,175.00 | |
| 12/01/2034 | 40,000 | 5.500% | 142,175.00 | 182,175.00 | 324,350 |
| 06/01/2035 | | | 141,075.00 | 141,075.00 | |
| 12/01/2035 | 45,000 | 5.500% | 141,075.00 | 186,075.00 | 327,150 |
| 06/01/2036 | | | 139,837.50 | 139,837.50 | |
| 12/01/2036 | 60,000 | 5.500% | 139,837.50 | 199,837.50 | 339,675 |
| 06/01/2037 | | | 138,187.50 | 138,187.50 | |
| 12/01/2037 | 55,000 | 5.500% | 138,187.50 | 193,187.50 | 331,375 |
| 06/01/2038 | | | 136,675.00 | 136,675.00 | |
| 12/01/2038 | 70,000 | 5.500% | 136,675.00 | 206,675.00 | 343,350 |
| 06/01/2039 | | | 134,750.00 | 134,750.00 | |
| 12/01/2039 | 70,000 | 5.500% | 134,750.00 | 204,750.00 | 339,500 |
| 06/01/2040 | | | 132,825.00 | 132,825.00 | |
| 12/01/2040 | 85,000 | 5.500% | 132,825.00 | 217,825.00 | 350,650 |
| 06/01/2041 | | | 130,487.50 | 130,487.50 | |
| 12/01/2041 | 90,000 | 5.500% | 130,487.50 | 220,487.50 | 350,975 |
| 06/01/2042 | | | 128,012.50 | 128,012.50 | |
| 12/01/2042 | 100,000 | 5.500% | 128,012.50 | 228,012.50 | 356,025 |
| 06/01/2043 | | | 125,262.50 | 125,262.50 | |
| 12/01/2043 | 105,000 | 5.500% | 125,262.50 | 230,262.50 | 355,525 |
| 06/01/2044 | | | 122,375.00 | 122,375.00 | |
| 12/01/2044 | 120,000 | 5.500% | 122,375.00 | 242,375.00 | 364,750 |
| 06/01/2045 | | | 119,075.00 | 119,075.00 | |
| 12/01/2045 | 125,000 | 5.500% | 119,075.00 | 244,075.00 | 363,150 |
| 06/01/2046 | | | 115,637.50 | 115,637.50 | |
| 12/01/2046 | 140,000 | 5.500% | 115,637.50 | 255,637.50 | 371,275 |
| 06/01/2047 | | | 111,787.50 | 111,787.50 | |
| 12/01/2047 | 145,000 | 5.500% | 111,787.50 | 256,787.50 | 368,575 |
| 06/01/2048 | | | 107,800.00 | 107,800.00 | |
| 12/01/2048 | 160,000 | 5.500% | 107,800.00 | 267,800.00 | 375,600 |
| 06/01/2049 | | | 103,400.00 | 103,400.00 | |
| 12/01/2049 | 170,000 | 5.500% | 103,400.00 | 273,400.00 | 376,800 |
| 06/01/2050 | | | 98,725.00 | 98,725.00 | |
| 12/01/2050 | 190,000 | 5.500% | 98,725.00 | 288,725.00 | 387,450 |
| 06/01/2051 | | | 93,500.00 | 93,500.00 | |
| 12/01/2051 | 195,000 | 5.500% | 93,500.00 | 288,500.00 | 382,000 |
| 06/01/2052 | | | 88,137.50 | 88,137.50 | |
| 12/01/2052 | 835,000 | 5.500% | 88,137.50 | 923,137.50 | 1,011,275 |
| 06/01/2053 | | | 65,175.00 | 65,175.00 | |
| 12/01/2053 | 885,000 | 5.500% | 65,175.00 | 950,175.00 | 1,015,350 |
| 06/01/2054 | | | 40,837.50 | 40,837.50 | |
| 12/01/2054 | 1,485,000 | 5.500% | 40,837.50 | 1,525,837.50 | 1,566,675 |
| | 5,350,000 | | 7,454,700.00 | 12,804,700.00 | 12,804,700 |

## NET DEBT SERVICE

**MULBERRY FRONTAGE METROPOLITAN DISTRICT**
**GENERAL OBLIGATION BONDS, SERIES 2024**
**50.00 (target) Mills + District's share of Add-on PIF Reveneues**
**Non-Rated, 120x, 30-yr. Maturity**
**(Sized on All Growth)**
**[ Preliminary -- for discussion only ]**

| Period Ending | Principal | Interest | Total Debt Service | Debt Service Reserve Fund | Capitalized Interest | Net Debt Service |
|---|---|---|---|---|---|---|
| 12/01/2025 | | 294,250 | 294,250 | -533.53 | -73,562.50 | 220,153.97 |
| 12/01/2026 | 10,000 | 294,250 | 304,250 | -1,067.06 | | 303,182.94 |
| 12/01/2027 | 10,000 | 293,700 | 303,700 | -1,067.06 | | 302,632.94 |
| 12/01/2028 | 15,000 | 293,150 | 308,150 | -1,067.06 | | 307,082.94 |
| 12/01/2029 | 20,000 | 292,325 | 312,325 | -1,067.06 | | 311,257.94 |
| 12/01/2030 | 25,000 | 291,225 | 316,225 | -1,067.06 | | 315,157.94 |
| 12/01/2031 | 30,000 | 289,850 | 319,850 | -1,067.06 | | 318,782.94 |
| 12/01/2032 | 35,000 | 288,200 | 323,200 | -1,067.06 | | 322,132.94 |
| 12/01/2033 | 35,000 | 286,275 | 321,275 | -1,067.06 | | 320,207.94 |
| 12/01/2034 | 40,000 | 284,350 | 324,350 | -1,067.06 | | 323,282.94 |
| 12/01/2035 | 45,000 | 282,150 | 327,150 | -1,067.06 | | 326,082.94 |
| 12/01/2036 | 60,000 | 279,675 | 339,675 | -1,067.06 | | 338,607.94 |
| 12/01/2037 | 55,000 | 276,375 | 331,375 | -1,067.06 | | 330,307.94 |
| 12/01/2038 | 70,000 | 273,350 | 343,350 | -1,067.06 | | 342,282.94 |
| 12/01/2039 | 70,000 | 269,500 | 339,500 | -1,067.06 | | 338,432.94 |
| 12/01/2040 | 85,000 | 265,650 | 350,650 | -1,067.06 | | 349,582.94 |
| 12/01/2041 | 90,000 | 260,975 | 350,975 | -1,067.06 | | 349,907.94 |
| 12/01/2042 | 100,000 | 256,025 | 356,025 | -1,067.06 | | 354,957.94 |
| 12/01/2043 | 105,000 | 250,525 | 355,525 | -1,067.06 | | 354,457.94 |
| 12/01/2044 | 120,000 | 244,750 | 364,750 | -1,067.06 | | 363,682.94 |
| 12/01/2045 | 125,000 | 238,150 | 363,150 | -1,067.06 | | 362,082.94 |
| 12/01/2046 | 140,000 | 231,275 | 371,275 | -1,067.06 | | 370,207.94 |
| 12/01/2047 | 145,000 | 223,575 | 368,575 | -1,067.06 | | 367,507.94 |
| 12/01/2048 | 160,000 | 215,600 | 375,600 | -1,067.06 | | 374,532.94 |
| 12/01/2049 | 170,000 | 206,800 | 376,800 | -1,067.06 | | 375,732.94 |
| 12/01/2050 | 190,000 | 197,450 | 387,450 | -1,067.06 | | 386,382.94 |
| 12/01/2051 | 195,000 | 187,000 | 382,000 | -1,067.06 | | 380,932.94 |
| 12/01/2052 | 835,000 | 176,275 | 1,011,275 | -1,067.06 | | 1,010,207.94 |
| 12/01/2053 | 885,000 | 130,350 | 1,015,350 | -1,067.06 | | 1,014,282.94 |
| 12/01/2054 | 1,485,000 | 81,675 | 1,566,675 | -534,596.23 | | 1,032,078.77 |
| | 5,350,000 | 7,454,700 | 12,804,700 | -565,007.44 | -73,562.50 | 12,166,130.06 |

D|A DAVIDSON
FIXED INCOME CAPITAL MARKETS

# BOND SOLUTION

## MULBERRY FRONTAGE METROPOLITAN DISTRICT
## GENERAL OBLIGATION BONDS, SERIES 2024
## 50.00 (target) Mills + District's share of Add-on PIF Reveneues
## Non-Rated, 120x, 30-yr. Maturity
## (Sized on All Growth)
## [ Preliminary -- for discussion only ]

| Period Ending | Proposed Principal | Proposed Debt Service | Debt Service Adjustments | Existing Debt Service | Total Adj Debt Service | Revenue Constraints | Unused Revenues | Debt Serv Coverage |
|---|---|---|---|---|---|---|---|---|
| 12/01/2025 | | 294,250 | -74,096 | 471,611 | 691,765 | 860,385 | 168,620 | 124.37533% |
| 12/01/2026 | 10,000 | 304,250 | -1,067 | 478,036 | 781,219 | 940,738 | 159,519 | 120.41924% |
| 12/01/2027 | 10,000 | 303,700 | -1,067 | 478,911 | 781,544 | 941,821 | 160,277 | 120.50767% |
| 12/01/2028 | 15,000 | 308,150 | -1,067 | 489,511 | 796,594 | 959,564 | 162,970 | 120.45829% |
| 12/01/2029 | 20,000 | 312,325 | -1,067 | 489,286 | 800,544 | 960,668 | 160,124 | 120.00188% |
| 12/01/2030 | 25,000 | 316,225 | -1,067 | 498,786 | 813,944 | 978,766 | 164,822 | 120.24978% |
| 12/01/2031 | 30,000 | 319,850 | -1,067 | 497,461 | 816,244 | 979,893 | 163,648 | 120.04895% |
| 12/01/2032 | 35,000 | 323,200 | -1,067 | 505,861 | 827,994 | 998,353 | 170,359 | 120.57484% |
| 12/01/2033 | 35,000 | 321,275 | -1,067 | 508,436 | 828,644 | 999,502 | 170,858 | 120.61894% |
| 12/01/2034 | 40,000 | 324,350 | -1,067 | 520,461 | 843,744 | 1,018,331 | 174,587 | 120.69194% |
| 12/01/2035 | 45,000 | 327,150 | -1,067 | 521,386 | 847,469 | 1,019,504 | 172,034 | 120.29977% |
| 12/01/2036 | 60,000 | 339,675 | -1,067 | 526,761 | 865,369 | 1,038,710 | 173,340 | 120.03080% |
| 12/01/2037 | 55,000 | 331,375 | -1,067 | 531,311 | 861,619 | 1,039,905 | 178,286 | 120.69199% |
| 12/01/2038 | 70,000 | 343,350 | -1,067 | 540,036 | 882,319 | 1,059,496 | 177,177 | 120.08077% |
| 12/01/2039 | 70,000 | 339,500 | -1,067 | 542,661 | 881,094 | 1,060,716 | 179,621 | 120.38617% |
| 12/01/2040 | 85,000 | 350,650 | -1,067 | 549,461 | 899,044 | 1,080,698 | 181,654 | 120.20520% |
| 12/01/2041 | 90,000 | 350,975 | -1,067 | 550,161 | 900,069 | 1,081,942 | 181,873 | 120.20656% |
| 12/01/2042 | 100,000 | 356,025 | -1,067 | 560,036 | 914,994 | 1,102,324 | 187,330 | 120.47336% |
| 12/01/2043 | 105,000 | 355,525 | -1,067 | 563,536 | 917,994 | 1,103,594 | 185,599 | 120.21793% |
| 12/01/2044 | 120,000 | 364,750 | -1,067 | 570,936 | 934,619 | 1,124,383 | 189,764 | 120.30391% |
| 12/01/2045 | 125,000 | 363,150 | -1,067 | 571,961 | 934,044 | 1,125,678 | 191,634 | 120.51660% |
| 12/01/2046 | 140,000 | 371,275 | -1,067 | 581,886 | 952,094 | 1,146,884 | 194,790 | 120.45909% |
| 12/01/2047 | 145,000 | 368,575 | -1,067 | 585,161 | 952,669 | 1,148,205 | 195,536 | 120.52504% |
| 12/01/2048 | 160,000 | 375,600 | -1,067 | 597,061 | 971,594 | 1,169,835 | 198,241 | 120.40366% |
| 12/01/2049 | 170,000 | 376,800 | -1,067 | 597,036 | 972,769 | 1,171,182 | 198,413 | 120.39674% |
| 12/01/2050 | 190,000 | 387,450 | -1,067 | 605,636 | 992,019 | 1,193,245 | 201,226 | 120.28448% |
| 12/01/2051 | 195,000 | 382,000 | -1,067 | 610,461 | 991,394 | 1,194,620 | 203,225 | 120.49895% |
| 12/01/2052 | 835,000 | 1,011,275 | -1,067 | | 1,010,208 | 1,217,124 | 206,916 | 120.48250% |
| 12/01/2053 | 885,000 | 1,015,350 | -1,067 | | 1,014,283 | 1,218,526 | 204,243 | 120.13669% |
| 12/01/2054 | 1,485,000 | 1,566,675 | -534,596 | | 1,032,079 | 1,241,480 | 209,402 | 120.28930% |
| | 5,350,000 | 12,804,700 | -638,570 | 14,543,855 | 26,709,985 | 32,176,072 | 5,466,087 | |

## SOURCES AND USES OF FUNDS

**MULBERRY FRONTAGE METROPOLITAN DISTRICT**
**SUBORDINATE BONDS, SERIES 2024B**
**Non-Rated, Cash-Flow Bonds, Annual Pay, 12/15/54 (Stated) Maturity**
**[ Preliminary -- for discussion only ]**

| | |
|---|---|
| Dated Date | 12/01/2024 |
| Delivery Date | 12/01/2024 |

| **Sources:** | |
|---|---|
| Bond Proceeds: | |
| Par Amount | 2,041,000.00 |
| | 2,041,000.00 |

| **Uses:** | |
|---|---|
| Project Fund Deposits: | |
| Project Fund | 1,979,770.00 |
| Cost of Issuance: | |
| Other Cost of Issuance | 61,230.00 |
| | 2,041,000.00 |

## BOND PRICING

**MULBERRY FRONTAGE METROPOLITAN DISTRICT**
**SUBORDINATE BONDS, SERIES 2024B**
**Non-Rated, Cash-Flow Bonds, Annual Pay, 12/15/54 (Stated) Maturity**
**[ Preliminary -- for discussion only ]**

| Bond Component | Maturity Date | Amount | Rate | Yield | Price |
|---|---|---|---|---|---|
| Term Bond due 2054: | | | | | |
| | 12/15/2054 | 2,041,000 | 7.750% | 7.750% | 100.000 |
| | | 2,041,000 | | | |

| | | |
|---|---|---|
| Dated Date | 12/01/2024 | |
| Delivery Date | 12/01/2024 | |
| First Coupon | 12/15/2024 | |
| Par Amount | 2,041,000.00 | |
| Original Issue Discount | | |
| Production | 2,041,000.00 | 100.000000% |
| Underwriter's Discount | | |
| Purchase Price | 2,041,000.00 | 100.000000% |
| Accrued Interest | | |
| Net Proceeds | 2,041,000.00 | |

**EXHIBIT G**

Proposed Intergovernmental Agreement

**INTERGOVERNMENTAL AGREEMENT**
**between**
**THE COUNTY OF LARIMER, COLORADO**
**and**
**MULBERRY FRONTAGE METROPOLITAN DISTRICT**

**THIS AGREEMENT** ("Agreement") is made and entered into to be effective as of the ____ day of _____, 2017, by and between the **COUNTY OF LARIMER**, a body politic and corporate, of the State of Colorado ("Larimer" or the "County"), and **MULBERRY FRONTAGE METROPOLITAN DISTRICT,** a quasi-municipal corporation and political subdivision of the State of Colorado (the "District"). The County and the District are individually referred to as a "Party" and collectively referred to as the "Parties."

**RECITALS**

**WHEREAS**, the District was organized to provide those services and to exercise those powers as are more specifically set forth in the District's Service Plan dated April 27, 2017 (the "Service Plan") and approved by the County of Larimer on August 14, 2017, 2017, by Resolution No. _____; and

**WHEREAS,** the District is authorized to provide for the construction, installation, operations and maintenance, and coordination of the financing for the capital facilities and services in connection with the development of a commercial and light industrial project to be constructed within the boundaries of the County (the "Development"); and

**WHEREAS**, the Service Plan makes reference to and requires the execution of an intergovernmental agreement between the County and the District; and

**WHEREAS**, the County and the District have determined it to be in the best interests of their respective taxpayers, residents and property owners to enter into this Agreement; and

**NOW, THEREFORE**, for and in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

## COVENANTS AND AGREEMENTS

1. Application of Local Laws. The District hereby acknowledges that the property within its boundaries shall be subject to the ordinances, rules and regulations of the County relating to zoning, subdividing, building, and land use, and to all related County land use policies, master plans, related plans, and intergovernmental agreements.

2. Nature of the District. The District shall have the power and authority to provide the Public Improvements and related operation and maintenance services within and without its boundaries as such power and authority is described in the Special District Act, and other applicable statutes, common law and the Constitution, subject to the limitations in the Service Plan. It is intended that the District will provide those facilities and services as defined by the Service Plan and will continue to exist, operate and maintain all of those facilities not dedicated to, or otherwise owned by, the County, or other entity having proper jurisdiction.

3. Financing of Improvements. The District shall be empowered to finance the construction, acquisition, installation, operation and maintenance of the public facilities as set forth in the Service Plan. All bonds and other Debt issued by the District may be payable from any and all legally available revenues of the District, including general *ad valorem* taxes to be imposed upon all taxable property within the District. The District will also rely upon various other revenue sources authorized by law. These will include the power to assess fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time-to-time.

4. Ownership of Improvements. The Parties agree that the District shall not be permitted to undertake ownership and operation of public facilities and services except as set forth in the Service Plan. The County will not accept for maintenance any subdivision road within the District or storm drainage facility unless otherwise agreed to in writing between the Parties.

5. Consolidation. The District shall not file a request with the district court to consolidate with another district without the prior written approval of Larimer.

6. Dissolution. When all of the statutory requirements for dissolution of the District occur as stated in Section 32-1-701 *et seq.*, C.R.S., as amended, the District may dissolve.

7. Annual Report. The District shall be responsible for submitting an annual report to the County pursuant to and including the information set forth in Section VI of the Service Plan.

8. Entire Agreement of the Parties. This written Agreement constitutes the entire agreement between the parties and supersedes all prior written or oral agreements, negotiations, or representations and understandings of the parties with respect to the subject matter contained herein.

9. Amendment. This Agreement may be amended, modified, changed, or terminated in whole or in part only by a written agreement duly authorized and executed by the Parties hereto and without amendment to the Service Plan.

10. Enforcement. The Parties agree that this Agreement may be enforced in law or in equity for specific performance, injunctive, or other appropriate relief, including damages, as may be available according to the laws and statutes of the State of Colorado.

11. Venue. Venue for the trial of any action arising out of any dispute hereunder shall be in the appropriate district court of the State of Colorado pursuant to the appropriate rules of civil procedures.

12. Beneficiaries. Except as otherwise stated herein, this Agreement is intended to describe the rights and responsibilities of and between the Parties and is not intended to, and shall not be deemed to confer any rights upon any persons or entities not named as parties.

13. Severability. If any portion of this Agreement is held invalid or unenforceable for any reason by a court of competent jurisdiction as to either Party or as to both Parties, such portion shall be deemed severable and its invalidity or its unenforceability shall not cause the entire Agreement to be terminated.

14. Assignability. Other than as specifically provided for in this Agreement, neither the County nor the District shall assign its rights or delegate its duties hereunder without the prior written consent of the other Party.

15. Successors and Assigns. This Agreement and the rights and obligations created hereby shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

[*Remainder of Page Intentionally Left Blank, Signature Pages Follow*]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective as of the day and year first above written.

COUNTY OF LARIMER

_____
Chairman, Board of County Commissioners

ATTEST:

_____
Clerk to the Board

APPROVED AS TO FORM
AND CONTENT

_____
County Manager

APPROVED AS TO FORM

_____
County Attorney

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective as of the day and year first above written.

MULBERRY FRONTAGE METROPOLITAN DISTRICT

By: _____
President

ATTEST:

By: _____
Secretary

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

_____
General Counsel to the District

06-66-866

RE #20170061487, 9/13/2017 3:34:47 PM, 1 of 3,
An Item 10. , Clerk & Recorder, Larimer County, CO

RECEIVED
DEC 07 2017
Div of Local Government

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF THE COUNTY OF LARIMER

STATE OF COLORADO

RESOLUTION NO. 09122017R002

In The Matter Of: Mulberry Frontage Metropolitan District

WHEREAS, pursuant to the provisions of the "Special District Act," Part 2 of Article 1 of Title 32, C.R.S. 1973, the Petitioners formally presented a Service Plan (the "Service Plan") for Mulberry Frontage Metropolitan District (the "District"); and

WHEREAS, pursuant to the provisions of Section 32-1-204(2), C.R.S., the Larimer County Planning Commission held a public hearing on the Service Plan on July 19, 2017, at which time the Planning Commission did, by resolution, recommend approval of the Service Plan based upon its belief that there is sufficient existing and projected need for the provision of services by the District; and

WHEREAS, pursuant to the provisions of Section 32-1-202(1), C.R.S., the Board of County Commissioners of Larimer County, Colorado, held a public hearing and set a date for a public hearing on the Service Plan for August 14, 2017; and

WHEREAS, notice of the date, time, location and purpose of the aforesaid hearing was duly published in the *Coloradoan*, a newspaper of general circulation, on July 21, 2017; notice was provided to the division of local government in the department of local affairs of the name and type of the special district; notice of the date, time and location of the hearing was provided to the Petitioners and to the governing body of each municipality and of each special district which had levied an *ad valorem* tax within the next preceding tax year and which had boundaries within a radius of three (3) miles of the Petitioners' District, as required by Section 32-1-204(1), C.R.S.; and notice of the time, date, location and purpose of the District was not sent to property owners within the District via letter mailing pursuant to Section 32-1-204(1.5), C.R.S. because the Petitioners own 100% of the property within the proposed District; and

WHEREAS, this Board did, on August 14, 2017, hold a full, public hearing on this matter, taking evidence establishing the jurisdiction of the Board to hear this matter and further taking evidence regarding the substantive issues set forth in Section 32-1-203, C.R.S.; and

RETURN TO PLANNING

WHEREAS, this Board has fully considered the testimony and other evidence presented to it in this matter.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Larimer County, Colorado:

1. That the Board does hereby determine that all of the jurisdictional and other requirements of Sections 32-1-202 and 32-1-204, C.R.S., have been fulfilled, including those relating to the filing of the Service Plan and the form and timing of the public notice of the hearing and the public hearing held herein.

2. The Board does hereby find and determine that:

(a) There is sufficient existing and projected need for organized service in the area as provided in the Service Plan;

(b) The existing service in the area to be served by the proposed District is inadequate for present and projected needs;

(c) The District, as outlined in the Service Plan, is capable of providing economical and sufficient service to the area within its proposed boundaries;

(d) The area included in the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis;

(e) Adequate service is not, and will not be, available to the area through the County, other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis;

(f) The facility and service standards of the District are compatible with the facility and service standards of Larimer County and of adjacent municipalities and special districts;

(g) The proposal is in substantial compliance with the County's master plan adopted pursuant to Section 30-28-106 and Section 30-28-108, C.R.S.; and

(h) The proposal is in compliance with duly adopted long-range water and quality management plans for the area, if any.

(i) Approval of the Mulberry Frontage Metropolitan District Service Plan in

Item 10.

3

**Mulberry Frontage**
**Metropolitan District**
**Page 3**

no way assumes approval of any plan presented for the development of the property which is contained in the proposed district boundary.

3. That the Board further finds and determines that creation of the District is in the best interests of the area proposed to be served.

4. That the Service Plan of the District to finance and construct public improvements anticipated in the Service Plan, be and hereby is approved.

5. That, pursuant to Section 32-1-204(4), the Board of County Commissioners hereby issues this Resolution of final approval to the District.

Commissioner Johnson moved to adopt the foregoing Resolution.

The roll having been called, the vote was as follows:

Commissioner Gaiter - Yes

Commissioner Johnson - Yes

Commissioner Donnelly - No

The Resolution was adopted by majority vote of the Board of County Commissioners of the County of Larimer, State of Colorado.

DATED this 12th day of September, 2017.

BOARD OF COMMISSIONERS OF
LARIMER COUNTY, COLORADO

LARIMER COUNTY CLERK SEAL COLORADO

By: _____
Chair

(SEAL)

DATE: 9 7 17

APPROVED AS TO FORM:

_____
COUNTY ATTORNEY

ATTEST:

_____
Deputy Clerk

**April 16, 2024**

# AGENDA ITEM SUMMARY
City Council

## STAFF

Ralph Campano, Real Estate Manager
Will Flowers, Senior Real Estate Specialist
LeAnn Williams, Recreation Director

## SUBJECT

**Resolution 2024-062 Approving a Purchase and Sale Agreement with Poudre School District to Acquire Land for the Southeast Community Center.**

## EXECUTIVE SUMMARY

The purpose of this item is to approve a Purchase and Sale Agreement between the City of Fort Collins and Poudre School District ("PSD") for the acquisition of approximately 10 acres at the southeast corner of Ziegler Road and Rock Creek Drive adjacent to Fossil Ridge High School. This acquisition is for the City to construct a new Southeast Community Center in accordance with the Intergovernmental Agreement (IGA), between the City of Fort Collins and PSD, previously approved by Council by Resolution 2023-112.

## STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

## BACKGROUND / DISCUSSION

The subject property was identified by City and PSD staff as a desirable location for the construction of the new Southeast Community Center the "SCC"). Construction of the SCC was a requirement in Ordinance No. 013, 2015, approved by the voters in April 2015 and extending a quarter-cent sales tax for the Community Capital Improvement Program.

In late 2023, the City, PSD, and the Poudre River Library District entered into an Intergovernmental Agreement ("IGA"), covering land acquisition, construction, and operation of the SCC. One of the terms of the IGA is that the City and PSD must enter into a Purchase and Sale Agreement ("PSA") for the land acquisition no later than April 30, 2024. If the PSA is not executed by that date, the IGA automatically terminates.

Staff engaged the services of Lamp Rynearson to provide a preliminary survey of the property and to provide proposed property boundaries, for approximately 10 acres. Lamp Rynearson delivered an ALTA survey defining a site of 10.402 acres, with access from Rock Creek Drive on the north, Ziegler Road on the west and the Fossil Ridge High School (teacher's lot) on the east.

Using the estimated property boundaries, City staff called upon one of the City's contracted property appraisers, Jon Vaughn of CBRE, to perform an appraisal of the proposed site. That appraisal resulted in

an estimated property valuation of $3,180,000. This became the basis for the established purchase price in the Intergovernmental Agreement (IGA), and thus the proposed purchase price in the Purchase and Sale Agreement (PSA) that has been submitted for approval. The PSA will allow for some flexibility in the final acreage of the parcel as the SCC design proceeds.

A final version of the PSA has not yet been approved by City staff and PSD staff but they continue to work in good faith to come to mutual agreement. However, a draft of the PSA is presented to Council now to meet the April 30th deadline in the IGA. PSD's Board of Education will consider the version of the PSA attached to the Resolution as Exhibit A at its April 23rd meeting.

The approval of the Purchase and Sale Agreement (PSA) will allow both the City and PSD to meet the terms of the Intergovernmental Agreement (IGA), and also allow staff to begin the process of finalizing the plat and to move forward with the acquiring the property. Per the terms of the IGA, the parties plan to close on the property after PSD's 2024 election. Once the transaction is closed, staff will begin the planning, design and eventually the construction process, to provide a new community center and aquatics facility to the residents Fort Collins.

## CITY FINANCIAL IMPACTS

The proposed purchase price of the property is $3,180,000.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

## PUBLIC OUTREACH

Engagement and outreach for the SCC were previously done as part of the 2022 Aquatics Study and the 2023 ½-cent Sales Tax Initiative.

## ATTACHMENTS

1. Resolution for Consideration
2. Exhibit A to Resolution

RESOLUTION 2024-062
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING A PURCHASE AND SALE AGREEMENT WITH THE
POUDRE SCHOOL DISTRICT TO ACQUIRE LAND FOR THE
SOUTHEAST COMMUNITY CENTER

A. In April 2015, Fort Collins voters approved Ordinance No. 013, 2015, which extended a quarter-cent sales tax for ten years and such tax is to be dedicated to the "Community Capital Improvement Program" capital projects and related operation and maintenance ("CCIP").

B. Ordinance No. 013, 2015 includes a requirement that the City construct a Community Center in southeast Fort Collins focused on innovation, technology, art, recreation and the creative process, including a large outdoor leisure pool and meeting spaces dedicated to innovation and creativity (the "SECC").

C. Poudre School District ("PSD") uses swim lanes at existing City recreation facilities for high school swim team practices and meets, but access to lanes for both PSD and the general public is constrained by the current capacity of the City's recreation system.

D. PSD has approximately 10 acres of land available next to Fossil Ridge High School (the "Land") that, based on preliminary information, is a suitable site for the SECC, including all the facility requirements contained in the CCIP ballot language as well as an indoor aquatics facility that would serve the recreation needs of the Fort Collins community and allow PSD access to indoor lanes for its swim programs (the "Aquatics Facility").

E. On August 15, 2023, the City Council adopted Resolution 2023-074, which stated the Council's intent that access for PSD students to the new Aquatics Facility be conditional on PSD and the City agreeing on PSD's share of the cost for such a facility.

F. On November 7, 2023, Fort Collins voters passed a ballot measure approving a .50% sales tax, with 50% of the revenues to be spent on replacement, upgrade, maintenance, and accessibility of parks facilities and for the replacement and construction of indoor and outdoor recreation and pool facilities, and these revenues will provide an estimated $30-34 million of capital costs funding for the Aquatics Facility.

G. The City, PSD and the Poudre River Public Library District, which is interested in co-locating a southeast branch library within the SECC, negotiated an intergovernmental agreement governing the City's acquisition of the Land from PSD for the SECC, the construction of the SECC (including the Aquatics Facility) and the ownership, maintenance and use of the Aquatics Facility (the "SECC IGA").

H. On December 19, 2023, the City Council adopted Resolution 2023-112, authorizing the Mayor to execute the SECC IGA, which was executed by the parties and effective December 20, 2023.

I. Resolution 2023-112 stated that details about the land conveyance will be covered in a separate Purchase and Sale Agreement to be drafted by the City and PSD and to be presented to the City Council for consideration in early 2024.

J. A copy of the proposed Purchase and Sale Agreement is attached and incorporated herein as Exhibit "A".

K. Article XIV, Section 12(2) of the Colorado Constitution, and Section 29-1-201, *et seq*. of the Colorado Revised Statutes authorize governmental entities to enter into intergovernmental agreements, and to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units.

L. Section 1-22 of the City Code requires that, with some exceptions, intergovernmental agreements or cooperative activities between the City and other governmental entities be submitted to the City Council for review and approval by ordinance or resolution.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the City Council hereby authorizes the City Manager to execute the Purchase and Sale Agreement in substantially the form attached hereto as Exhibit "A", with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interest of the City or effectuate the purposes of this Resolution.

Passed and adopted on April 16, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: April 16, 2024
Approving Attorney: Ryan Malarky

**AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY**
**(City Purchaser)**

☐ Residential ☐ Commercial ☐ Industrial ☒ Vacant Land ☐ Conservation Easement

**Property Address/APN:** Part of 5400 Ziegler Road, Fort Collins, CO 80528/Part of 8604000904

**Seller:** POUDRE SCHOOL DISTRICT R-1
**Seller Signing Authority and Title:** Kristen Draper, Board President
**Seller Phone Number/Email:** (970) 482-7420 kdraper@psdschools.org
**Seller Mailing Address:** 2407 Laporte Avenue
Fort Collins, CO 80521
Click or tap here to enter text.

**Purchaser:** City of Fort Collins, Colorado, a municipal corporation
**Purchaser Signing Authority and Title:** Kelly DiMartino, City Manager
**Purchaser Phone Number/Email:** (970) 416-2245 / wflowers@fcgov.com
**Purchaser Mailing Address:** City of Fort Collins, Real Estate Services
P.O. Box 580
Fort Collins, Colorado 80522

**Title Company:** Land Title Guarantee Company
**Title Company Phone Number/Email:** (970) 305-8298/customercare@ltgc.com
**Title Company Mailing Address:** 3033 East First Avenue, Suite 600
Denver, CO 80206
Click or tap here to enter text.

**Consideration**

**Purchase Price** (as of date of execution; subject to change per terms of Agreement)**:** 3,180,000

**Earnest Money Deposit:** None
Click or tap here to enter text.

**Effective Date:** Click or tap to enter a date.
**Inspection Deadline:** 120 Days after Effective Date
**Closing Date:** A mutually agreed date after November 7, 2024, but in no event later than December 31, 2024

☒ **Exhibit A -** Property Legal Description (# of pages): TBD See Paragraph 3. E below
☒ **Exhibit B -** Form of Conveyance Deed (# of pages): 3
**Exhibit C** – Escrow Agreement

This **AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY** (the "Agreement") is made and entered into on the Effective Date by and between Seller and Purchaser.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree to be legally bound whereby Seller agrees to convey to Purchaser, and Purchaser agrees to acquire from Seller, the Property as defined below on the terms and conditions set forth in this Agreement. This Agreement is also subject to any Exhibit A through G checked above, which is attached hereto and incorporated by this reference.

1. Description of Property. The real property which is the subject matter of this Agreement is that certain parcel of real property located in Larimer County, Colorado, which is a portion of the northwest corner of the property depicted on Exhibit A (the "Property"). Subject to the terms and conditions of that certain Intergovernmental Agreement Related to the Southeast Community Center, dated February 20, 2024 (the "IGA"), the parties have agreed that the Purchaser intends to acquire the Property from Seller for the purpose of constructing a new community center. Section I.1.g. of the IGA provides that the Purchaser intends to acquire from the Seller "approximately 10 acres." The Property has been surveyed to include 10.402 acres. The design and layout of the community center is not complete and the exact boundaries of the property upon which the community center will be constructed are not yet known. To comply with the April 30, 2024, deadline in the IGA for the execution of this Agreement, the parties desire to move forward with this Agreement with the mutual understanding and agreement that the exact legal description of the Property is subject to change. The parties agree that the area of the Property shall not be less than 10.0 acres and shall not be more than 10.99 acres. The parties agree to execute, prior to the Closing Date, an amendment to this Agreement to include a definitive legal description of the parcel to be conveyed based upon the Purchaser's 60% design plans for the community center.

The Seller also agrees to convey sufficient easements for the extension of a sanitary sewer easement and a stormwater easement to existing manhole connection points on the Sellers property as follows:

Stormwater Easement – An easement 20 feet wide and 60 feet long running south of the southern boundary of the 10.402 acre site to the existing Storm Manhole identified on the draft survey as RIM – 4917.88'.

Sanitary Sewer Easement Option #2– An easement 30 feet wide and TBD feet long running east of the eastern boundary of the 10.402 acre site to a Sanitary Manhole in south part of the Teachers parking lot circular asphalt drive identified on the draft survey as RIM – 4915.31'.

Sanitary Sewer Easement Option #2– An easement 30 feet wide and TBD feet long running southeast of the eastern boundary of the 10.402 acre site to a Sanitary Manhole in south of the southeast corner of the band practice field identified on the draft survey as RIM – 4912.61'.

The Property includes all improvements located thereon and all of Seller's rights, title, and interest in and to all appurtenances thereto, including but not limited to the following:

A. Appurtenances Generally. The Property shall include all improvements now located thereon, including any fences, buildings, landscaping, and other improvements, and

all fixtures of a permanent nature. In addition, the Property shall include all of Seller's right, title and interest in and to easements, rights-of-way, future interests, and rights to the same belonging and inuring to the benefit of the Property, and in and to all strips and gores of land lying between the Property and adjoining property or streets, roads or highways, open or proposed.

B. Taps. All water taps, gas taps, and sewer taps belonging or in any way appertaining to the Property.

C. Water Rights. All water, water rights, corporate stock relating to the use of water, springs, spring rights, wells, well rights, ditches, ditch rights, reservoir rights, tributary, non-tributary, and not non-tributary water, appurtenant to, customarily used with or upon, or relating to the use of water on the Property, and any other water or water rights, located on or appurtenant to the Property, whether or not the same have been adjudicated.

D. Mineral Rights. Any and all interests in all minerals, ores, metals of any kind and character, and all coal, asphaltum, oil, gas, or other like substances, including sand and gravel, all geothermal resources in, on, or under the Property, and all other mineral rights as are owned by Seller at the time of this Agreement.

2. Purchase Price and Earnest Money Deposit.

A. While the acreage is subject to change pursuant to paragraph 1 above, Purchaser and Seller agree that the "Purchase Price" shall be calculated using a price per square foot of $7.30. As of execution of this Agreement, the parties agree the Purchase Price is $3,307,711.18 based upon the current survey of the parcel at 10.402 acres. The final square footage of the Property and thereby the final Purchase Price shall be determined by an amendment to this Agreement prior to the Closing Date ("Appraised Price").

B. Pursuant to the terms of the IGA, if the voters approve Seller's November 2024 ballot measure, then at closing Seller will convey the Property to Purchaser at no cost as part of the Seller's share of funding of the aquatics facility. If the voters do not approve Seller's November 2024 ballot measure, at closing Purchaser will deposit the Appraised Price of the Property into an interest-bearing escrow account pursuant to an escrow agreement substantially similar to the form attached as Exhibit C. If the voters do not approve Seller's November 2024 ballot but Seller secures a new source of funding for the aquatics facility after execution of this Agreement and conveyance of the Property to Purchaser but before January 31, 2025, the escrowed funds and any accrued interest shall be released to Purchaser as part of Seller's share of funding the aquatics facility. If the voters do not approve Seller's November 2024 ballot measure and Seller does not secure a new source of funding by January 31, 2025, the escrowed funds and any accrued interest shall be released to Seller, unless Purchaser and Seller mutually agree to extend the funding deadline.

C. Except as otherwise provided in this paragraph 2, no Earnest Money Deposit is required in connection with this transaction, the mutuality of the promises of the parties hereto being deemed adequate consideration. Purchaser will pay closing costs and customary prorations at the time of closing.

3. Contingencies. This Agreement is contingent upon the following:

A. Appraisal. Seller obtained an appraisal of the Property, performed by John Vaughan of CBRE who prepared an appraisal report dated July 26, 2023. Neither Seller nor Purchaser objects to said appraisal and both agree that the Property shall be valued at $7.30 per square foot as set forth in the report.

B. Disclosures. Within ten (10) days following the Effective Date, and immediately upon any later discovery by Seller of any disclosure issue not previously submitted to Purchaser, Seller will provide to Purchaser a disclosure statement describing any and all issues with the Property known to Seller that would reasonably be considered material to whether or not Purchaser would decide to continue with the purchase of the Property or terminate this Agreement. Purchaser may object to any disclosed issue by providing to Seller written notice by the Inspection Deadline in accordance with paragraph 6 below.

C. Intentionally omitted.

D. Title Insurance/Evidence of Title.

1. No later than ten (10) days following the Effective Date, Purchaser will order a Title Insurance Commitment from the Title Company, together with copies of all documents of record related to exceptions identified in the Title Commitment (together referred to as the "Title Commitment"). The Title Commitment must show title to the Property in Seller's name, subject only to those exceptions set forth on Schedule B-2 to the Title Commitment that are acceptable to Purchaser. Purchaser is responsible for the cost of the Title Commitment and Title Insurance.

2. If the Title Commitment discloses title defects unsatisfactory to Purchaser and subject to which Purchaser need not take title, Purchaser may give Seller written notice of such defects by the date ten (10) days after Purchaser's receipt of the Title Commitment, and no later than ten (10) days after notice of any title change or discovery of any title defect not disclosed by the Title Commitment. Seller must attempt in good faith to cure such defects prior to closing, at its expense, without any other manner affecting the terms of this Agreement.

3. If any instrument or deposit is necessary in order to correct a defect in or objection to title, the following apply:

a) Any instrument will be in a form and contain terms and conditions the Title Company may reasonably require so as to be sufficiently satisfied and omit such defects or objection.

b) Any deposit will be made with the Title Company.

c) Seller agrees to execute, acknowledge, and deliver any required instrument and to make any required deposit.

4. If the Title Company refuses to omit any title defect or objection prior to closing, then Purchaser, at its election, has the right to:

a) Accept such title as Seller is able to convey, without any reduction of the purchase price; or

b) Rescind this Agreement and, upon such rescission pursuant to this paragraph, all parties to this Agreement will be released from all obligations hereunder.

5. If Seller is unable to convey title as provided in this paragraph to Purchaser due to an act or omission of Seller, Seller is in default and continues to be liable under this Agreement.

6. Notwithstanding the foregoing:

a) Any title condition consisting of monetary liens, deeds of trust, or other financial encumbrances against the Property must be removed by Seller at or prior to closing, and Seller's failure to cause the removal of the same will constitute a default by Seller under this Agreement; and

b) In the event Seller fails to cause the removal of a financial encumbrance against the Property prior to closing, Purchaser has the right to pay amounts required to do so at closing, and to receive a credit for such payment against the Purchase Price.

E. Survey/Legal Description.

☐ The parties each acknowledge that a legal description of the Property is attached in Exhibit A and incorporated by reference into this Agreement, and each acknowledges having received a copy of any such description. The parties agree that it is their intent that the referenced legal description describes the Property except as otherwise expressly provided, and agree to work in good faith and cooperatively to correct technical errors that any such legal description is determined to contain; or

☒ Purchaser or ☐ Seller, at its own expense and within ninety (90) days following the Effective Date, will provide to the other party an draft (i) ALTA/ACSM boundary survey or (ii) Land Survey Plat ("Survey"). The Survey must include the future location of property corners and a plat describing courses and distances between the corners, and total acreage of the Property. The survey is subject to change in accordance with the provisions outlined in Paragraph 1. above.

4. Representations of Seller. Seller represents and warrants, as of the Effective Date and as of closing that, to the best of Seller's knowledge:

A. There is no litigation proceeding, including but not limited to, any eminent domain proceeding, pending (or to Seller's knowledge threatened) against, or relating to any part of the Property, nor does Seller know of or have reasonable grounds to know of any basis for any such action.

B. Seller has not received notice of, and to the best of Seller's knowledge, there are no violations of any laws, orders, regulations, or requirements of any governmental authority affecting all or any part of the Property.

C. Seller has the unconditional right and power to execute and deliver this Agreement and to consummate the transaction(s) contemplated by this Agreement.

D. Seller has not received notice of default or breach by Seller of any of the covenants, conditions, restrictions, rights-of-way, or easements affecting the Property or any portion thereof; no default or breach now exists or will exist at the time of closing; and no event or condition has occurred and is continuing that, with or without notice and/or the passage of time, will constitute such a default or breach.

E. Seller represents that it has provided to Purchaser all environmental reports and any other documentation in Seller's possession related to the Property.

5. Seller's Environmental Representations. Seller represents and warrants as of the Effective Date and as of closing, that, to the best of Seller's knowledge:

A. The Property has never been used as a landfill, waste dump, or mine.

B. No property in the vicinity of the Property has ever been used as a landfill, waste dump or mine.

C. There has been no installation in, or production, release, disposal, or storage in the vicinity of the Property of any hazardous material, hazardous waste or other toxic or regulated substances by any owner, tenant or previous owner or previous tenant, or any other activity which could have resulted in an environmental condition requiring investigation or remediation on the Property.

D. There is no anticipated, threatened, or pending proceeding or inquiry by any governmental authority or agency with respect thereto.

6. Inspection. Purchaser or any designee of Purchaser has the right to make inspections of the physical condition of the Property and the improvements located thereon at Purchaser's expense. These inspections may include, but are not limited to, environmental assessments and inspections regarding compliance with any building or fire code, environmental protection, pollution or land use or zoning laws, rules, or regulations, including, but not limited to, any laws relating to the disposal or existence of any hazardous substance or other regulated substance in or on the Property. If Purchaser does not provide to Seller written notice of any unsatisfactory condition, as determined in Purchaser's sole discretion, signed by an authorized representative of Purchaser, on or before the Inspection Deadline, Purchaser waives any objection to the physical condition of the Property and the improvements located thereon as of that date. If Purchaser provides written notice of any unsatisfactory condition, signed by an authorized representative of Purchaser, to Seller on or before the Inspection Deadline, and Seller does not cure such conditions prior to closing, Purchaser may terminate this Agreement. Upon such termination, all payments and things of value received hereunder by Seller must be returned to Purchaser within ten (10) days. Purchaser is responsible and will pay for any damage that occurs to the Property and the improvements located thereon as a result of these inspections.

7. Maintenance of the Property/Title. Seller must keep, or cause to be kept, the Property in its condition as of the Effective Date until closing, subject to normal wear-and-tear and seasonal changes, and agrees not to commit or permit waste thereon. Seller must not cause or permit new liens, easements, or other encumbrances on the title to the Property, except as expressly agreed by Purchaser in writing.

8. Risk of Loss. Seller shall bear all risk of loss with respect to the Property up until closing in accordance with this Agreement. In the event of damage to any portion of the Property by fire or other casualty prior to closing, then this Agreement may be terminated at the option of Purchaser. This option shall be exercised, if at all, by Purchaser’s written notice thereof to Seller within ten (10) days after receipt of written notice from Seller of such fire or other casualty. Upon the exercise of such option to terminate, this Agreement shall become null and void and neither party shall have any further liability or obligations hereunder, except as otherwise provided in this Agreement. If Purchaser does not elect to terminate, Seller shall assign and transfer to Purchaser at closing all of Seller’s right, title and interest in and to all insurance proceeds or other compensation paid or payable to Seller on account of such fire or casualty together with the amount of the deductible relating thereto.

9. Closing. All references to “close” or “closing” in this Agreement are deemed to mean the successful transfer of title of the Property from Seller to Purchaser. The parties agree to close on

or before the Closing Date at the office location of the Title Company or at such other reasonable time, date, or location as the parties may mutually agree. All Title Company escrow fees shall be paid by Purchaser. If the close does not occur on or before the Closing Date, then the remedies on default pursuant to paragraph 15 below shall apply.

10. Proration. Real property taxes and assessments and similar expenses, if any, will be prorated as of the date of closing in accordance with local practice.

11. Method of Conveyance. Seller will convey the real property portion of the Property to Purchaser at the time of closing by deed in the form attached hereto as Exhibit B. The personal property portion of the Property, if any, shall be transferred to Purchaser by Seller at the time of closing by bill of sale or other appropriate transfer document, free and clear of all liens and encumbrances.

12. Possession. Seller will deliver possession of the Property to Purchaser upon closing.

13. Brokers.

☐ Seller represents and warrants to the Purchaser that Seller has not employed, retained, or consulted any broker, agent, or other real estate professional with respect to the PropertyWilliam C. Flowers, REALTOR®, licensed Employing Broker in the State of Colorado, has assisted the Purchaser with this transaction in his capacity as an employee of the City of Fort Collins, Real Estate Services department..

14. Remedies on Default. If any note or check received as the Earnest Money Deposit hereunder or any other payment due hereunder is not paid, honored, or tendered when due, or if any other obligation hereunder is not performed as herein provided, the remedies are:

A. If Purchaser is in default, then the Earnest Money Deposit, if any, is forfeited by Purchaser and may be retained by Seller, and both parties will be released from all obligations under this Agreement. It is agreed that the Earnest Money Deposit is liquidated damages and is Seller's sole and only remedy for Purchaser's failure to perform the obligations of this Agreement. Seller may recover direct damages as may be proper and Seller expressly waives the remedies of specific performance and additional damages.

B. If Seller is in default, Purchaser may elect to treat this Agreement as terminated, in which case all payments and things of value received hereunder will be returned to Purchaser, and Purchaser may recover such damages as may be proper, or Purchaser may elect to treat this Agreement as being in full force and effect, and Purchaser will have the right to an action for specific performance or damages, or both.

15. Litigation Expenses. In the event any party defaults in any of its covenants or obligations, and a party not in default commences and prevails in any legal or equitable action against the defaulting party, the defaulting party expressly agrees to pay all reasonable expenses of the litigation, including a reasonable sum for attorneys' fees or similar costs of legal representation.

16. Governing Law/Venue. The parties intend and agree that this Agreement is to be construed and enforced according to the laws of Colorado, and that venue in any proceeding related to the subject matter of this Agreement will be in Larimer County, Colorado.

17. Recommendation of Legal and Tax Counsel. By signing this Agreement, Seller acknowledges that Seller has been advised that this Agreement has important legal consequences, and has received the recommendation to consider the examination of title and consultation with legal and tax or other counsel before signing this Agreement.

18. Notices. Any notice or other communication given by either party to the other relating to this Agreement must be in writing and shall be deemed given: (i) when delivered personally; (ii) on the first business day which is three (3) days following mailing by certified mail, return receipt requested or with tracking, and postage prepaid; or (iii) the next business day after sending by a nationally recognized overnight delivery service and addressed to the party at its respective address as set forth above.

19. Headings. Paragraph headings are used for convenience of reference and in no way define, limit, or prescribe the scope or intent of any provision under this Agreement.

20. Construction. Words of the masculine gender include the feminine and neuter gender and when the sentence so indicates, words of the neuter gender refer to any gender. Words in the singular include the plural and vice versa. Definitions of defined terms are intended to apply throughout this Agreement. This Agreement is to be construed according to its fair meaning, and as if prepared by all parties, and is deemed to be and contain the entire understanding and agreement between the parties.

21. Binding Effect/Joint and Several Liability. This Agreement is binding upon and inures to the benefit of the parties and their respective heirs, administrators, successors, and assigns. If Seller consists of more than one individual or entity, each such individual or entity is jointly and severally liable for any and all obligations of Seller hereunder.

22. Time is of the Essence. It is agreed that time is of the essence of this Agreement and each and every provision.

23. Time Frames. All periods and time frames referred to in this Agreement shall be defined as calendar days and not business days.

24. Assignment. This Agreement must not be assigned by either of the parties hereto without the prior written consent of the other party.

25. Entire Agreement, Modification. This Agreement constitutes the entire contract between the parties relating to the conveyance of the Property, and any prior agreements pertaining thereto,

whether oral or written, have been merged and integrated into this Agreement, excluding the Intergovernmental Agreement Related to the Southeast Community Center, dated February 20, 2024, as it may be amended, and the Escrow Agreement. No subsequent modification of any of the terms of this Agreement will be valid, binding upon the parties, or enforceable unless made in writing and signed by the parties.

26. Counterpart, Facsimile, and Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. Signatures may be delivered by facsimile copy or electronic format. Facsimile and electronic signatures are binding on the parties as if they were originals.

27. Recording. Purchaser may record this Agreement in the real property records of the Larimer County Clerk and Recorder.

28. Authority. Each person executing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement in his or her individual or representative capacity as indicated.

**IN WITNESS WHEREOF,** the parties have set their hands and seals the day and year first written below.

**SELLER:**

_____ _____

Date Signature of Signing Authority

(If Seller is a corporation)
ATTESTED BY:

_____

Corporate Secretary

☐ If checked, notary below is required:

STATE OF COLORADO )
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, _____, by _____, [as _____ for _____].

Witness my hand and official seal.

My Commission expires:

_____
Notary Public

**SELLER:**

_____ _____
Date Signature of Signing Authority

(If Seller is a corporation)
ATTESTED BY:

_____
Corporate Secretary

☐ If checked, notary below is required:

STATE OF COLORADO )
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, _____, by _____, [as _____ for _____].

Witness my hand and official seal.

My Commission expires:

_____
Notary Public

**PURCHASER:**

_____ _____

Date Kelly DiMartino, City Manager

ATTEST:

_____

City Clerk

_____

(Print Name)

APPROVED AS TO FORM:

_____

Assistant City Attorney

_____

(Print Name)

EXHIBIT A TO RESOLUTION 2024-062

**April 16, 2024**

# AGENDA ITEM SUMMARY
City Council

## STAFF

Davina Lau, Public Engagement Specialist

## SUBJECT

**Resolution 2024-063 Confirming and Approving an Appointment to the Board of Commissioners of the Fort Collins Urban Renewal Authority.**

## EXECUTIVE SUMMARY

The purpose of this item is to accept the Mayor's appointment to the Urban Renewal Authority (URA) Board.

## STAFF RECOMMENDATION

Staff recommends adoption of this Resolution.

## BACKGROUND / DISCUSSION

In May 2015, the Colorado General Assembly adopted House Bill 2015-1348 (HB-1348), amending the Colorado Urban Renewal Law, allowing for the appointment of up to four new commissioners to the URA Board after January 1, 2016. The Urban Renewal authority became compliant with HB-1348 by expanding the Board of Commissioners to include representatives from the School District, Larimer County, a commissioner representing other affected taxing entities, and an at-large Mayoral appointee in 2018.

On May 15, 2018, Council approved the Mayor's appointment of Andy Smith by adopting Ordinance No. 061, 2018. Per the Urban Renewal Authority's bylaws, the Mayoral appointee serves a four-year term. Mr. Smith's term was due to expire May 25, 2022. In response, the Mayor recommended Andy Smith for reappointment on the URA Board. On May 3, 2022, Council adopted Resolution 2022-056 appointing Andy Smith to a second term on the URA Board, expiring May 25, 2026.

In early 2024, Andy Smith accepted a position as Redevelopment Manager for the City of Fort Collins. He became ineligible to continue serving on the URA Board and resigned.

By adopting this Resolution, Council confirms and approves the appointment of Dan Sapienza to the URA Board to replace Andy Smith. Dan Sapienza's term will expire May 25, 2026.

## CITY FINANCIAL IMPACTS

None.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

## PUBLIC OUTREACH

None.

## ATTACHMENTS

1. Resolution for Consideration
2. Application

RESOLUTION NO. 2024-063
OF THE COUNCIL OF THE CITY OF FORT COLLINS
CONFIRMING AND APPROVING AN APPOINTMENT TO THE BOARD OF COMMISSIONERS OF THE FORT COLLINS URBAN RENEWAL AUTHORITY

A. On January 5, 1982, City Council adopted Resolution 1982-10 establishing within the City of Fort Collins (the "City") the Fort Collins Urban Renewal Authority (the "Authority") and designating the Council to serve as the Authority's Board of Commissioners (the "URA Board").

B. The laws governing the creation, powers and governance of urban renewal authorities are in Colorado's "Urban Renewal Law" in Part 1 of Article 25 of Title 31 of the Colorado Revised Statutes (the "Act").

C. Sections 31-25-104 and 31-25-107 of the Act were amended in 2015 and 2017, respectively, by the Colorado General Assembly to provide that when the adoption of a new urban renewal plan is being considered on or after January 1, 2016, the membership on the board of commissioners of the affected urban renewal authority is to be increased to include at least three, and potentially four, additional commissioners.

D. One commissioner is to be appointed by the board of county commissioners of the county in which the territorial boundaries of the urban renewal authority area are located, and the second commissioner is to be a board member of a special district selected by agreement of the special districts levying a mill levy within the boundaries of the urban renewal authority area and the third commissioner is to be an elected member of a board of education of a school district levying a mill levy within the boundaries of the urban renewal authority area.

E. If these three new appointments cause the authority's board to have an even number of commissioners, the mayor of the municipality that has created the urban renewal authority is to appoint a fourth commissioner to restore an odd number of commissioners to the authority's board.

F. As required by the Act, in 2018 the membership on the URA Board expanded to include an appointment by the Larimer County Board of Commissioners, a joint appointment by the Poudre School District and the Thompson School District, and an agreed appointment by the special districts levying property taxes within the Authority's boundaries, and these three appointees, or their successors, continue to serve on the URA Board.

G. Since these three new appointments increased the URA Board membership to ten, an even number, the Act required the City's Mayor to appoint another new commissioner to the URA Board to restore the Board's membership to an odd number.

H. The City Council adopted Resolution 2015-105 setting out a process to follow for the Mayor's appointment to the URA Board under which the Mayor and one

other councilmember are to interview candidates and make an appointment recommendation to Council for its approval by resolution.

I. After following that process, the City Council adopted Resolution 2018-044 to appoint Andy Smith to serve as the eleventh commissioner on the URA Board for a 4-year term beginning on May 25, 2018.

J. On May 15, 2018, the City Council adopted Ordinance No. 061, 2018, repealing and reenacting Division 4 in Article IV of City Code Chapter 2 to implement the General Assembly's 2015 and 2017 amendments to the Act (the "URA Code") and reaffirming Commissioner Smith's appointment to the URA Board.

K. Section 2-482(a)(3) of the URA Code provides that the seat held by Commissioner Smith is to be a "resident of the City appointed by the Mayor and confirmed by the City Council by resolution."

L. On May 3, 2022, the City Council adopted Resolution 2022-056 to reappoint Commissioner Smith for a second term expiring on May 25, 2026.

M. Commissioner Smith accepted a position with the City of Fort Collins in early 2024, and therefore has had to resign from the URA Board.

N. After following the process outlined in Resolution 2015-105, and an interview on April 3, 2024, with a committee comprised of Mayor Jeni Arndt, Councilmember Kelly Ohlson and Councilmember Melanie Potyondy, Mayor Jeni Arndt has appointed Dan Sapienza to serve as Commissioner Smith's replacement and is requesting that the City Council Confirm this appointment as required in Section 2-482(a)(3) of the URA Code.

O. The City Council has determined that it is in the best interests of the City and the URA that Dan Sapienza's appointment by Mayor Arndt be confirmed by the City Council.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Mayor Arndt's appointment of Dan Sapienza to serve as a commissioner on the URA Board is hereby confirmed and approved by the City Council, with such term to begin upon adoption of this Resolution and expire on May 25. 2026.

Passed and adopted on April 16, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: April 16, 2024
Approving Attorney: Carrie Daggett

# VOLUNTEER APPLICATION

## Dan Sapienza

3/19/2024 10:42 AM

dan.sapienza@gmail.com

Application: **URA - Urban Renewal Authority**

### Applicant Information

Birthday: [redacted] Gender: Male Education Level: Doctoral degree

Address: [redacted] Phone: [redacted]

### Availability

| | S | M | T | W | T | F | S |
|---|---|---|---|---|---|---|---|
| Morning | ☑ | ☐ | ☐ | ☐ | ☐ | ☑ | ☑ |
| Afternoon | ☑ | ☑ | ☐ | ☐ | ☑ | ☑ | ☑ |
| Evening | ☑ | ☑ | ☐ | ☑ | ☑ | ☑ | ☑ |

### Volunteer Groups Applied For

Urban Renewal Authority

### Job Description

☑ I have read the job description

### Questions

| | |
|---|---|
| Current Occupation: | Attorney and Owner of Poudre Legal Advisors, LLC |
| Current Employer: | Poudre Legal Advisors, LLC (owner) |
| Prior work experience (please include dates): | Attorney, Partner - March, Olive & Sapienza LLC (2019-2023)<br>Policy Advisor - Health District of Northern Larimer County (2012-2018)<br>Owner and Data Analyst - Vionza Limited (2012-2018)<br>Adjunct Professor (policy) - Colorado School of Public Health (2015)<br>Legislative Assistant and Counsel - US House of Representatives (2009-2011) |
| Volunteer experience (please include dates): | Director, Salud Family Health (2021-present)<br>Director, Fort Collins Municipal Railway (2012-2020)<br>Director, Fort Collins Musicians Association (2015-2018)<br>Director, Northern Colorado AIDS Project (2012-2015)<br>Leadership Fort Collins (2015-2016) |
| Are you currently serving on a City board or Commission? If so, which one? | No |
| Why do you want to become a member of the Urban Renewal Authority? | The URA is an important tool for the City of Fort Collins to proactive address its development needs. While the community |

| | |
|---|---|
| | has strong fundamentals, there are particular areas that need strategic help (North College, Foothills Mall, Midtown) that the URA can provide. Development generally focuses on new building in the outskirts of town, heading toward other municipalities. I want to work with the URA to help make those decisions to ensure that the interior of Town is not forgotten and can continue to thrive. |
| Have you had any exposure to the Urban Renewal Authority If yes, please explain: | Yes;<br>I ve advised elected boards on laws related to URAs (TIFs, etc.) and written policy analyses on the same. I currently am town attorney for the Town of Wellington and work with that Town on a variety of economic development topics that include URAs. |
| Specify any activities which might create a serious conflict of interest if you are appointed: | I am, through my firm, currently the Town Attorney for the Town of Wellington. I do not believe that this would be a conflict of interest, as my service on the URA would be in my personal capacity. |
| Optional: How did you learn of a vacancy on the Urban Renewal Authority | Website |
| List any abilities, skills, certifications, specialized training, or interests you have which are applicable to this board. | My law practice includes municipal law, business and development law, and more that directly touch the issues that the URA is involved in. I ve written reports on URAs and given presentations to many groups on TIF and other public financing methods. I taught public policy at the Colorado School of Public Health and led executive trainings on policy advocacy for non-profit directors; these trainings all included local government processes and financing. |
| Briefly explain what you believe are the three most important issues facing the Urban Renewal Authority (URA), and how do you believe the URA should address each issue You may also attach/upload a separate document if additional space is required. | First, the redevelopment of the Foothills Mall seems to be floundering, which seems to be more an issue of changing retail realities and COVID, than anything. The URA will need to identify how to turn this project into a success in the future, which may require more hands-on involvement with the business plans of future owner operators.<br><br>Second, this project highlights issues around general public-private partnerships that the URA will need to be cognizant of when future proposals are brought forward. COVID changed the world and old ways of using URA resources may need to keep this in mind. I believe this will require a larger focus on the public side of public-private partnerships to make sure such projects succeed.<br><br>I m not sure the current nomenclature for the area, but College Avenue south of Drave will be the next area that needs redevelopment. So many strip malls are |

Dan Sapienza

[redacted]

3/19/2024 10:42 AM

| | |
|---|---|
| | redevelopment. So many strip malls are prime for redevelopment. The URA needs to be proactive in identifying possibilities and helping this area to succeed before it becomes overly blighted. I d like to see the URA start early to set up business and community groups to plan for this area s future. |
| Are you willing to complete the required training if appointed | YES |

April 16, 2024

# AGENDA ITEM SUMMARY
City Council

## STAFF

Katie Donahue, Director, Natural Areas
Matthew Parker, Ecological Stewardship Manager, Natural Areas
Jason Graham, Director, Water Utilities

## SUBJECT

**Staff Report: U.S. Fish and Wildlife Service Award to Natural Areas and Utilities.**

## EXECUTIVE SUMMARY

The purpose of this item is to give Council and the community an update regarding the U.S. Fish and Wildlife Service Award presented to Utilities and Natural Areas in acknowledgement of work supporting the reintroduction of the Black-footed Ferret, an endangered species. Along with an update on Natural Areas land management and recognition of the recent presentation of the Natural Areas Conservation Award to Linda Stanley.

# Natural Areas Department Staff Report



Katie Donahue, Director and Matt Parker, Ecological Stewardship Manager

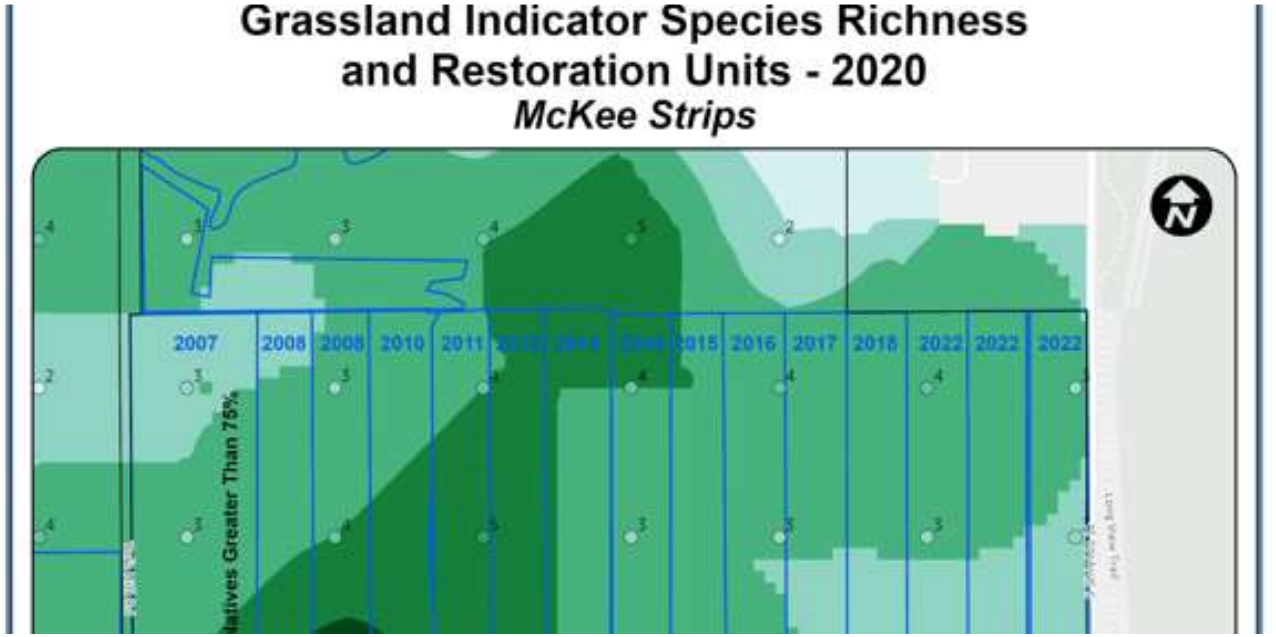
4-16-2024

# Collaborations and Partnerships

Folsom Grazing Association

Natural Fort Grazing Association

# Trends and Challenges in Land Management




Move toward Adaptive Management Cycle

- Species classification vs diversity and function
- Start at the soil; increase absorption
- Build nutrient cycles not dead ends
- Disturbance through grazing and prescribed fire

Decisions based on monitoring feedback

- Plan, do, check, act
- Catch restoration projects before degradation
- Bring a correct, planned disturbance at the right time
- High quality habitat for specialized species

# Function-based Management on a Landscape Scale

# Linda Stanley Receives Conservation Achievement Award

- This award recognizes community-wide, multi-generational impacts to conservation in our region.
- Award presented at the annual Natural Areas Volunteer Appreciation Dinner.
- Ms. Stanley is the second recipient of the Kelly Ohlson Natural Areas Conservation Award.

# Natural Areas Department Staff Report



Katie Donahue, Director and Matt Parker, Ecological Stewardship Manager

4-16-2024

**April 16, 2024**

# AGENDA ITEM SUMMARY
City Council

## STAFF

Noah Beals, Development Review Manager
Paul Sizemore, Director of CDNS
Caryn Champine, Director of PDT

## SUBJECT

**Items Related to the Adoption of a New Land Use Code.**

## EXECUTIVE SUMMARY

A. First Reading of Ordinance No. 055, 2024, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt a Revised Land Use Code by Reference that Advances Adopted City Policy Goals and Incorporates Foundational Improvements and Separately Codify the 1997 Land Use Code as Transitional Land Use Regulations.

B. First Reading of Ordinance No. 056, 2024, Updating City Code References to Align with the Adoption of the Revised Land Use Code.

C. First Reading of Ordinance No. 057, 2024, Amending the Zoning Map of the City of Fort Collins to Rename All Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone Districts to the Old Town Zone District in Conjunction with the Adoption of the Revised Land Use Code.

The purpose of this item is to consider adoption of changes to the City's Land Use Code. The Land Use Code (LUC) Phase 1 Update implements policy direction in City Plan, the Housing Strategic Plan, and the Our Climate Future Plan. Regarding Ordinance No. 055, 2024, corrections to clean up inadvertent numbering in Article 4 are recommended, and a suggested motion to do so is on page 5.

Additionally, this item updates City Code references to match changes to the Land Use Code including updating section references and wording.

Finally, because the revised Land Use Code renames the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer zone districts to the Old Town zone district with corresponding subdistricts A, B, and C, updates to the zoning map to reflect the name changes are proposed. This change only affects the name of the zone districts and no changes to the boundaries are proposed.

## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinances on First Reading.

## BACKGROUND / DISCUSSION

Following the submission and certification of a petition sufficient for referendum, Council reconsidered Ordinance No. 136, 2023, at the Regular Meeting on December 19, 2023. Council adopted Ordinance No. 175, 2023, Repealing Ordinance No. 136, 2023, by a vote of 3-2 , *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 "Transitional Land Use Regulations."* Council directed staff to explore next steps to allow for additional community engagement and refinement of housing-related Land Use Code (LUC) changes.

**Project Overview**

The LUC Phase 1 project began in summer 2021. From July 2021-October 2022, staff led a process to explore changes to the Land Use Code. This process included:

- Community engagement
- Policy analysis and synthesis
- Development of guiding principles
- Diagnostic report of the existing Land Use Code
- Code drafting
- Public review of the draft the Land Development Code

Council adopted Ordinance No. 114, 2022, adopting the Land Development Code. In November and December 2022, a group of voters gathered enough signatures through the City's referendum process to require that Council reconsider the Ordinance. On January 17, 2023, Council repealed Ordinance No. 114, 2022, and directed staff to conduct additional community engagement and further refine housing-related Land Use Code changes.

**Foundational Land Use Code Changes**

As mentioned above, some aspects of the existing 1997 Land Use Code make it difficult to use and understand, especially without graphic representations of form-based requirements and illogical organization of the Code sections. The changes outlined below attempt to correct some of the deficiencies in the existing Land Use Code, especially those related to organization, ease of use, clarification of terms and requirements, and expanded incentives for affordable housing. Changes staff recommends including within a new draft of the LUC include:

- Reorganize content so the most used information is first in the Code
- Reformat zone districts with consistent graphics, tables, and illustrations
- Create a menu of building types and form standards to guide compatibility
- Update use standards, rules of measurement, and definitions to align with new building types and standards
- Expand and re-calibrate incentives for affordable housing
- Regulate density through form standards and building types instead of dwelling units per acre

*Additional Context for Affordable Housing Incentives:* Throughout the engagement process on housing-related Code changes, community members have highlighted affordable housing as an important priority for updates to the Land Use Code. Accordingly, foundational Land Use Code changes would seek to expand and re-calibrate incentives for affordable housing. In addition, allowing an Administrative Review type for projects with at least 10% deed-restricted affordable housing will likely be necessary to maintain

the City's eligibility for funding through Proposition 123. This change to review types for affordable housing developments is also recommended for inclusion in foundational Land Use Code changes. The approach to foundational changes for affordable housing incentives would emphasize:

- Removing Code barriers to building deed-restricted affordable housing
- Providing market feasible incentives to encourage development of more deed-restricted units in a wider range of zone districts
- Utilizing best practices to incentivize affordable housing development through land use regulation, including incentives for increased height, increased density, and reduced parking requirements

Suggestions to require affordable housing in future developments have been heard through community engagement and discussed by Council. Such requirements may be contemplated in the future; however, the foundational Land Use Code changes outlined above must be in place to begin to build a system whereby policies requiring affordable housing can be contemplated and effectively designed.

**Revisions**

This Agenda Item Summary is intended to support Council dialogue by providing a summary of revisions included in the proposed version of the Land Use Code (LUC) included with this AIS. These revisions seek to respond to the feedback received from community members at the public forums and public comments received throughout the project. For each revision, information has been included about what is currently permitted under the existing Land Use Code. Council may also choose to make revisions that have not been outlined here.

| Revisions by Zone District |
|---|
| ***Revisions for RL and UE*:**<br>**1** Remove Accessory Dwelling Unit (ADU) as a permitted housing type |
| ***Revisions for NCL/OT-A:***<br>**2** Remove duplex as a permitted housing type<br>**3** Maintain current lot size for residential units<br>**4** Remove affordable housing incentive of additional housing types (apartment, rowhouse, cottage court) |
| ***Revisions for NCM/OT-B:***<br>**5** Maintain current 4 unit maximum for multi-unit building<br>**6** Maintain current lot size for residential units<br>**7** Remove affordable housing incentive of additional density (+1 unit) |
| ***Revisions for HOAs:***<br>**8** Remove language prohibiting HOAs from regulating the number and/or type of dwelling units permitted on a lot<br>**9** Remove language prohibiting HOAs from regulating the ability to subdivide property |

Residential, Low-Density (RL): The Residential, Low Density (RL) Zone District is the largest residential zone district in Fort Collins. Most neighborhoods within the RL zone district are comprised primarily of single-unit, detached homes. Over 50% of existing housing was built between 1960 and 1997.

Currently allowed under the existing Land Use Code in RL:

- *Housing Types:* Single-unit detached house
- *Max Density:* 1 dwelling unit per lot
- *Lot Size*: 6,000 sq feet minimum *AND* 3 times the total floor area, whichever is greater

- *Maximum Height*: 28 feet for residential buildings

> ***Revision for RL*:**
> 1. Remove Accessory Dwelling Unit (ADU) as a permitted housing type (this revision would also decrease maximum density permitted on a lot)

Neighborhood Conservation, Low Density (NCL) / Old Town-A (OT-A): The Neighborhood Conservation, Low Density Zone District is similar to the RL Zone District in that it permits primarily single-unit, detached houses; however, the NCL Zone also permits "Carriage Houses" on lots over 12,000 square feet (about 10% of all NCL lots). The NCL Zone District areas are generally west and southeast of Downtown. These neighborhoods were mostly built before 1959 and comprise single-family homes on blocks with alleys. Some blocks in the NCL Zone also include duplexes built prior to the current LUC, and some larger lots include Carriage Houses.

A carriage house is a detached single unit dwelling that is behind another detached single unit dwelling. It is limited in size to a maximum 1,000 sf of floor area and requires an additional parking space.

Currently allowed under the existing Land Use Code:

- *Housing Types:* Single-unit detached house; carriage house
- *Max Density:* 1 unit or 2 units for lots >12,000 sf
- *Lot Size*: 6,000 sf minimum; 12,000 sf minimum for carriage house (10% of NCL lots)
- *Maximum Height*: 2 stories; 24 feet for carriage house or building at the rear of the lot

> ***Revisions for NCL/OT-A:***
> 2. Remove duplex as a permitted housing type
> 3. Maintain current lot size for residential units
> 4. Remove affordable housing incentive of additional housing types (apartment, rowhouse, cottage court)

NCM (OT-B) – Neighborhood Conservation, Medium Density Zone District: The Neighborhood Conservation, Medium Density Zone District comprises neighborhoods that are adjacent to Downtown and includes a diverse mix of single-unit detached, duplex, and multi-unit residential buildings often integrated on the same block with commercial uses and services within walking distance.

Currently allowed under the existing Land Use Code:

- *Housing Types:* Single-unit detached house; carriage house; multi-unit up to 4 units (e.g. duplex, triplex, fourplex)
- *Lot Size*: 5,000 sf for single-unit detached house; 6,000 sf for multi-unit buildings up to 4 units; 10,000 sf for carriage house
- *Maximum Height*: 2 stories, 24 ft for carriage house or building at the rear of the lot

> ***Revisions for NCM/OT-B:***
> 5. Maintain current 4 unit maximum for multi-unit building
> 6. Maintain current lot size for residential units
> 7. Remove affordable housing incentive of additional density (+1 unit)

Private Covenants/Homeowners Associations (HOAs): There are currently over 200 HOAs registered in Fort Collins. They vary based on neighborhood size, housing type and the types of things their covenants address.

Current Land Use Code regulations for HOAs:

- *Can not prohibit or limit:* xeric landscaping, solar/photovoltaic collectors on roofs, clothes lines in back yards, odor controlled compost bins
- *Can not require:* turf grass yards/lots

***Revisions for HOAs:***

8. Remove language prohibiting HOAs from regulating the number and/or type of dwelling units permitted on a lot
9. Remove language prohibiting HOAs from regulating the ability to subdivide property

Corrections to Land Use Code on First Reading – Inadvertent Numbering in Article 4.

The draft of the Land Use Code to be adopted by reference contained some numbering formatting errors in Article 4. Additional numbers were inadvertently added to the Article 4 text on pages 4-11 to 4-13, 4-15 to 4-16, 4-20 to 4-23, 4-35 to 4-37, 4-39 to 4-41, and 4-43 to 4-44. The revised Article 4 with the inadvertent numbering deleted is attached to this AIS in addition to the original version with the numbering errors. Because the Land Use Code is being adopted by reference, and the version that was provided for public review contains the numbering errors, staff recommend that Council adopt a motion specifying that the corrected Article 4 is being adopted. A sample motion is as follows:

> "I move that City Council amend the revised Land Use Code to include the version of Article 4 that has corrected numbering as described in, and attached to, the Agenda Item Summary."

**Change Names of the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone Districts to the Old Town (OT) Zone District**

Consistent with the updated references in the revised Land Use Code, Council is considering whether to change the names of the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer zone districts to the Old Town (OT) zone district and its three corresponding subdistricts OT-A, OT-B, and OT-C.

**Changes to City Code to Conform to the Revised Land Use Code**

Finally, Council is considering changes to City Code to conform to revisions in the Land Use Code including updating section references and wording.

## CITY FINANCIAL IMPACTS

This implementation work will not require additional funding but will require utilization of existing staff capacity and departmental resources.

The current LUC updates are focused on housing-related changes and Code reorganization, and multiple phases will be required to update the entire LUC. Accordingly, staff is also planning a LUC Phase 2 Update, which will address remaining issues in commercial, industrial, environmental and other areas and will also incorporate Code changes that are not directly tied to housing. Funding has been approved for the LUC

Phase 2 project in the 2023-2024 budget cycle. A conversation regarding this topic will be conducted at a Council work session, currently scheduled for June 11, 2024.

## BOARD / COMMISSION / COMMITTEE RECOMMENDATION

**Planning and Zoning Commission**

The Planning and Zoning Commission on a 5-0 vote (Stackmeyer absent) recommended that Council adopt the revised Land Use Code with the following recommended changes/additions:

- Allow attached ADUs in RL,
- Allow ADUs with design parameters in UE,
- Change lot size from 10,000 square feet to 9,500 square feet for allowing carriage houses in the NCM/OTB zone.

These proposed amendments are not included in the version of the Land Use Code being considered on April 16.

The Commission also recommended on a 5-0 vote (Stackmeyer absent) that Council approve the name change of the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer zone districts to the Old Town (OT) zone district with the corresponding subdistricts OT-A, OT-B, and OT-C.

## PUBLIC OUTREACH

Potential changes to the LUC have resulted in robust community dialogue and many comments shared with City Leaders and staff. Throughout summer 2023, staff engaged with hundreds of residents through online comments, virtual engagement opportunities, and in-person events

## ATTACHMENTS

1. Ordinance A for Consideration
2. Exhibit A to Ordinance A
3. Ordinance B for Consideration
4. Ordinance C for Consideration
5. Exhibit A to Ordinance C
6. Exhibit B to Ordinance C
7. Land Use Code Article 1
8. Land Use Code Article 2
9. Land Use Code Article 3
10. Land Use Code Article 4 – as on file with the City Clerk's Office
11. Land Use Code Article 4 – corrected version
12. Land Use Code Article 5
13. Land Use Code Article 6
14. Land Use Code Article 7
15. Presentation

ORDINANCE NO. 055, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REPEALING AND REENACTING SECTION 29-1 OF THE CODE OF THE CITY OF FORT COLLINS TO ADOPT A REVISED LAND USE CODE BY REFERENCE THAT ADVANCES ADOPTED CITY POLICY GOALS AND INCORPORATES FOUNDATIONAL IMPROVEMENTS AND SEPARATELY CODIFY THE 1997 LAND USE CODE AS TRANSITIONAL LAND USE REGULATIONS

A. 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.

B. On March 18, 1997, by adoption of Ordinance No. 51, 1997, the Council of the City of Fort Collins adopted the Land Use Code referred to in Section 29-1 of the City Code, which was subsequently amended and on December 2, 1997, by adoption of Ordinance No. 190, 1997 the City repealed the Land Use Code so adopted and reenacted the Land Use Code dated December 12, 1997 (referred to herein as the "1997 Land Use Code").

C. Since adoption of the 1997 Land Use Code, the City Council adopted Resolution 2019-048 on April 16, 2019 (later ratified by Ordinance No. 40, 2020) adopting a major update of the comprehensive master plan for the City and its additional components and elements such as the Master Street Plan (the "2019 City Plan").

D. On March 2, 2021, City Council adopted the Housing Strategic Plan through Ordinance No. 033, 2021, as an element of the 2019 City Plan with the stated goal that all residents have healthy stable housing they can afford and listing twenty-six housing strategies proposed for implementation to progress toward that goal.

E. On March 16, 2021, by adoption of Resolution 2021, 031, the City adopted the Our Climate Future Plan which set forth strategies and goals to address the City's climate, waste, and energy goals and improve community equity goals and resilience.

F. The City commissioned the Land Use Code Audit dated January 2020 which made certain recommendations to align the 1997 Land Use Code with adopted City plans and policies with a focus on housing-related changes, code reorganization, and equity.

G. The repeal and reenactment to replace the 1997 Land Use Code with the revised Land Use Code by reference pursuant to this Ordinance is desirable to achieve the following goals:

1. Lay the ground work for a future comprehensive review and rewrite of the 1997 Land Use Code;

2. Reorganize the 1997 Land Use Code to make certain foundational improvements including consolidating standards, eliminating repetition, simplifying language, and increasing user-friendliness; and
3. Implement policy goals set forth in the 2019 City Plan, the Housing Strategic Plan, and the Our Climate Future Plan to improve housing supply and affordability while mitigating negative impacts to the climate.

H. City Council made two prior attempts to adopt a revised version of the 1997 Land Use Code:

1. In 2022, City Council adopted the Land Development Code to replace the 1997 Land Use Code through Ordinance No. 114, 2022. City Council subsequently adopted Ordinance No 007, 2023, to repeal Ordinance No. 114, 2022, after receiving a certified referendum petition regarding Ordinance No. 114, 2022.
2. In 2023, City Council adopted a revised version of the 1997 Land Use Code through Ordinance No. 136, 2023. City Council subsequently adopted Ordinance No. 175, 2023, to repeal Ordinance No. 136, 2023, after receiving a certified referendum petition regarding Ordinance No. 136, 2023.

I. Upon the repeal and reenactment to replace the 1997 Land Use Code becoming effective pursuant to this Ordinance, the 1997 Land Use Code shall be separately codified as the "2024 Transitional Land Use Regulations" and limited in its application to the review of pending land development applications submitted and determined to be complete and ready for review pursuant to Land Use Code Section 2.2.4 prior to the effective date of the Land Use Code as set forth in this Ordinance.

J. Pursuant to City Charter, Article II, Section 7, City Council may enact any ordinance which adopts any code by reference in whole or in part provided that before adoption of such ordinance the Council shall hold a public hearing thereon and notice of the hearing shall be published twice in the newspaper of general circulation, published in the city, one (1) of such publications to be at least eight (8) days preceding the hearing and the other at least fifteen (15) days preceding the hearing.

K. In compliance with City Charter, Article II, Section 7, the City Clerk published in the Fort Collins Coloradoan the required hearing notices on March 31, 2024, and April 7, 2024. The attached Exhibit " A" is a copy of the text of the Notice of Public Hearing that was so published and which the Council hereby finds meets the requirements of City Charter Article II, Section 7.

L. Pursuant to City Code Section 1-14, at least one copy of the revised Land Use Code shall be kept on file in the office of the City Clerk available for public inspection, and one copy shall be kept in the office of the chief enforcement officer thereof.

M. On March 21, 2024, the Planning and Zoning Commission recommended to Council on a 5-0 vote (Stackhouse absent) vote that Council adopt the revised Land Use Code with certain changes.

N. City Council has determined that the repeal and reenactment of the 1997 Land Use Code with the revised Land Use Code by reference is appropriate to accomplish the goals set forth above and is in the best interests of the residents of the City.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. Section 29-1 of the Code of the City of Fort Collins is hereby repealed and reenacted to read as follows:

**Sec. 29-1. - Cross reference to Land Use Code**

Pursuant to the authority conferred by Article II, Section 7 of the Charter, there is hereby adopted by reference the Land Use Code which shall have the same force and effect as though set forth herein. The Land Use Code may be used, as applicable, to support the implementation of the Code of the City of Fort Collins; and the Code of the City of Fort Collins may be used, as applicable, to support the implementation of the Land Use Code. One copy of the Land Use Code shall be kept on file in the office of the City Clerk and available for public inspection during regular business hours.

Section 2. The 1997 Land Use Code is hereby repealed and separately codified as the “2024 Transitional Land Use Regulations” and shall be limited in its application to the review of pending land development applications submitted prior to the effective date of the Land Use Code as set forth in this Ordinance.

Section 3. The Land Use Code shall be effective for all land development applications submitted on or after the effective date of this Ordinance.

Section 4. Penalties for Land Use Code violations are set forth in Land Use Code Section 6.26.4 which states:

**6.26.4 CRIMINAL AND CIVIL LIABILITY; PENALTIES**

A. Except as otherwise specified in this Land Use Code, any person (including, without limitation, the developer of, owner of, or any person possessing, occupying or trespassing upon, any property which is subject to this Code, or any agent, lessee, employee, representative, successor or assign thereof) who violates this Code or who fails to comply with any of its requirements or who fails to comply with any orders made thereunder, shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties provided in Section 1-15 of the City Code. Each day that such a violation occurs shall

constitute a separate offense. Nothing contained herein shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violations of this Land Use Code.

B. An owner, property manager or occupant commits a civil infraction by violating any provision of Section 5.14.1 of this Land Use Code. Each day during which the limitation on the number of occupants is exceeded shall constitute a separate violation. A finding that such civil infraction has occurred shall subject the offender(s) to the penalty provisions of Section 1-15(f) of the Code of the City of Fort Collins and any or all of the following actions:

1. the imposition of a civil penalty of not less than five hundred dollars ($500.00) and not more than one thousand dollars ($1,000.00) for each violation;

2. an order to comply with any conditions reasonably calculated to ensure compliance with the provisions of Section 5.14.1 of this Land Use Code or with the terms and conditions of any permit or certificate granted by the City;

3. an injunction or abatement order; and/or

4. denial, suspension or revocation of any city permit or certificate relating to the dwelling unit.

Introduced, considered favorably on first reading on April 16, 2024, and approved on second reading for final passage on May 7, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: May 17, 2024
Approving Attorney: Brad Yatabe

EXHIBIT A TO ORDINANCE NO. 055, 2024

**NOTICE OF PUBLIC HEARING**

NOTICE is hereby given of a public hearing to be held before the Council of the Cityof Fort Collins, Colorado, on April 16, 2024, at 6:00 p.m., or as soon thereafter as the matter may come on for hearing, in the Council Chambers at the City Hall, 300 LaPorte Avenue, Fort Collins, Colorado for the purpose of considering the adoption of an ordinance that repeals the existing Land Use Code and replaces it with a newly revised Land Use Code to be adopted by reference.

Not less than one (1) copy of the newly revised Land Use Code has is on file in the Office of the City Clerk of the City of Fort Collins and is available for public inspection.

The Land Use Code regulates the use and development of real property within the City of Fort Collins. The newly revised Land Use Code reorganizes the existing Land Use Code to enhance clarity and usability, introduces building form standards, and implements policy direction in City Plan, the Housing Strategic Plan, and the Our Climate Future plan.

Individuals who wish to address Council in person or remotely can find specific information on how to do so at https://www.fcgov.com/council/councilcomments.

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 (970) 221-6515 (V/TDD: Dial 711 for Relay Colorado) for assistance.

This notice is given and published by order of the City of Fort Collins, Colorado.

ORDINANCE NO. 056, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
UPDATING CITY CODE REFERENCES TO ALIGN WITH THE
ADOPTION OF THE REVISED LAND USE CODE

A. City Council is adopting the revised Land Use Code pursuant to Ordinance No. 055, 2024, to replace the existing Land Use Code adopted in 1997 ("1997 Land Use Code") that will be codified separately as the 2024 Transitional Land Use Regulations.

B. The purpose of this Ordinance is to update various City Code references to the 1997 Land Use Code to align with the revised Land Use Code.

C. The City Council finds that the changes in this Ordinance are in the best interests of the City of Fort Collins in furthering adoption and utilization of the revised Land Use Code.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. Section 1-15 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 1-15. - General penalty and surcharges for misdemeanors offenses, petty offenses, traffic offenses, and traffic and civil infractions.**

. . .

(f) Except as provided in Paragraph (4) below, any person found responsible for a violation of this Code designated as a civil infraction shall pay a civil penalty for such infraction of not more than three thousand dollars ($3,000). Said amount shall be adjusted for inflation on January 1 of each calendar year. For the purpose of this provision, *inflation* shall mean the annual percentage change in the United States Department of Labor, Bureau of Labor Statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index, plus costs, damages and expenses as follows:

. . .

(3) If a defendant fails to answer a citation for a civil infraction or notice to appear in court or before a Referee for such infraction, a default judgment shall enter in the amount of the civil penalty plus all costs, expenses and damages. In the event a defendant fails to pay a civil penalty, costs, damages or expenses within thirty (30) days after the payment is due or fails to pay a default judgment, the City may pursue any legal means for collection and, in addition, may obtain an

assessment lien against the property that was the subject of the violation if the Code violation is designated as a nuisance in Chapter 20, is a violation of any civil infraction contained in Chapter 5, 12, 20, 24 or 27, or is a violation of Land Use Code ~~Section~~ ~~3.18.16~~ Division 5.14 and was committed by an owner or tenant of the property~~, as defined in Land Use Code Section 5.1.2~~.

. . .

Section 2. Section 2-174 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 2-174. - Historic Preservation Commission.**

. . .

(c) The Commission shall also have the following additional functions:

. . .

(4) To coordinate with the various other City boards, commissions and City staff members whose actions may affect the preservation of historic resources in the community; and

~~(5) To establish a committee of its members to provide advice and, if required under § 2.10.2(H) of the Land Use Code, written recommendations to the owners of eligible historic properties, and of properties located near eligible historic properties, regarding historically appropriate design and site planning for additions, alterations and new construction in the City; provided, however, that any members of such committee who provide such advice or recommendations to property owners under this provision shall refrain from participating in any subsequent decisions of the Commission related to such properties; and~~

(~~6~~5) To provide advice and written recommendations to the appropriate decision maker and/or administrative body regarding plans for properties containing or adjacent to sites, structures, objects or districts that: (a) have been determined to be individually eligible for local landmark designation or for individual listing in the State or National Registers of Historic Places; (b) are officially designated as a local or state landmark or are listed on the National Register of Historic Places; or (c) are located within an officially designated historic district or area.

. . .

Section 3. Section 2-176 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 2-176. - Planning and Zoning Commission.**

. . .

(b) The Commission shall have the following functions:

. . .

(2) To exercise the authority vested in it by state planning and zoning laws subject to the provisions of this Section and the following additional provisions and limitations:

. . .

c. The procedures for development review within the City shall be as established in the Land Use Code or, if applicable, the 2024 Transitional Land Use Regulations. Accordingly, Section 31-23-215, C.R.S., shall have no force or effect in the City; and

. . .

Section 4. Section 2-177 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 2-177. - Land Use Review Commission.**

. . .

(b) The Commission shall have the following powers and duties:

(1) In accordance with and as limited by Land Use Code Division 6.18, ~~T~~to hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with enforcement of the regulations established by the Land Use Code or, if applicable, ~~Articles I through IV of~~ the 2024 Transitional Land Use Regulations ~~in accordance with the provisions of Division 2.10 of the Land Use Code~~; and

(2) To authorize upon appeal in specific cases, and in accordance with the provisions of Division 6.14~~2.9~~ of the Land Use Code, variances from the terms of ~~Articles 3 and 4 of~~ the Land Use Code or, if applicable, ~~Chapter 29, Articles I through IV of~~ the 2024 Transitional Land Use Regulations.

Section 5. Section 4-2 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 4-2. - Exceptions.**

The provisions of this Chapter are subject to such exceptions as may be provided in the Land Use Code or, if applicable, the 2024 Transitional Land Use Regulations.

Section 6. Section 4-117 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 4-117. - Sale of chickens and ducklings; quantity restricted; keeping of chickens and ducks.**

. . .

(b) In those zone districts where the keeping of farm animals (as that term is defined in ~~Section 5.1.2~~Article 7 of the Land Use Code) is not otherwise allowed, the keeping of chickens and/or ducks (poultry) shall be permitted subject to the following requirements and subject to all other applicable provisions of this Chapter.

. . .

Section 7. Section 5-27 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 5-27. - Amendments and Deletions to the 2021 International Building Code.**

The *2021 International Building Code* adopted in §5-26 is hereby amended to read as follows:

. . .

51. A new **CHAPTER 36 SUSTAIANABLE BUILDING CONSTRUCTION PRACTICES** is hereby added to read as follows:

. . .

**3604.2 Definitions applicable to this Chapter:**

**Affordable Housing:** Residential occupancies that meet the criteria established in the Land Use Code ~~Section 5.1.2~~Article 7 as affordable housing.

. . .

Section 8. Section 5-264 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 5-264. - Certificate required for occupancy of dwelling units contained in single-family or two-family dwellings in excess of limit; conditions; revocation or suspension.**

(a) No dwelling unit contained in a single-family or two-family dwelling shall be occupied by more persons than the number of persons permitted under Section ~~3.8.16~~5.14.1 of the Land Use Code unless a certificate of occupancy for an extra-occupancy rental house has been issued for such dwelling by the Building Official.

. . .

Section 9. Section 5-265 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 5-265. - Posting; inspection of books and records; disclosure.**

. . .

(c) Any person selling or leasing a dwelling unit shall forthwith provide all purchasers, lessees or sublessees of such unit with a written disclosure statement, on a form provided by the City, specifying the maximum permissible occupancy of such unit under Section ~~3.8.16~~5.14.1 of the Land Use Code. Such disclosure statement shall be signed and dated by all parties to the transaction immediately upon execution of any deed, contract for purchase and sale or lease pertaining to such unit. In the case of a lease, the following shall apply:

. . .

Section 10. Section 7.5-17 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7.5-17. - Definitions.**

When used in this Article, the following words and terms shall have the following meanings:

*Building permit* shall mean the permit required for new construction and additions under Division 6.13~~2.7~~of the Land Use Code, or, if applicable, ~~Section 29-5(a)~~Division 2.7 of the 2024 Transitional Land Use Regulations, and the permit required for the installation of a mobile home pursuant to Subsection 18-8(b) of this Code; provided, however, that the term *building permit*, as used herein, shall not be deemed to include permits required for the following:

. . .

*Dwelling* shall mean a building used exclusively for residential occupancy, including single-family dwellings, two-family dwellings and multi-family dwellings, and which contains: (a) a minimum of eight hundred (800) square feet of floor area, or (b) in the case of a dwelling to be constructed on the rear portion of a lot in the ~~L-M-N, M-M-N, N-C-L, N-C-M, N-C-B, C-C-N, C-C-R, H-C or E~~ LMN, MMN, OT, CCN, CCR, HC, or E zone districts, a minimum of four hundred (400) square feet of floor area, so long as a dwelling already exists on the front portion of such lot. The term dwelling shall not include hotels, motels, tents or other structures designed or used primarily for temporary occupancy. Any dwelling shall be deemed to be a principal building.

. . .

Section 11. Section 7.5-19 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7.5-19. - Imposition, computation and collection of fees.**

. . .

(b) Notwithstanding any language to the contrary contained in this Article, development projects for which final approval of the associated Project Development Plan, as such terms are defined and described in the 2024 Transitional Land Use Regulations~~Land Use Code~~, had been received prior to June 6, 2017, shall be required to pay the capital expansion fees at the rates in effect prior to June 6, 2017.

Section 12. Section 7.5-24.1 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7.5-24.1. - Entitlement to refund upon abandonment.**

Fees collected pursuant to this Article may be refunded to the current owner of the real property for which the fee was paid in the event that the right to develop the property in accordance with the approved plan has been abandoned as provided in Section 6.3.10(B)(3)~~2.2.10(B)~~ of the Land Use Code. Any such refund shall be processed in accordance with the procedures described in § 7.5-25. No such refund based upon abandonment shall be made until the following conditions have been met:

. . .

(2) the property is adequately fenced in accordance with the standards contained in ~~Division 3.8~~Article 4 of the Land Use Code in such manner as to adequately protect, in the judgment of the City Manager, public safety;

. . .

Section 13. Section 7.5-25 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7.5-25. - Procedure to obtain refund.**

(a) All applications for refund under this Article shall be submitted to the Financial Officer. Each application shall be in a form established by the Financial Officer, and shall contain the following:

. . .

(3) for refunds based upon abandonment, a copy of the approval of abandonment in accordance with Section 6.3.10(B)(3)~~Subsection 2.2.10(B)~~ of the Land Use Code; and

. . .

Section 14. Section 7.5-47 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7.5-47. - Definitions.**

When used in this Article, the following words and terms shall have the following meanings:

. . .

*Dwelling unit* shall mean habitable floor space intended for the exclusive use of a single household with a single kitchen, or including a second kitchen pursuant to Land Use Code Section 5.3.6~~one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes~~, located in any *single-unit~~family~~* (attached or detached), *two-unit~~family~~* (attached or detached), or *multi-unit~~family~~* *dwelling* or ~~*mixed-use*~~ *building* containing dwelling unit(s) and nonresidential use(s), as these terms are defined in the Land Use Code.

. . .

Section 15. Section 7.5-81 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7.5-81. - Definitions.**

When used in this Article, the following words and terms shall have the following meanings:

. . .

*Traffic-generating development, commencement of* shall mean the point of approval of a site specific development (as that term is defined in Article ~~5~~7 of the Land Use Code), or the issuance of a building permit, whichever occurs first after the effective date of this Division.

. . .

Section 16. Section 10-30 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 10-30. - Takings determinations.**

Any person who claims that his or her property has been taken by reason of the application of any provision of this Article may apply to the Utilities Executive Director for a Takings Determination using the procedural and substantive requirements and criteria set forth in Division ~~2.13~~6.19 of the City's Land Use Code, provided that, for the purpose of this Section, any reference therein to the Director of Community Development and Neighborhood Services shall be deemed to constitute a reference to the Utilities Executive Director and any reference to the Land Use Code therein shall be deemed to constitute a reference to this Article. Said Takings Determination Procedures shall be exhausted before the institution of any judicial proceeding against the City claiming a taking of affected property.

Section 17. Section 12-18 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 12-18. - Collection and disposal of refuse and rubbish.**

. . .

(b) All refuse containers and recyclable materials that are not required to be enclosed at all times per Land Use Code ~~Section 3.2.5~~Division 5.11 shall be screened except on collection day, or within twelve (12) hours preceding the time of regularly scheduled collection from the premises, when they may be placed curbside as defined in §15-411 of this Code. Refuse containers and recyclable materials shall not, at any time, be placed on the sidewalk or in such a manner as to impair or obstruct pedestrian, bicycle or vehicular traffic.

. . .

Section 18. Section 14-21 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 14-21. - Purpose.**

The standards and procedures in this Article apply in whole or in part to determine the eligibility of resources for designation as landmarks or landmark districts for (1) landmark or landmark district designation pursuant to Article III, (2) the analysis of proposed development pursuant to Land Use Code ~~§ 3.4.7~~Division 5.8, and (3) property owner information.

Section 19. Section 14-23 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 14-23. - Process for determining the eligibility of sites, structures, objects and districts for designation as Fort Collins landmarks or landmark districts.**

(a) *Application*. An application for determining the eligibility of a resource or district for designation as a Fort Collins landmark or Fort Collins landmark district may be made by the owner(s) of the resource(s). A non-binding eligibility determination may be made by a development review applicant pursuant to Land Use Code §Section ~~3.4.7(C)(2)~~5.8.1(D)(2). Said application shall be filed with the Director. Staff may require a current intensive-level Colorado Cultural Resource Survey Form for each resource contained in an application. The applicant shall reimburse the City for the cost of having such a survey generated by a third-party expert selected by the City. Within fifteen (15) days of the filing of such application, and receipt of the intensive-level survey if required, staff shall determine whether the property or properties containing or comprising the site, structure, object or district is eligible for designation as a Fort Collins landmark or landmark district based on the information contained in the application and any additional information that may be provided by others. A determination of eligibility shall be valid for five (5) years unless (1) the Director determines that significantly changed circumstances require a reevaluation of the prior eligibility determination, or (2) the site, structure, object or district is undergoing designation proceedings pursuant to Article 3 of this Chapter in which case, new determinations of eligibility shall occur pursuant to such Article. Staff shall promptly publish the determination in a newspaper of general circulation in the City and cause a sign to be posted on or near the property containing the resource under review stating that the property is undergoing historic review. Said sign shall be readable from a point of public access and shall state that more information may be obtained from staff.

. . .

Section 20. Section 15-108 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 15-108. - All solicitation prohibited by posting of "No Solicitation" or "No Trespassing" sign.**

(a) No solicitor, whether commercial or noncommercial, shall enter or remain upon any private premises in the City if a "No Solicitation" or "No Trespassing" sign is posted at or near the entrance(s) to such premises. For the purposes of this provision, if an occupant of a multi-~~family~~unit dwelling, as defined in ~~Section 5.1.2~~Division 7.2 of the Land Use Code, wishes to prohibit door-to-door solicitation by the posting of a sign, the sign prohibiting solicitation must be posted at or near the entrance(s) to the occupant's individual dwelling.

. . .

Section 21. Section 15-381 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 15-381. - Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

. . .

*Neighborhood zone district* shall mean one (1) of the following zone districts, as established and described in Article 6 and ~~in~~ Article 2~~4~~ of the Land Use Code: Rural Lands (~~R-U-L~~RUL); Urban Estate (~~U-E~~UE); Residential Foothills (~~R-F~~RF); Low Density Residential (~~R-L~~RL); Low Density Mixed-Use Neighborhood (~~L-M-N~~LMN); Medium Density Mixed-Use Neighborhood (~~M-M-N~~MMN); Old Town (OT)~~Neighborhood Conservation, Low Density (N-C-L); Neighborhood Conservation, Medium Density (N-C-M); Neighborhood Conservation, Buffer (N-C-B)~~; and High Density Mixed-Use Neighborhood (~~H-M-N~~HMN).

*Non-neighborhood zone district* shall mean any zone district, as established in and described in Article 6 and Article 2~~Article 4~~ of the Land Use Code, that is not a neighborhood zone district.

. . .

Section 22. Section 15-387 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 15-387. - Restrictions and operation.**

. . .

(b) The vehicles, structures, devices and other similar items described in the license for any outdoor vendor shall not be located by the vendor in any of the following manners or places:

. . .

(5) Upon a public sidewalk within the Downtown Zone District, as defined and established in ~~Article 4~~ Article 2 and Article 6 of the Land Use Code (except as a concessionaire of the City);

. . .

(p) The following additional requirements shall apply to particular types of outdoor vendor licensees, as specified:

. . .

(6) Stationary vendors shall only vend on private parcels of land or lots within non-neighborhood zone districts, as defined and established in ~~Article 4~~ Article 2 and Article 6 of the Land Use Code, and they shall not vend from a private parcel or lot within any neighborhood zone district.

Section 23. Section 15-475 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 15-475. - Location and selection criteria.**

(a) No medical marijuana store shall be issued a license if, at the time of application for such license, the proposed location is:

. . .

(4) Within the boundaries of any ~~R-U-L, U-E, R-F, R-L, L-M-N, M-M-N, N-C-L, N-C-M, N-C-B or H-M-N~~ RUL, UE, RF, RL, LMN, MMN, OT or HMN ~~residential~~ zone district;

(5) In a residential unit~~, except as permitted under Section 3.8.3 of the Land Use Code~~.

. . .

Section 24. Section 15-615 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 15-615. - Location criteria.**

(a) No applicant shall be issued a retail marijuana store license if, at the time of application for such license, such location is:

. . .

(4) Within the boundaries of any ~~R-U-L, U-E, R-F, R-L, L-M-N, M-M-N, N-C-L, N-C-M, N-C-B or H-M-N~~ RUL, UE, RF, RL, LMN, MMN, OT or HMN ~~residential~~ zone district;

(5) In a residential unit~~, except as permitted under Section 3.8.3 of the Land Use Code~~;

. . .

Section 25. Section 15-641 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 15-641. - Definitions.**

The following definitions shall apply to this Article:

. . .

*Dwelling unit* shall mean habitable floor space intended for the exclusive use of a single household with a single kitchen, or including a second kitchen pursuant to Land Use Code Section 5.3.6~~one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes~~, located in a single-unit~~family~~ (attached or detached), two-unit~~family~~ (attached or detached), or multi-unit~~family~~ dwelling or ~~mixed-use~~ building containing dwelling unit(s) and nonresidential use(s) as such terms are defined in the Land Use Code.

. . .

*Short term primary rental* shall mean a dwelling unit that is a primary residence of which a portion is leased to one (1) party at a time for periods of less than thirty (30) consecutive days. An accessory dwelling unit~~carriage house~~, as defined in the Land Use Code, that is not a primary residence is eligible to be a short term primary rental and may be licensed as a short term primary rental if it is located on a lot containing a primary residence. A dwelling unit of a two-unit~~family~~ dwelling, as defined in the Land Use Code, that is not a primary residence is eligible to be a short term primary rental and may be licensed as a short term primary rental if the connected dwelling unit is a primary residence and both dwelling units are located on the same lot. The term short term primary rental shall not

include the rental of a dwelling unit to the former owner immediately following the transfer of ownership of such dwelling unit and prior to the former owner vacating the dwelling unit.

Section 26. Section 15-644 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 15-644. - Licensing requirements.**

(a) The following are the minimum requirements that must be satisfied by the applicant for the issuance of a short term primary rental license.

. . .

(3) The dwelling unit must comply with all applicable federal, state, and local laws including, but not limited to, the Code of the City of Fort Collins and Land Use Code, and in particular, Land Use Code ~~§ 3.2.2(K)(l)(k)~~Section 5.9.1(K)(1)(m) which sets forth applicable parking requirements.

. . .

(b) The following are the minimum requirements that must be satisfied by the applicant for the issuance of a short term non-primary rental license.

. . .

(3) The dwelling unit must comply with all applicable federal, state, and local laws, including, but not limited to, the Code of the City of Fort Collins and Land Use Code, and in particular, Land Use Code ~~§ 3.2.2(K)(l)(k)~~Section 5.9.1(K)(1)(m) which sets forth applicable parking requirements.

. . .

Section 27. Section 15-646 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 15-646. - Licensing of short term primary and non-primary rentals existing prior to Land Use Code restrictions.**

. . .

(b) In addition to satisfying (a) above, the applicant must satisfy the requirements set forth in § 15-644 in order to be eligible for a license. License applications submitted pursuant to this Section on or before October 31, 2017, do not need to comply with the parking requirements in Land Use Code ~~§ 3.2.2(K)(1)~~Section 5.9.1(K)(1)(m).

. . .

(e) Should ownership of a dwelling unit licensed pursuant to § 15-646 be transferred, and such license was continuously valid until the transfer of ownership, the new owner is eligible for a license identical in scope to the previously issued license provided: (1) the new owner applies for a license within thirty (30) calendar days of the transfer of ownership; (2) the dwelling unit complies with the parking requirements in the Land Use Code Section ~~3.2.2(K)(1)(k)~~5.9.1(K)(1)(m); and (3) any license issued pursuant to § 15-646 is continuously maintained. Should a license issued to the new owner under this Section be revoked, not be renewed, or lapse for any period of time, the new owner shall no longer be eligible for a license for such dwelling unit pursuant to this Section.

. . .

Section 28. Section 15-648 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 15-648. - License regulations.**

Upon issuance of a license pursuant to this Article, the following requirements must be met in order for the license to remain valid. Failure to comply with any of the following regulations may result in revocation, suspension, or non-renewal of the issued license pursuant to § 15-649:

. . .

(3) The licensee shall comply with all applicable Code of the City of Fort Collins and Land Use Code provisions including, but not limited to, the Code of the City of Fort Collins Chapter 5, Buildings and Building Regulations, and the Code of the City of Fort Collins Chapter 20, Nuisances, Chapter 25, Taxation, and Land Use Code ~~3.2.2(K)(1)(k)§~~Section 5.9.1(K)(1)(m).

. . .

Section 29. Section 20-23 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 20-23. - Maximum permissible noise levels.**

(a) A noise measured or registered in the manner provided in § 20-24 from any source at a level which is in excess of the dB(A) established for the time period and zoning districts listed in this Section is hereby declared to be a noise disturbance and is unlawful. When a noise source can be identified and its

noise measured in more than one (1) zoning district, the limits of the most restrictive zoning district shall apply.

***Zoning Districts***

***Maximum Nose [dB(A)]***

**Areas zoned:**

. . .

~~Neighborhood Conservation Low Density (N-C-L)~~

~~Neighborhood Conservation Medium Density (N-C-M)~~

~~Neighborhood Conservation Buffer (N-C-B)~~

Old Town (OT)

. . .

Section 30. Section 20-42 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 20-42. - Weeds, unmowed grasses, refuse and rubbish nuisances prohibited.**

. . .

(g) Notwithstanding any other provision of this Section which may be construed to the contrary, the owner or occupant of any property that includes an area that has been established as a natural habitat or feature pursuant to ~~Subsection 3.4.1(D)~~Section 5.6.1(D) of the Land Use Code, or a buffer zone for natural habitat or feature pursuant to ~~Subsection 3.4.1(E)~~Section 5.6.1(E) of the Land Use Code, which area is managed and maintained in accordance with specific conditions established in a site-specific development plan or development agreement, shall not be required to mow said areas other than as required in such development plan or agreement.

. . .

Section 31. Section 20-111 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 20-111. Definitions.**

Unless the context clearly requires otherwise, the following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

. . .

*Nuisance activity* means any of the following violations and nuisances occurring or existing on a property and committed by any person, including, without limitation, by an owner, lessee, agent, occupant, or trespasser:

. . .

(8) Dwelling unit occupancy limits - ~~§ 3.8.16~~Section 5.14.1 of the Fort Collins Land Use Code.

. . .

Section 32. Section 22-99 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 22-99. - Reallocation of assessments.**

(a) In the event that any parcel of land subject to assessment under this article ~~is subdivided~~ undergoes subdivision, as defined in Article ~~5~~7 of the Land Use Code, the owner(s) of all parcels constituting the original tract shall immediately propose in writing to the Financial Officer a reallocation of the assessment as to all such smaller parcels. Such proposal shall include the following information as to each parcel within the original tract:

. . .

Section 33. Section 23-83 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-83. Investigation of application information; fee; permit modification and revocation.**

(a) The application shall be made to the City Manager. The City Manager shall make or cause to be made an investigation of the information contained in the application and prior to the issuance of a permit. In investigating the application, the City Manager may consult with such City departments as they deem necessary to determine whether the application should be approved. The City Manager may issue the permit for such duration and upon such other terms and conditions as the City Manager determines are necessary to protect the public welfare if the following criteria are met:

. . .

(4) In addition to satisfying the above three criteria, the following requirements apply to the following proposed encroachments:

. . .

b. As a condition of the issuance of any permit for the purpose of serving food and/or beverages as referenced in Subsection 23-82(b), the permittee shall:

. . .

4. In order for an application for an encroachment for a wireless ~~telecommunication equipment or facilities~~communication facility (as ~~those terms are~~ defined in Article ~~5~~7 of the Land Use Code) to be approved, the applicant must show to the satisfaction of the City Manager that the applicable criteria contained in Section ~~3.8.13~~4.3.5(H) of the Land Use Code have been met.

. . .

Section 34. Section 23-176 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-176. - Design standards.**

. . .

(c) *Conditions*.

. . .

(5) Landscape requirements.

. . .

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 technically 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)~~Section 5.10.1(D) of the Land Use Code.

. . .

Section 35. Section 24-1 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 24-1. - Signs on streets, sidewalks and public rights-of-way prohibited; removal; exceptions; permit.**

Notwithstanding the provisions of § 17-42, the following signs shall be permitted on streets, sidewalks and other areas owned by the City:

(1) Signs hanging above City sidewalks provided that such signs are solely connected to private property and provided that such signs are allowed under ~~Section 3.8.7~~Division 5.16 of the City's Land Use Code.

. . .

Section 36. Section 24-42 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 24-42. - Maintenance.**

. . .

(c) It shall be the duty of any property owner whose property is adjacent to a pedestrian/bicycle path which was required by the City to be constructed pursuant to the provisions ~~of Articles 3 and/or 4~~ of the Land Use Code or, if applicable, the 2024 Transitional Land Use Regulations, to maintain the paved surface of said pedestrian/bicycle path so that the condition of the same does not endanger the public.

Section 37. Section 24-95 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 24-95. - Obligation for construction.**

. . .

(c) If the City has constructed such local portion of a public street adjacent to undeveloped property or property that may be redeveloped, the City may require, at or before the time of issuance of any building permit for new development or change of use, that the owner of any benefitted adjacent property repay to the City its cost in acquiring the necessary right-of-way and constructing such local portion of such street or other related improvements. For the purpose of this provision, benefit to the adjacent property may include, among other things, the construction of improvements that will allow the adjacent property to be developed in accordance with the requirements of Section ~~3.6.4~~5.4.10 of the Land Use Code where, in the absence of the improvements, such development would not be allowed to proceed. The amount of reimbursement to be paid to the City under this Subsection shall be no less than the original cost of the right-of-way and improvements plus any

mutually agreed-upon amount to reflect the effects of inflation, if any. These adjustments may be based on the construction cost index for Denver, Colorado, as published monthly by the Engineering News Record. (If said index shows deflation, the adjustment shall be made accordingly, but not below the original cost as submitted by the Installing Developer and approved by the City Engineer.) The *original cost of the right-of-way and improvements* shall mean the cost of right-of-way acquisition, financing, engineering, construction and any other costs actually incurred by the City which are directly attributable to the improvements.

Section 38. Section 26-94 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-94. - Individual service lines for each building required.**

(a) Each property shall be served by its own service line, and no connection with the water utility shall be made by extending the service line from one (1) property to another property. Each building shall be served by a separate service line; however, the Utilities Executive Director may require that a building be served by more than one (1) service line. Separate service lines and meters for irrigation purposes shall be required for all properties, except for: (1) single-family residences; (2) duplex residences; and (3) properties where the annual use for irrigation under the water budget chart under the Land Use Code ~~§3.2.1(E)(3)(b)(1)~~ Section 5.10.1(E)(3)(b) is less than 30,000 gallons per year. For purposes of this Section, the term *building* means a structure standing alone, excluding fences and covered walkways. A separate accessory structure is a separate building. To qualify as one (1) building, all portions, additions or extensions must be connected by an attachment that is an enclosed part of the building and usable by the occupants.

(b) Notwithstanding the provisions of Subsection (a) of this Section, the Utilities Executive Director may, after review and approval of the related plans and specifications, authorize the service of more than one (1) building by a single service line, provided that each of the following requirements is met:

. . .

(3) If the service is for residential use, only one (1) of the buildings may be used as a residential dwelling unless the buildings are located on a single platted lot and one (1) of the buildings is an accessory dwelling unit~~carriage house~~. For purposes of this Section, the term accessory dwelling unit~~*carriage house*~~ shall have the same meaning as in the Land Use Code.

(4) Plant investment fees, water supply requirements and any other applicable charges required in connection with the additional building to which service

is to be provided shall be remitted as provided in this Article. For an accessory dwelling unit~~a carriage house~~, additional plant investment fees and water supply requirements, as well as monthly meter rates and any other water-related charges, shall be determined based on the addition of a new dwelling unit on the property; and

. . .

(c) Notwithstanding the provisions of Subsection (a) above, the Utilities Executive Director may, after review and approval of the related plans and specifications, authorize the service of more than one (1) property by a single, common, private water service line, provided that:

(1) The properties to be served by the line must be single-family attached dwellings on separate platted lots as the term lot is defined in the Land Use Code.

. . .

Section 39. Section 26-149 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-149. - Water supply requirement (WSR); nonresidential service.**

. . .

(b) The minimum WSR shall be calculated using the table in this subsection. The Utilities Executive Director shall determine the type of use to be used based on all relevant information and the common meaning of the listed uses. If various portions of a property are used for separate uses, the WSR for the various portions of the property shall be calculated separately and aggregated to determine the WSR for the entire property. The WSR for any use not addressed by the table shall be calculated pursuant to Subsection (c).

| ***Use*** | ***WSR Calculation*** |
|---|---|
| . . . | . . . |
| Irrigation | Pursuant to water budget chart, Land Use Code ~~§3.2.1(E)(3)(b)(1)~~Section 5.10.1(E)(3)(b) |
| . . . | . . . |

. . .

Section 40. Section 26-256 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-256. - Individual service lines for each building required.**

. . .

(b) Notwithstanding the provisions of Subsection (a) of this Section, the Utilities Executive Director may, after review and approval of the related plans and specifications, authorize the service of more than one (1) building by a single service line, provided that each of the following requirements is met:

. . .

(3) If the service is for residential use, only one (1) of the buildings may be used as a residential dwelling unless the buildings are located on a single platted lot and one (1) of the buildings is an accessory dwelling unit~~carriage house~~. For purposes of this Section, the term accessory dwelling unit~~*carriage house*~~ shall have the same meaning as in the Land Use Code;

(4) Plant investment fees and any other applicable charges required in connection with the additional building to which service is to be provided shall be remitted as provided in this Article. For an accessory dwelling unit~~a carriage house~~, additional plant investment fees, as well as monthly meter rates and any other water-related charges, shall be determined based on the addition of a new dwelling unit on the property; and

. . .

(c) Notwithstanding the provisions of Subsection (a) above, the Utilities Executive Director may, after review and approval of the related plans and specifications, authorize the service of more than one (1) property by a single, common, private sewer service line, provided that:

(1) The properties to be served by the line must be single-family attached dwellings on separate platted lots as the term lot is defined in the Land Use Code.

. . .

Section 41. Section 26-464 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-464. - Residential energy service, schedule R.**

. . .

(b) *Applicability*. This schedule applies to residential customers for all domestic uses in single-family dwellings, individually metered apartments and home occupations as defined in Article ~~5~~7 of the Land Use Code. This schedule may also be applied to existing master metered residential buildings served under this schedule prior to January 1, 1980. Master metering is not available for new or remodeled residential buildings with more than one (1) dwelling unit unless authorized by the Utilities Executive Director. This schedule does not apply to auxiliary or standby service.

. . .

Section 42. Section 26-465 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-465. - All-electric residential service, schedule RE.**

. . .

(b) *Applicability.* This schedule applies to residential customers qualifying under subsection (a) who opt not to receive services under schedule R, for all domestic uses in single-family private dwellings, individually metered apartments and home occupations as defined in Article ~~5~~7 of the Land Use Code.

. . .

Section 43. Section 26-466 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-466. - General service, schedule GS.**

. . .

(b) *Applicability.*

. . .

(2) This schedule does not apply to single-family, individually metered residential units unless:

. . .

b. The unit is not eligible for a Home Occupation License as specified in Article ~~3~~4 of the Land Use Code.

. . .

Section 44. The changes in this Ordinance No. 056, 2024, shall not go into effect until the Land Use Code adopted by Ordinance No. 055, 2024, goes into effect. Should the Land Use Code go into effect and be subsequently repealed by City Council in connection with a referendum petition, this Ordinance shall be automatically repealed effective the same date as the ordinance repealing the Land Use Code.

Introduced, considered favorably on first reading on April 16, 2024, and approved on second reading for final passage on May 7, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: May 17, 2024
Approving Attorney: Brad Yatabe

ORDINANCE NO. 057, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE ZONING MAP OF THE CITY OF FORT COLLINS
TO RENAME ALL NEIGHBORHOOD CONSERVATION LOW
DENSITY, NEIGHBORHOOD CONSERVATION MEDIUM DENSITY,
AND NEIGHBORHOOD CONSERVATION BUFFER ZONE
DISTRICTS TO THE OLD TOWN ZONE DISTRICT IN CONJUNCTION
WITH THE ADOPTION OF THE REVISED LAND USE CODE

A. The City is adopting the revised Land Use Code via Ordinance No. 055, 2024, to replace the Land Use Code originally adopted on December 2, 1997, ("1997 Land Use Code") via Ordinance 190, 1997.

B. The revised Land Use Code will, among other changes, rename all existing Neighborhood Conservation Low Density ("N-C-L"), Neighborhood Conservation Medium Density ("N-C-M"), and Neighborhood Conservation Buffer ("N-C-B") zone districts to become the Old Town ("OT") zone district which is further divided into the following sub-districts:

1. OT-A, Old Town District, Low;
2. OT-B, Old Town District, Medium; and
3. OT-C; Old Tow District, High.

C. The renaming is to better align the purpose of the Old Town zone district under the revised Land Use Code with its name to facilitate public understanding and use of the revised Land Use Code.

D. The rezoning to effectuate the renaming will change only the name of the zone districts and will not affect the existing Sign District Map or Lighting Context Area Map designations within the zone districts being renamed.

E. The existing N-C-L, N-C-M, and N-C-B zone districts are greater than 640 acres in size and pursuant to 1997 Land Use Code Section 2.9.4(H), any rezoning greater than 640 acres in size is a legislative rezoning committed to the legislative discretion of the City Council.

F. The City Planning and Zoning Commission at its meeting on March 21, 2024, recommended on a 5-0 vote (Stackhouse absent) that City Council rename the N-C-L, N-C-M, and N-C-B zone districts to become the OT zone district with corresponding sub-districts OT-A, OT-B, and OT-C.

G. The required notice of this rezoning was published in the Fort Collins Coloradoan on March 31, 2024, and the text of the notice is attached hereto as Exhibit "A."

H. The City Council has determined that the proposed rezoning is consistent with the City's Comprehensive Plan, better aligns the purpose of the zone district with

its name under the revised Land Use Code, and facilitates public understanding and use of the revised Land Use Code; and

I. The City Council has considered the rezoning and finds it to be in the best interests of the City and has determined that the N-C-L, N-C-M, and N-C-B zone districts shall hereafter be renamed the Old Town (OT) zone district with corresponding sub-districts OT-A, OT-B, and OT-C.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The Zoning Map of the City of Fort Collins adopted pursuant to Section 1.3.2 of the Land Use Code of the City of Fort Collins, and referenced in revised Land Use Code Section 6.1.2, is hereby changed and amended to rename all existing Neighborhood Conservation Low Density (N-C-L), Neighborhood Conservation Medium Density (N-C-M), and Neighborhood Conservation Buffer (N-C-B) zone districts to the Old Town (OT) zone district, as further divided into corresponding sub-districts OT-A, OT-B, and OT-C as shown on Exhibit “B” attached hereto and incorporated herein.

Section 2. The existing Sign District Map and Lighting Context Area Map designations within the existing N-C-L, N-C-M, and N-C-B shall not be affected by the renaming to the OT zone district and shall remain in effect in the same locations within the OT zone district and corresponding sub-districts OT-A, OT-B, and OT-C.

Section 3. The renaming to the OT zone district set forth in this Ordinance shall not go into effect until the Land Use Code adopted by Ordinance No. 055, 2024, goes into effect. Should the Land Use Code go into effect and be subsequently repealed by City Council in connection with a referendum petition, this Ordinance shall be automatically repealed effective the same date as the ordinance repealing the Land Use Code.

Section 4. The City Manager is hereby authorized and directed to amend said Zoning Map in accordance with this Ordinance.

Introduced, considered favorably on first reading on April 16, 2024, and approved on second reading for final passage on May 7, 2024.

_____
Mayor

ATTEST:

_____
Interim City Clerk

Effective Date: May 17, 2024
Approving Attorney: Brad Yatabe

EXHIBIT A TO ORDINANCE NO. 057, 2024

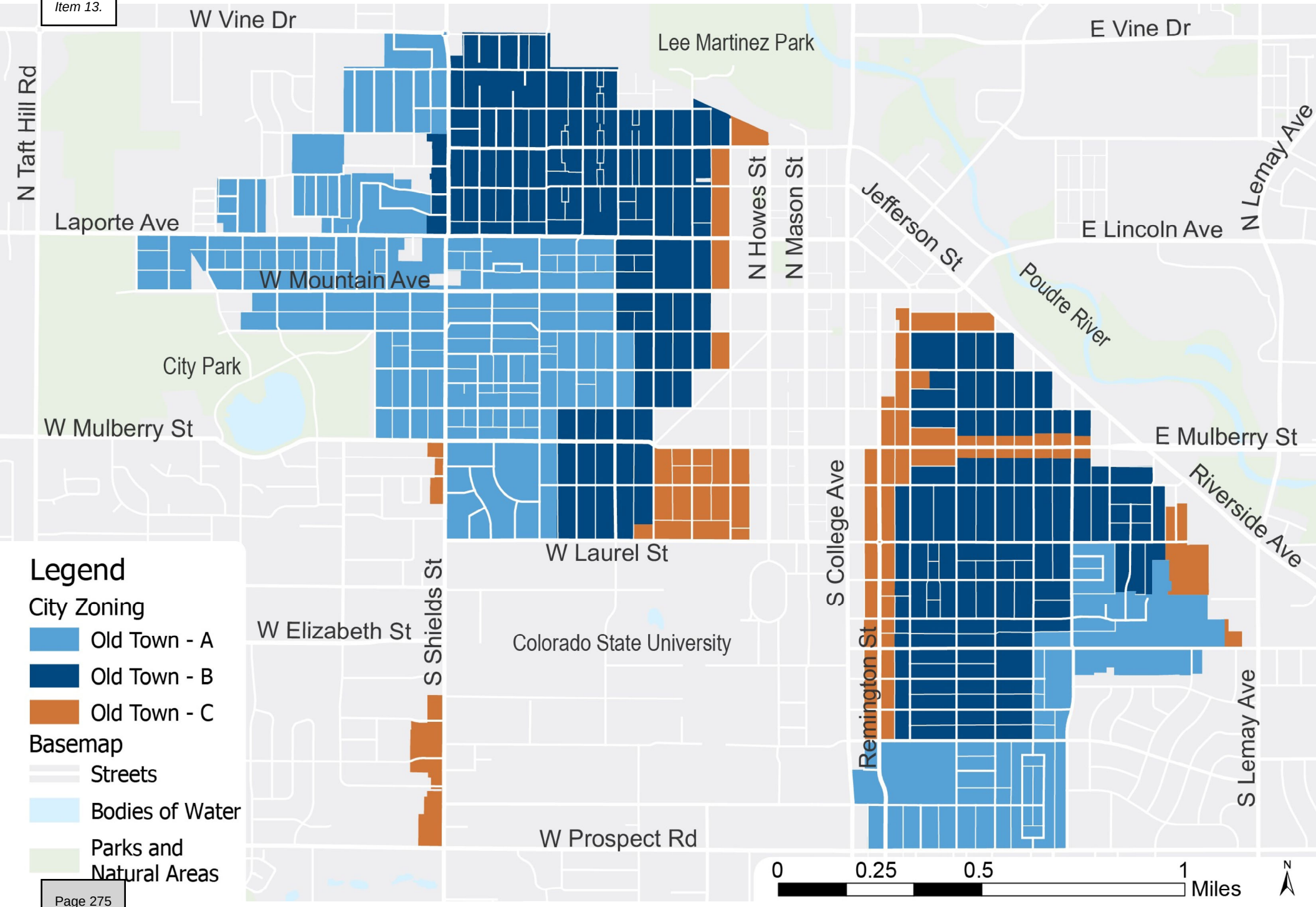
**NOTICE OF PUBLIC HEARING**

NOTICE is hereby given that, on April 16, 2024, 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 to rename the existing Neighborhood Conservation Low Density ("N-C-L"), Neighborhood Conservation Medium Density ("N-C-M"), and Neighborhood Conservation Buffer ("N-C-B") zone districts under the current Land Use Code to the Old Town Neighborhood ("OT") zone district (with OT subdistricts A, B, and C) effective upon the effective date of the revised Land Use Code. Because the combined area of the N-C-L, N-C-M, and N-C-B zone districts exceed 640 acres, this is a legislative rezoning pursuant to Land Use Code Division 2.9.

Individuals who wish to address Council in person or remotely can find specific information on how to do so at https://www.fcgov.com/council/councilcomments.

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 970.221.6515 (TDD 224-6001) for assistance.

This notice is given and published by order of the City of Fort Collins, Colorado.


W Vine Dr
Lee Martinez Park
E Vine Dr
N Taft Hill Rd
Laporte Ave
W Mountain Ave
N Howes St
N Mason St
Jefferson St
E Lincoln Ave
N Lemay Ave
Poudre River
City Park
W Mulberry St
E Mulberry St
Riverside Ave
S College Ave
W Laurel St
S Shields St
W Elizabeth St
Colorado State University
Remington St
S Lemay Ave
W Prospect Rd
Legend
City Zoning
Old Town - A
Old Town - B
Old Town - C
Basemap
Streets
Bodies of Water
Parks and Natural Areas
0
0.25
0.5
1
Miles
N

# LAND USE CODE

# ARTICLE 1

# General Purpose and Provisions

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# ARTICLE 1
# GENERAL PURPOSE and PROVISIONS

## DIVISION 1.1 ORGANIZATION OF LAND USE CODE

The City of Fort Collins Land Use Code is organized into seven (7) Articles as follows:

Article 1: General Purpose and Provisions

Article 2: Zone Districts

Article 3: Building Types

Article 4: Use Standards

Article 5: General Development and Site Design

Article 6: Administration and Procedures

Article 7: Rules of Measurement and Definition

The General Purpose and Provisions contained in **Article 1** address the organization of this Land Use Code ("LUC" or "Code"); its title, purpose and authority and the relationship to the Code of the City of Fort Collins.

All zone districts within the City of Fort Collins and their respective list of permitted uses, prohibited uses, and development standards for particular uses are described in **Articles 2 and 4**. These zone districts directly relate to the Zoning Map and Zone Districts established in Article 6.

**Articles 3 and 5** establish standards that apply to all types of development applications unless otherwise indicated. Collectively, these articles are known as the general development standards and address standards for environmental and historic resource protection (see also, Code of the City of Fort Collins Chapter 14), site, building, and infrastructure design, compact urban growth, and transportation and circulation.

**Article 6**, Administration and Procedures, 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; rules for interpretation; rules for nonconformities; amendments to the text of this Code and/or Zoning Map, enforcement mechanisms, and guidelines and regulations for areas and activities of state interest.

Definitions of terms and measurements used throughout this LUC are included in **Article 7** although definitions specific to areas and activities of state interest are contained in Article 6.

This method of organization, which distinguishes and separates general provisions, administration, general development standards, district standards and definitions, use-specific standards, and sign standards is intended to provide a user-friendly and easily accessible LUC. This is accomplished by consolidating most city regulations addressing land use and development, standardizing the regulatory format, providing common development review procedures, and clarifying standards and definitions.

For an overview on how to use this LUC when applying for a development application or other request, see Section 6.2.2, Overview of Development Review Procedures.

# DIVISION 1.2 TITLE, PURPOSE, AND AUTHORITY

## 1.2.1 TITLE

The provisions contained herein shall be known,
cited and referred to as the "City of Fort Collins Land Use Code," the "Land Use Code," the “LUC,” or as referenced in the Land Use Code, the “Code.”

## 1.2.2 PURPOSE

The purpose of this Code is to improve and protect the public health, safety, and welfare by:

(A) Ensuring that all growth and development which occurs is consistent with this Code, City Plan and its adopted elements, including, but not limited to, the Structure Plan, Principles and Policies and associated sub-area plans.

(B) Implementing the vision of the Housing Strategic Plan that everyone in Fort Collins has healthy, stable housing they can afford.

(C) Supporting *Our Climate Future* goals to reduce energy consumption and greenhouse gas emissions, provide renewable electricity, and achieving zero waste.

(D) Encouraging innovations in land development and renewal.

(E) Fostering the safe, efficient, and economic use of the land, the city's transportation infrastructure, and other public facilities and services.

(F) Facilitating and ensuring the provision of adequate public facilities and services such as transportation (streets, bicycle routes, sidewalks and mass transit), water, wastewater, storm drainage, fire and emergency services, police, electricity, open space, recreation, and public parks.

(G) Avoiding the inappropriate development of lands and providing for adequate drainage and reduction of flood damage.

(H) Encouraging patterns of land use which decrease trip length of automobile travel and encourage trip consolidation.

(I) Increasing public access to mass transit, sidewalks, trails, bicycle routes and other alternative modes of transportation.

(J) Minimizing the adverse environmental impacts of development.

(K) Improving the design, quality and character of new development.

(L) Fostering a more rational pattern of relationship among residential, business and industrial uses for the mutual benefit of all.

(M) Encouraging the development of vacant properties within established areas.

(N) Encouraging a wide variety of housing opportunities at various densities that are well-served by public transportation for people of all ages, abilities, and income levels to promote diversity.

## 1.2.3 AUTHORITY

The City Council of the City of Fort Collins has the authority to adopt this Land Use Code pursuant to Article XX of the Colorado Constitution; Title 31, Article 2 of the Colorado Revised Statutes, the Charter of The City of Fort Collins, Colorado, and such other authorities and provisions as are established in the statutory and common law of the State of Colorado.

## 1.2.4 APPLICABILITY

The provisions of this Code shall apply to any and all development of land, as defined in Article 7 of this Code, within the municipal boundaries of the City, unless expressly and specifically exempted or provided otherwise in this Code. For example, this Code is meant to complement and not override or substitute for the requirements of Chapter 14 of the Code of the City of Fort Collins regarding landmarks. No development shall be undertaken without prior and proper approval or authorization pursuant to the terms of this Code. All development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Code.

Except as hereinafter provided, no building, structure or land shall be used and no building or structure or part thereof shall be erected, constructed, reconstructed, altered, repaired, moved or structurally altered except in conformance with the regulations herein specified for the district in which it is located, nor shall a yard, lot or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein and all other applicable standards of the City or to an amount greater than the maximum requirements set forth herein and all other applicable standards of the City.

This Land Use Code establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications for overall development plans, project development plans, and final plans will be reviewed for compliance with the applicable development standards herein and all other applicable standards of the City. Building permit applications will also be reviewed for compliance with the applicable development standards and District Standards and all other applicable standards of the City and will be further reviewed for compliance with the approved final plan in which they are located.

This Land Use Code shall also apply to the use of land following development to the extent that the provisions of this Land Use Code can be reasonably and logically interpreted as having such ongoing application.

## 1.2.5 MINIMUM STANDARDS

The provisions of this Land Use Code are the minimum standards necessary to accomplish the purposes of this Land Use Code.

# DIVISION 1.3 LEGAL

## 1.3.1 RELATIONSHIP TO CODE OF THE CITY

This Land Use Code, although not a numbered Chapter of the Code of the City, is adopted by reference in Chapter 29 of the Code of the City and made part thereof, with the same legal significance as though it were a numbered Chapter. This Land Use Code may be used, as applicable, to support the implementation of the Code of the City; and the Code of the City may be used, as applicable, to support the implementation of this Land Use Code. Particularly, but without limitation, the provisions of Chapter 1 of the Code of the City are incorporated into this Land Use Code by reference.

## 1.3.2 CONFLICT BETWEEN LAND USE CODE STANDARDS AND CONFLICT WITH OTHER LAWS

(A) In the event of a conflict between a standard or requirement contained in Articles 2, 3, or 4 a standard or requirement in Article 5, the standard or requirement in Article 2, 3, or 4 shall prevail to the extent of the conflict. In the event there is a conflict between standards or requirements contained in Article 2, 3, or 4, the more specific standard or requirement shall prevail to the extent of the conflict. If neither standard or requirement is more specific, the more stringent standard or requirement shall prevail to the extent of the conflict.

(B) In the event of conflicts not addressed in (A), if the provisions of this Land Use Code are internally conflicting or if they conflict with any other statute, code, local ordinance, resolution, regulation or other applicable Federal, State, or local law, the more specific standard, limitation, or requirement shall govern or prevail to the extent of the conflict. If neither standard is more specific, then the more stringent standard, limitation or requirement shall govern or prevail to the extent of the conflict.

## 1.3.3 SEVERABILITY

It is the legislative intent of the City Council in adopting this Land Use Code that all provisions hereof shall be liberally construed to protect and preserve the peace, health, safety and general welfare of the inhabitants of the City. it is the further intent of the City Council that this Land Use Code shall stand, notwithstanding the invalidity of any part thereof, and that should any provision of this Land Use Code be held to be unconstitutional or invalid by a court or tribunal of competent jurisdiction, such holding shall not be construed as affecting the validity of any of the remaining provisions.

# ARTICLE 2

# Zone Districts

# ARTICLE **2**

# ZONE DISTRICTS

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# DIVISION 2.1 RESIDENTIAL DISTRICTS

SECTION 2.1.1

# RUL
## Rural Lands District

### PURPOSE

The Rural Lands District is intended for privately owned lands that are planned as a rural edge to the community. Rural lands include but are not limited to community separators, clustered residential development, large lot residential, agriculture, natural area buffers and corridors and other open lands of similar character and purpose.

### BUILDING TYPES

The following building types are permitted in the RUL District:

- Detached House (Urban & Suburban)
- Residential Cluster
- Detached Accessory Structure
- Accessory Dwelling Unit

### DEVELOPMENT STANDARDS

#### BUILDING HEIGHT

| | |
|---|---|
| **Single-Unit Dwelling** | 3 Stories max. |

#### LOT SIZE

| | |
|---|---|
| **Lot Area (Except Residential Cluster)** | 435,600 ft$^2$ (10 Acres) min. |

#### RESIDENTIAL CLUSTER

Sites in the Rural Lands District may be developed as a Residential Cluster according to the Residential Cluster Building Type standards established in Section 3.1.10. In a cluster development, lot sizes may be reduced in order to cluster the dwellings together on a portion of the property, with the remainder of the property permanently preserved as public or private open space.

#### LOT WIDTH

| | |
|---|---|
| **Single-Unit Dwelling > 10 Acres** | 200’ min. |
| **Single-Unit Dwelling Residential Cluster Developments** | 60’ min. |
| **All Other Uses** | 100’ min. |

#### SETBACKS*

| | |
|---|---|
| **Front Setback - From Arterial Streets** | 80’ min. |
| **Front Setback > 10 Acres** | 60’ min. |
| **Rear Setback > 10 Acres** | 50’ min. |
| **Side Setback > 10 Acres** | 50’ min. |

* For Residential Cluster development, see Building Types.

#### Airport Critical Area

No residential use shall be permitted within the designated Airport Critical Area.

# UE
# Urban Estate District

## PURPOSE

The Urban Estate District is intended to be a setting for a predominance of low-density and large-lot housing. The main purposes of this District are to acknowledge the presence of the many existing subdivisions which have developed in these uses which function as parts of the community and to provide additional locations for similar development, typically in transitional locations between more intense urban development and rural or open lands.

## BUILDING TYPES

The following building types are permitted in the UE District:

- Detached House (Urban & Suburban)
- Duplex
- Residential Cluster
- Detached Accessory Structure

## DEVELOPMENT STANDARDS

### LOT SIZE

| | |
|---|---|
| **Lot Area (Except Residential Cluster)** | 21,780 $ft^2$ (1/2 Acre) min. |

### LOT WIDTH

| | |
|---|---|
| **Single-Unit Dwelling** | 100’ min. |
| **Single-Unit Dwelling (Subdivided before 1997)** | 60’ min. |

### RESIDENTIAL CLUSTER

Sites in the Urban Estate District may be developed as a Residential Cluster according to the Residential Cluster Building Type standards established in Section 3.1.10. In a cluster development, lot sizes and widths may be reduced in order to cluster the dwellings together on a portion of the property, with the remainder of the property permanently preserved as public or private open space.

### SETBACKS*

| | |
|---|---|
| **Front Setback** | 30’ min. |
| **Front Setback (Subdivided before 1997)** | 20’ min. |
| **Rear Setback** | 25’ min. |
| **Rear Setback (Subdivided before 1997)** | 15’ min. |
| **Side Setback** | 20’ min. |
| **Side Setback (Subdivided before 1997)** | 5’ min. |

* For Residential Cluster development, see Building Types.

### BUILDING HEIGHT

| | |
|---|---|
| **Single-Unit Dwelling** | 3 Stories max. |

# RF
# Residential Foothills District

## PURPOSE

The Residential Foothills District designation is for low density residential areas located near the foothills.

## BUILDING TYPES

The following building types are permitted in the RF District:

- Detached House (Urban & Suburban)
- Residential Cluster
- Detached Accessory Structure
- Accessory Dwelling Unit

RF Cluster Development

## DEVELOPMENT STANDARDS

### LOT WIDTH

| | |
|---|---|
| **Single-Unit Dwelling** | 200’ min. |

### LOT SIZE

| | |
|---|---|
| **Lot Area (Except Residential Cluster)** | 100,000 $ft^2$ (2.29 Acres) min. |

No elevation of any building built on a lot in the RF District shall extend above five thousand two hundred fifty (5,250) feet above mean sea level.

### SETBACKS*

| | |
|---|---|
| **Front Setback** | 60’ min. |
| **Rear Setback** | 50’ min. |
| **Side Setback** | 50’ min. |

* For Residential Cluster development, see Building Types.

### BUILDING HEIGHT

| | |
|---|---|
| **Single-Unit Dwelling** | 3 Stories max. |

### RESIDENTIAL CLUSTER

Sites in the Residential Foothills District may be developed in a Residential Cluster according to the Residential Cluster Building Type standards established in Section 3.1.10. In a cluster development, lot sizes may be reduced in order to cluster the dwellings together on a portion of the property, with the remainder of the property permanently preserved as public or private open space.

# RL

# Low Density Residential District

## PURPOSE

The Low Density Residential District designation is intended predominantly for single-unit dwellings, complementary accessory uses, and supportive neighborhood uses located throughout the City.

# RL - Low Density Residential District

## EXISTING CONDITIONS

## BUILDING TYPES

The following building types are permitted in the RL District:

| BUILDING TYPES | # OF UNITS* | LOT AREA |
|---|---|---|
| **Detached House (Urban & Suburban)** | 1 max. | 6000 ft$^2$ min. |
| **Detached Accessory Structure** | See Section 3.1.8 | |

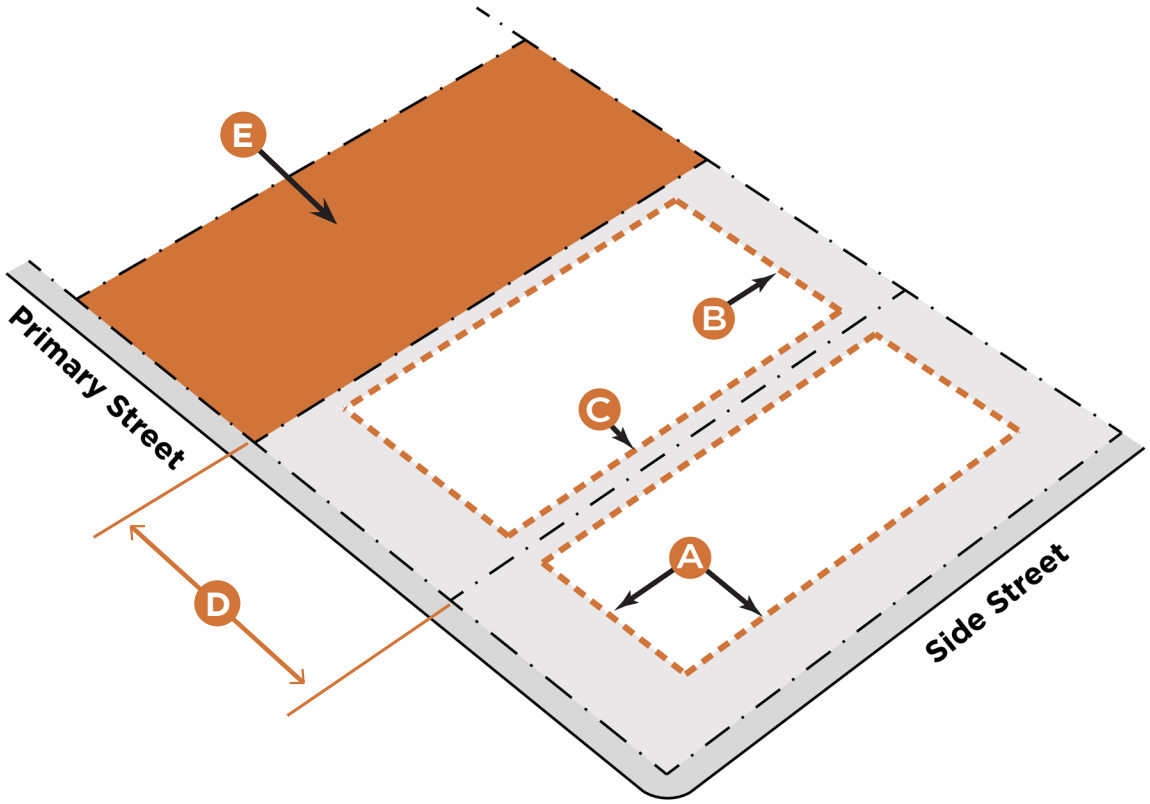
*The total number of units shall not exceed one (1) on a lot.

*Refer to Building Types Article 3 and Use Standards Article 4 for specific definitions.*

# RL - Low Density Residential District

## DEVELOPMENT STANDARDS

### BUILDING PLACEMENT




### SETBACKS

| | |
|---|---|
| **Front Setback** | 20’ min. A |
| **Rear Setback** | Along Alley - 5’ min. B<br>No Alley - 15’ min |
| **Garage Door Setback (side or rear alley)** | 8’ min. |
| **Residential - Side Setback** | Corner Lot - 15’ min. A<br>Interior Lot - 5’ min. C |

### LOT WIDTH

| | |
|---|---|
| **Single-Unit Dwelling** | 60’ min. D |
| **Child-Care Center** | 60’ min. |
| **All Other Uses** | 100’ min. |

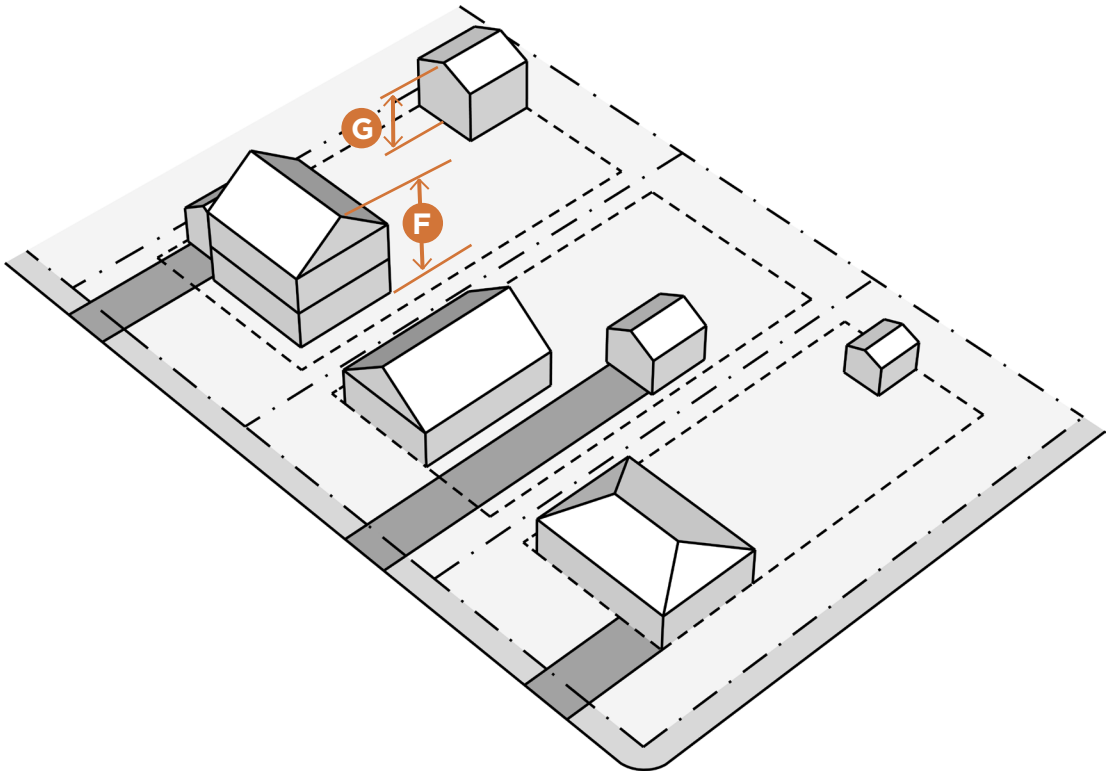
### LOT SIZE E

| | |
|---|---|
| **Lot Area** | 6,000 ft$^2$ min. |

# RL - Low Density Residential District

## DEVELOPMENT STANDARDS

### BUILDING ENVELOPE




| BUILDING HEIGHT | | |
|---|---|---|
| Single-Unit Dwelling, Group Home, or Child-Care Center | 28' max. | F |
| All Other Uses | 3 Stories max. | |

| ACCESSORY BUILDING HEIGHT | | G |
|---|---|---|
| Detached Accessory Structure with or without habitable space | 28' max.* | |

| HEIGHT SETBACK | |
|---|---|
| Upper Story Setback | Above 2 stories, a 25' min. upper story setback shall apply. |

Applies only to Non-Residential Buildings.

*Accessory buildings and structures may not exceed the height of any existing or proposed principal building on the lot by more than two (2) feet.

# MH

# Manufactured Housing District

## PURPOSE

The MH Manufactured Housing District is intended for existing manufactured housing communities located throughout the City. This designation is designed to preserve and support existing manufactured housing communities as the predominant residential use alongside other complementary accessory and nonresidential activities which primarily serve residents of manufactured housing communities.

## BUILDING TYPES

The following building types are permitted in the MH District:
- Mobile Home
- Detached House (Urban & Suburban)
- Detached Accessory Structure

## DEVELOPMENT STANDARDS

| SETBACKS | |
|---|---|
| **Front Setback*** | 15’ min. |
| **Rear Setback*** | 10’ min. |
| **Side Setback*** | 10’ min. |
| **Distance Between Buildings** | 10’ min. |

* Setbacks are from property line.

| BUILDING HEIGHT | |
|---|---|
| **Single-Unit Dwelling** | 3 Stories max. |

| BUILDING FOOTPRINT | |
|---|---|
| **Maximum** | 5,000 ft² |

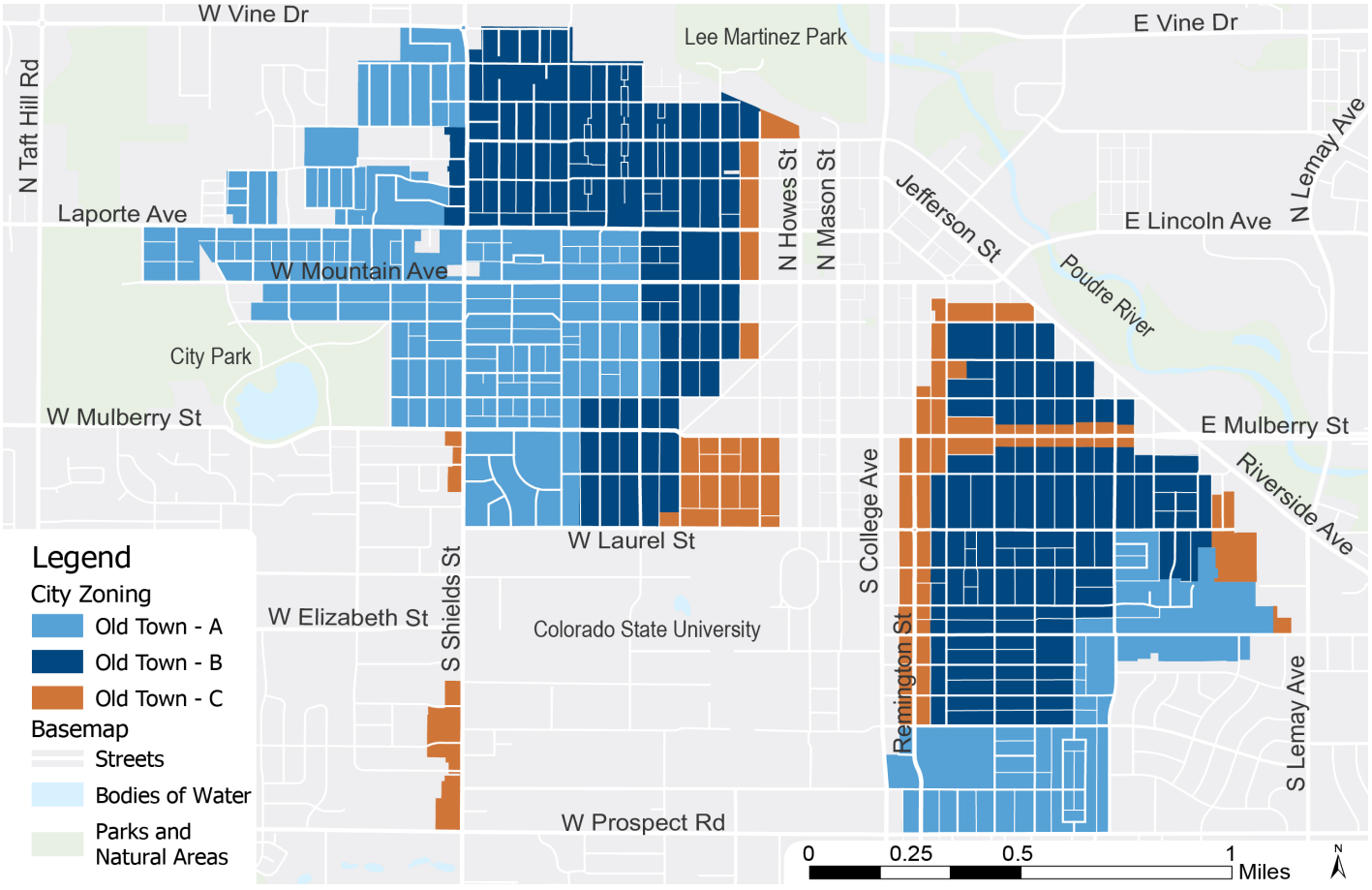
# OT
# Old Town District

## PURPOSE

The Old Town District is intended to preserve the unique history, character, and scale of the neighborhoods developed adjacent to Downtown and Colorado State University (CSU) and given this designation in accordance with an adopted subarea plan. The District is divided into three (3) subdistricts and is intended to encourage a mix of housing options, choices, and intensities as permitted by each subdistrict, which is described on the following pages. The Old Town Districts consists of the following three (3) sub-districts:

**OT-A - Old Town District, Low**
**OT-B - Old Town District, Medium**
**OT-C - Old Town District, High**

All standards within this zone district apply to all sub-districts, unless stated otherwise.



# OT-A

## Old Town District, Low

### PURPOSE

The Old Town District, Low (OT-A) subdistrict has a predominance of single-unit dwellings, complementary accessory dwellings and uses, and supportive neigborhood uses.

### BUILDING TYPES

The following building types are permitted in the OT-A subdistrict:

| BUILDING TYPES | UNITS * | LOT AREA | FLOOR AREA | ADDITIONAL SITE REQUIREMENT |
|---|---|---|---|---|
| **Detached House (Urban & Suburban)** | 1 max. | 6,000 ft² min. | 2,400 ft² max. | N/A |
| **ADU (Detached Only)** | 1 max. | 12,000 ft² min. | See Section 3.1.9 | Located behind a Detached House |
| **Detached Accessory Structure** | See Section 3.1.8 | | | N/A |

*The total number of units shall not exceed two (2) on a lot.

*Refer to Building Types Article 3 and Use Standards Article 4 for specific definitions.*

# OT-B

## Old Town District, Medium

### PURPOSE

The Old Town District, Medium (OT-B) subdistrict is intended to preserve the character of areas that have a predominance of developed single-unit and low- to medium-density multi-unit housing and have been given this designation in accordance with an adopted subarea plan.

### BUILDING TYPES

The following building types are permitted in the OT-B subdistrict:

| BUILDING TYPES | UNITS* | LOT AREA | FLOOR AREA | ADDITIONAL SITE REQUIREMENT |
|---|---|---|---|---|
| **Detached House (Urban & Suburban)** | 1 max. | 5,000 ft² min. | 2,400 ft² max. | N/A |
| **Duplex** | 2 max. | 5,000 ft² min. | 40% of lot area max. | N/A |
| **Triplex** | 3 max. | 6,000 ft² min. | 70% of lot area max. | N/A |
| **Apartment Building** | 4 max. | 6,000 ft² min. | 85% of lot area max. | N/A |
| **ADU (Detached Only)** | 1 max. | 10,000 ft² min. | See Section 3.1.9 | Located behind either a Detached House, Duplex, or Triplex |
| **Detached Accessory Structure** | See Section 3.1.8 | | | |

*The total number of units shall not exceed four (4) units on a lot.

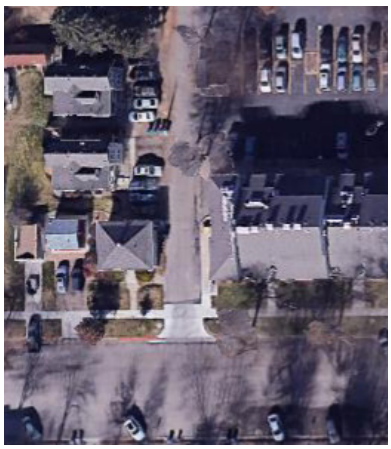
*Refer to Building Types Article 3 and Use Standards Article 4 for specific definitions.*

# OT-C

## Old Town District, High

### PURPOSE

The Old Town District, High (OT-C) subdistrict is intended for areas that are a transition between Downtown, the CSU campus, and adjacent neighborhoods. Intensive commercial-use areas or high traffic zones have been given this designation in accordance with an adopted subarea plan.



### BUILDING TYPES

The following building types are permitted in the OT-C subdistrict:

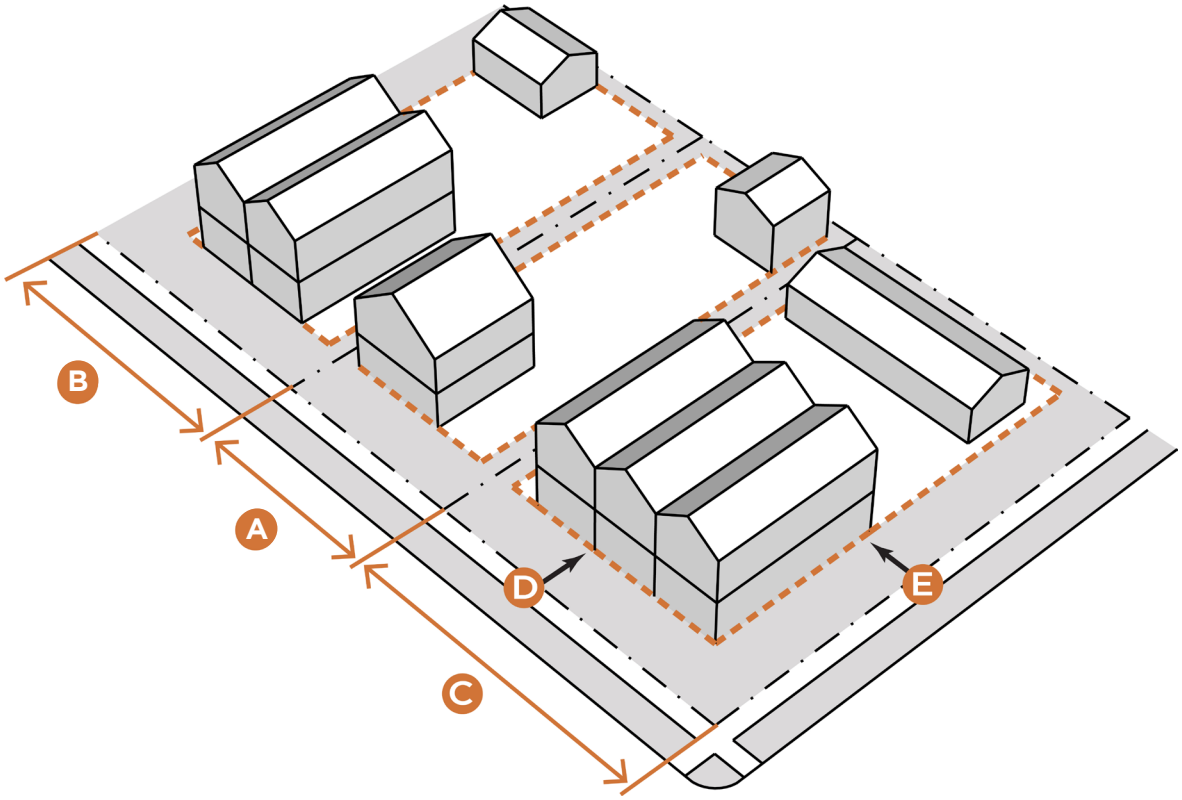
| BUILDING TYPES | UNITS | LOT AREA | FLOOR AREA | ADDITIONAL SITE REQUIREMENT |
|---|---|---|---|---|
| **Detached House (Urban & Suburban)** | 1 max. | 4500 ft² min. | 2,400 ft² max. | N/A |
| **Duplex** | 2 max. | 4500 ft² min. | No max. | N/A |
| **Apartment Bldg.** | 3 min. | 4500 ft² min. & additional 750 ft² min. for each unit greater than 3 units | No max. | N/A |
| **Rowhouse** | 2 min. to 3 max. | 4500 ft² min. | No max. | N/A |
| | 4 max. | 6000 ft² min. | No max. | N/A |
| | 5 max. | 7500 ft² min. | No max. | N/A |
| **Cottage Court** | 5 min. | 9000 ft² min. | See Section 3.1.3 | N/A |
| **Mixed-Use** | 3 min. | 4500 ft² min. & additional 750 ft² min. for each unit greater than 3 units | No max. | N/A |
| **ADU** | 1 max. | N/A | See Section 3.1.9 | Located behind either a Detached House, Duplex, or Triplex |
| **Detached Accessory Structure** | See Section 3.1.8 | | | |

*Refer to Building Types Article 3 and Use Standards Article 4 for specific definitions.*

# OT - Old Town District (Low, Medium, and High)

## DEVELOPMENT STANDARDS

### BUILDING PLACEMENT




| LOT WIDTH | | |
|---|---|---|
| Detached House | 40’ min. | A |
| Duplex | 40’ min. | B |
| All Others | 50’ min. * | C |

* Exception for Rowhouse Building Type. See Section 3.1.4.

| SCHOOLS & PLACES OF WORSHIP & ASSEMBLY SETBACKS | |
|---|---|
| Front Setback | 15’ min. |
| Side Setback (interior and street) | 25’ min. |
| Rear Setback | 15’ min. |

| RESIDENTIAL BUILDING SETBACKS | | |
|---|---|---|
| Front Setback | 15’ min. | D |
| Side Setback, Interior | 5’ min. | |
| Side Setback, Street | 9’ min. | E |
| Rear Setback, No Alley | 15’ min. | |
| Rear Setback, Alley | 5’ min. | |
| Garage Setback (from walkway) | 20’ min. | |
| Garage Door Setback (side or rear alley) | 8’ min. | |

# OT - Old Town District (Low, Medium, and High)

## DEVELOPMENT STANDARDS

### BUILDING ENVELOPE

#### BUILDING HEIGHT

| | |
|---|---|
| **OT-A** | 28' max.* |
| **OT-B** | 28' max.* |
| **OT-C** | 4 stories max. |
| **Front Porch** | 1 story max. |

A second floor shall not overhang the lower front or side exterior walls of a new or existing building.

*The max height may exceed 28' by the height required to raise the building to comply with floodplain regulations

#### BUILDING DESIGN

Additional design standards apply in the following conditions. See Article 7 for measurement details.

| | BULK PLANE | FRONT FACADE | SIDE FACADE |
|---|---|---|---|
| **2-Story Dwelling Replacing 1-Story Dwelling** | ◉ | ◉ | |
| **New Buildings > 2,500 ft²** | ◉ | ◉ | ◉ |
| **Second Story Addition > 3,000 ft²** | ◉ | ◉ | ◉ |

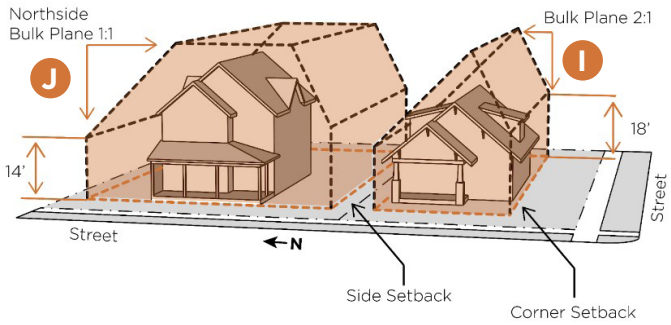
◉ Required

#### FLOOR AREA - REAR LOT AREA

| | |
|---|---|
| **OT-A** | 25% max. of rear 50% lot area |
| **OT-B & OT-C** | 33% max. of rear 50% lot area |

#### BULK PLANE

| | |
|---|---|
| **All Applicable Buildings**, as specified in the Building Design Table | Building shall be setback an additional 1' for every 2' of height above 18'. (I) |
| **North facing walls, when along side-interior lot line with an adjoining property** | Building shall be setback an additional 1' for every 1' of height above 14'. (J) |




#### FRONT FACADE DESIGN

At least one (1) front façade feature from the menu below shall be included to promote pedestrian orientation and compatibility with the character of the structures on the block face. See Section 7.1.2 for details.

- Limited 2-story facade
- 1-story element
- Covered entry

#### SIDE FACADE DESIGN

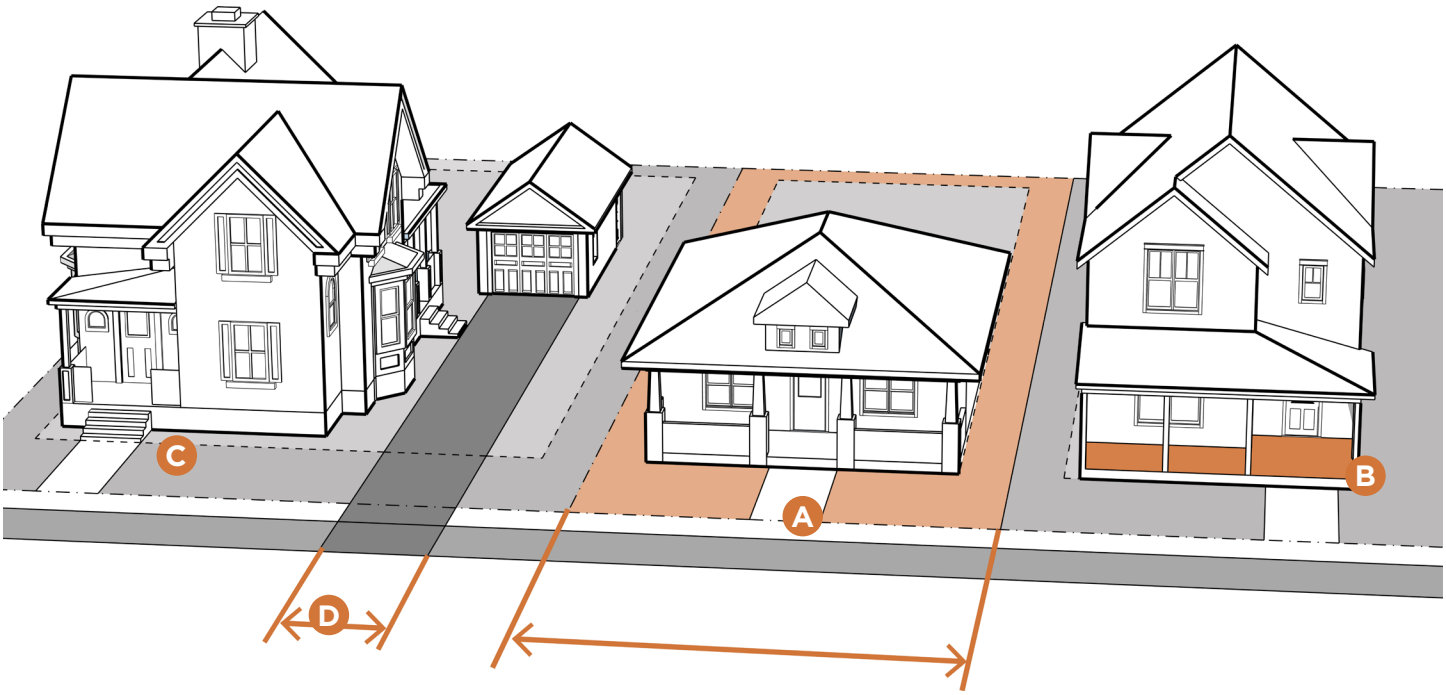
At least one (1) side façade feature from the menu below shall be included to address potential looming and privacy impacts on neighbors. See Section 7.1.2 for details.

- Wall Offset
- Step Down in Height
- 1-story element
- Additional setback

# OT - Old Town District (Low, Medium, and High)

## DEVELOPMENT STANDARDS

### SITE DESIGN




### ENTRANCES

| | | |
|---|---|---|
| **Primary Entrance*** | Face street or common court | A |
| | Primary Entrance shall include architectural feature such as a porch, landing or portico. | B |

*Unless otherwise required for ADA access.

### LANDSCAPE / HARDSCAPE

| | | |
|---|---|---|
| **Front Yard Coverage[1]** | Maximum 40% of front yard can be covered with inorganic material such as asphalt, concrete, pavers, stone, rock or gravel. | C |

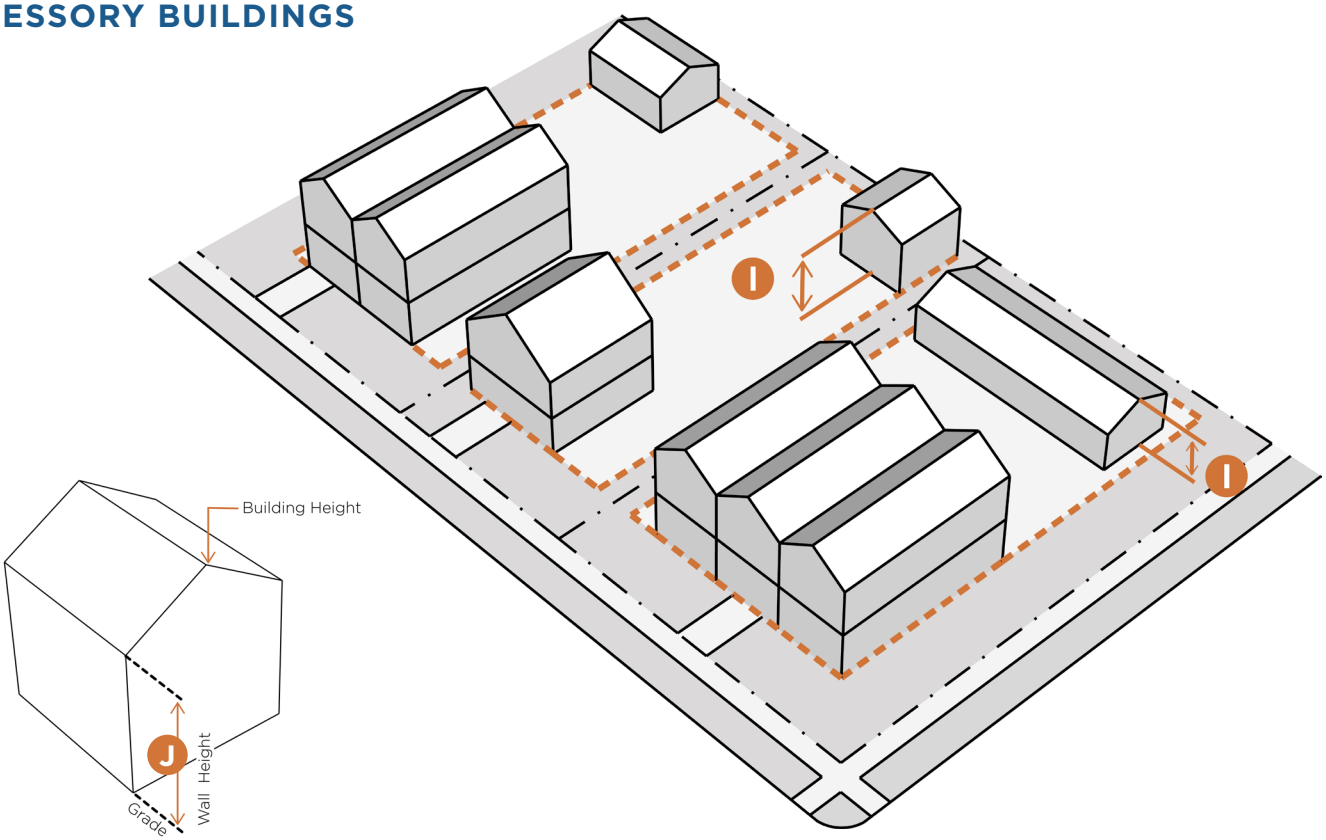
### ACCESS & PARKING

| | |
|---|---|
| **Alley Access** | Whenever a lot has access along an alley, any new off-street parking area located on such lot must obtain access from such adjoining alley. |
| **Existing Driveways** D | Alley access shall not be required when a new detached garage is proposed to be accessed from an existing driveway that has a curbcut along a public street, or when alley access is determined by the City Engineer to be a hazard to persons or vehicles. |
| **Off-Street Parking** | Permanent open off-street parking areas for all permitted principal uses, other than single-unit dwellings, shall not be located any closer to a public street right-of-way than the distance by which the principal building is set back from the street right-of-way. This provision shall not be construed to preclude temporary parking in driveways. |

# OT - Old Town District (Low, Medium, and High)

## DEVELOPMENT STANDARDS

### ACCESSORY BUILDINGS




#### DETACHED ACCESSORY STRUCTURE HEIGHT (Maximum)

| | |
|---|---|
| ADU Height | 24' max. / or as tall as the primary building (whichever is less)* |
| Accessory Building (Non-Habitable) | 20' max. or as tall as the primary building (whichever is less)* I |
| Wall Height (along interior side lot line) | 13' max. J |

*Shall apply to buildings that have applied for a builidng permit on or after January 1, 2024.

#### DETACHED ACCESSORY STRUCTURE DORMER or SIMILAR ARCHITECTURAL FEATURE

| | |
|---|---|
| Width (along side lot line) | 8' max. |
| Stepback from first story | 2' min. |

#### ACCESSORY BUILDING - LOT STANDARDS

| | |
|---|---|
| ADU Floor Area | 1000 ft$^2$ max. / or 45% of primary dwelling unit (whichever is less) |
| ADU Setback from Primary Dwelling | 5' min. |

# DIVISION 2.2 MIXED-USE DISTRICTS

SECTION 2.2.1

# LMN

## Low Density Mixed-Use Neighborhood District

### PURPOSE

The Low Density Mixed-Use Neighborhood District is intended to be a setting for a variety of housing, providing diverse opportunities for single unit and accessory dwellings to attached units and small and medium-sized multi-unit structures. The District also encourages complementary commercial and institutional land uses and amenities that serve the everyday needs of a residential neighborhood. Parks and neighborhood centers are integrated into new and existing development and the broader community through the pattern of streets, blocks, and other linkages, providing an attractive and walkable focal point for services, open space, and recreation.

For the purposes of this Section, a neighborhood shall be considered to consist of approximately eighty (80) to one hundred sixty (160) acres, with its edges typically consisting of major streets, drainageways, irrigation ditches, railroad tracks and other major physical features.

# LMN - Low Density Mixed-Use Neighborhood District

## EXISTING CONDITIONS

## BUILDING TYPES

The following building types are permitted in the LMN District:

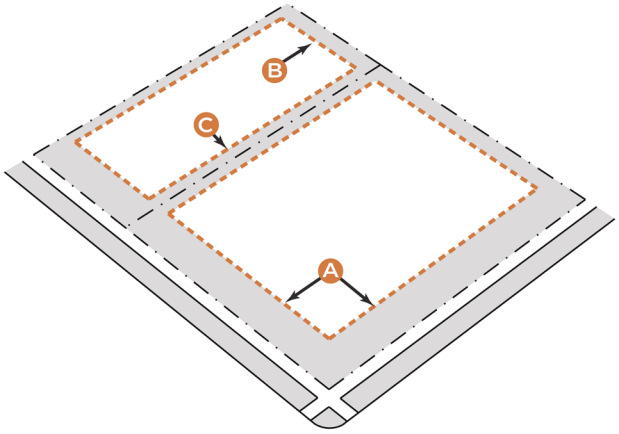
| LMN BUILDING TYPES | # OF UNITS | MAXIMUM DENSITY | | MIN. DENSITY |
|---|---|---|---|---|
| | | BASE | BONUS | |
| Non-Residential | N/A | N/A | N/A | N/A |
| Mixed-Use | 1 min. | 1 unit per 3,630 sq. ft. of site area | No max. density for affordable housing projects | 1 unit per 10,000 sq. ft. of site area |
| Apartment | 3+ min. | | | |
| Rowhouse | 2+ min. | | | |
| Cottage Court | 3+ min. | | | |
| Duplex | 2 max. | | | |
| Detached House - Urban | 1 max. | | | |
| Detached House - Suburban | 1 max. | | | |
| ADU | 1 max. | N/A | N/A | N/A |
| Detached Accessory Structure | See Section 3.1.8 | N/A | N/A | N/A |

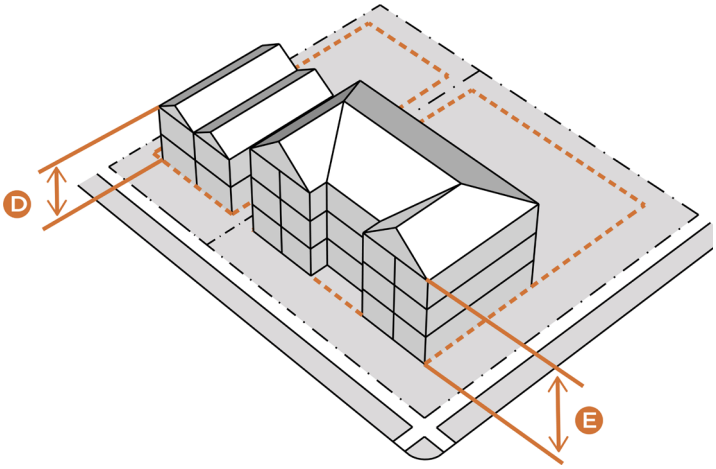
*Minimum and Maximum Density applies to an entire site or subdivision.*

# LMN - Low Density Mixed-Use Neighborhood District

## DEVELOPMENT STANDARDS

### BUILDING PLACEMENT & BUILDING ENVELOPE




#### RESIDENTIAL BUILDING SETBACKS

| | | |
|---|---|---|
| **Front Setback - from Arterial streets** | 15' min. | A |
| **Front Setback - from Non-Arterial streets** | 9' min. | |
| **Rear Setback** | 8' min. | B |
| **Side Setback** | 5' min. | C |

#### CONTEXTUAL HEIGHT SETBACK

For properties abutting a zone district with a lower maximum building height.*

| | |
|---|---|
| **Upper Story Setback** | 25' min. upper story setback from property line above 2 stories |

* This does not apply to detached units, duplexes, or accessory structures.

#### BUILDING HEIGHT

| | | |
|---|---|---|
| **Residential - Up to 3 Units** | 2.5 Stories max. | D |
| **Residential - 4+ Units** | 3 Stories max. | E |
| **Non-Residential & Mixed-Use** | 1.5 Stories min.<br>2.5 Stories max. | |

#### FLOOR AREA

| | |
|---|---|
| **Residential - 4+ Units** | 14,000 $ft^2$ max. |
| **Affordable Housing Development Bonus** | 20,000 $ft^2$ max. |

#### BUILDING FOOTPRINT

| | |
|---|---|
| **Non-Residential & Mixed-Use** | 20,000 $ft^2$ max. |
| **Schools, Places of Worship/Assembly** | 25,000 $ft^2$ max. |

# LMN - Low Density Mixed-Use Neighborhood District

## DEVELOPMENT STANDARDS

### BUILDING MASS & SCALE

#### BUILDING MASS

| | |
|---|---|
| **Residential - 4+ Units** | Walls >40 ft in width require Variation in Massing and Facade Articulation (F) |
| **Non-Residential & Mixed-Use** | >10,000 sf requires Variation in Massing |

**Variation in Massing** includes:

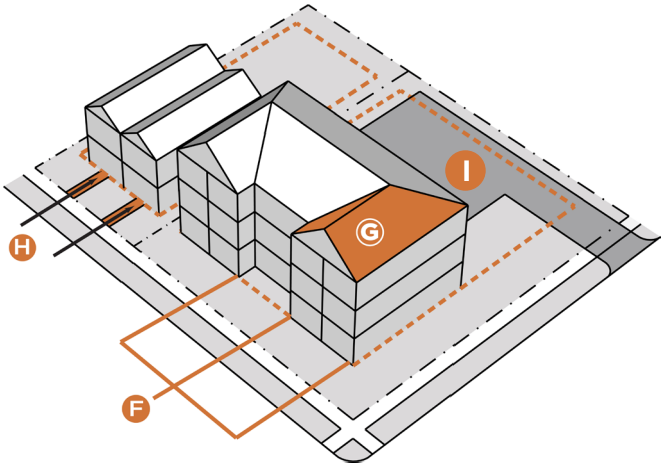
- Massing, wall plane, roof design proportions similar to detached house, so that larger buildings can be integrated into surrounding lower scale neighborhood
- Projections, recesses, covered doorways, balconies, covered box or bay windows and/or other similar features
- Dividing large facades and walls into human-scaled proportions similar to the adjacent single- or two-family dwellings
- Shall not have repetitive, monotonous undifferentiated wall planes.

**Facade articulation** can be accomplished by offsetting the floor plan, recessing or projection of design elements, or change in materials.

#### ROOF DESIGN

| | |
|---|---|
| **Non-Residential & Mixed-Use** | Buildings with a footprint >4000 sf shall have a minimum of 3 Roof Planes<br><br>Variation in roof plane shall relate to overall massing and facade design |
| **Residential - 4+ Units** (G) | Roof Shape shall be sloped (min pitch 6:12), flat, or curved, and must include 2 Roof Design Elements:<br>• Change in roof shape or plane<br>• Variation in height<br>• Flat roof that is stepped or terraced to form usable space, such as a balcony or green roof<br>• Roof element that is directly related to the primary entrance and/or facade articulation |

### ACCESS & PARKING




#### ENTRANCES & ORIENTATION

| | |
|---|---|
| **Residential** | Varies by Building Type (H) |
| | Clearly identifiable and visible connection from the street and public areas. |
| | Incorporate architectural elements and landscaping. |
| **Non-Residential & Mixed-Use** | Entrance faces street, opens directly onto adjoining local street |

If a building has more than one (1) front facade, and if one (1) of the front facades faces and opens directly onto a street sidewalk, the primary entrances located on the other front facade(s) need not face a street sidewalk or connecting walkway.

#### PARKING

| | |
|---|---|
| **Non-Residential & Mixed-Use** | Rear or Side Yards; Parking shall not be between the primary facade and the street. (I) |

# MMN

# Medium Density Mixed-Use Neighborhood District

*Illustration from City Plan*

## PURPOSE

The Medium Density Mixed-Use Neighborhood District is intended to be a setting for a diverse range of higher intensity housing and complementary services and amenities within close proximity to transit and/or commercial districts. This District is intended to function together with adjacent commercial development and/or transit to provide a transition to lower density neighborhoods. Together, the MMN district and its adjacent commercial core and low density neighborhoods are intended to form an integral, town-like pattern of development with a unifying pattern of walkable streets and blocks.

# MMN - Medium Density Mixed-Use Neighborhood District

## EXISTING CONDITIONS

## BUILDING TYPES

The following building types are permitted in the MMN District:

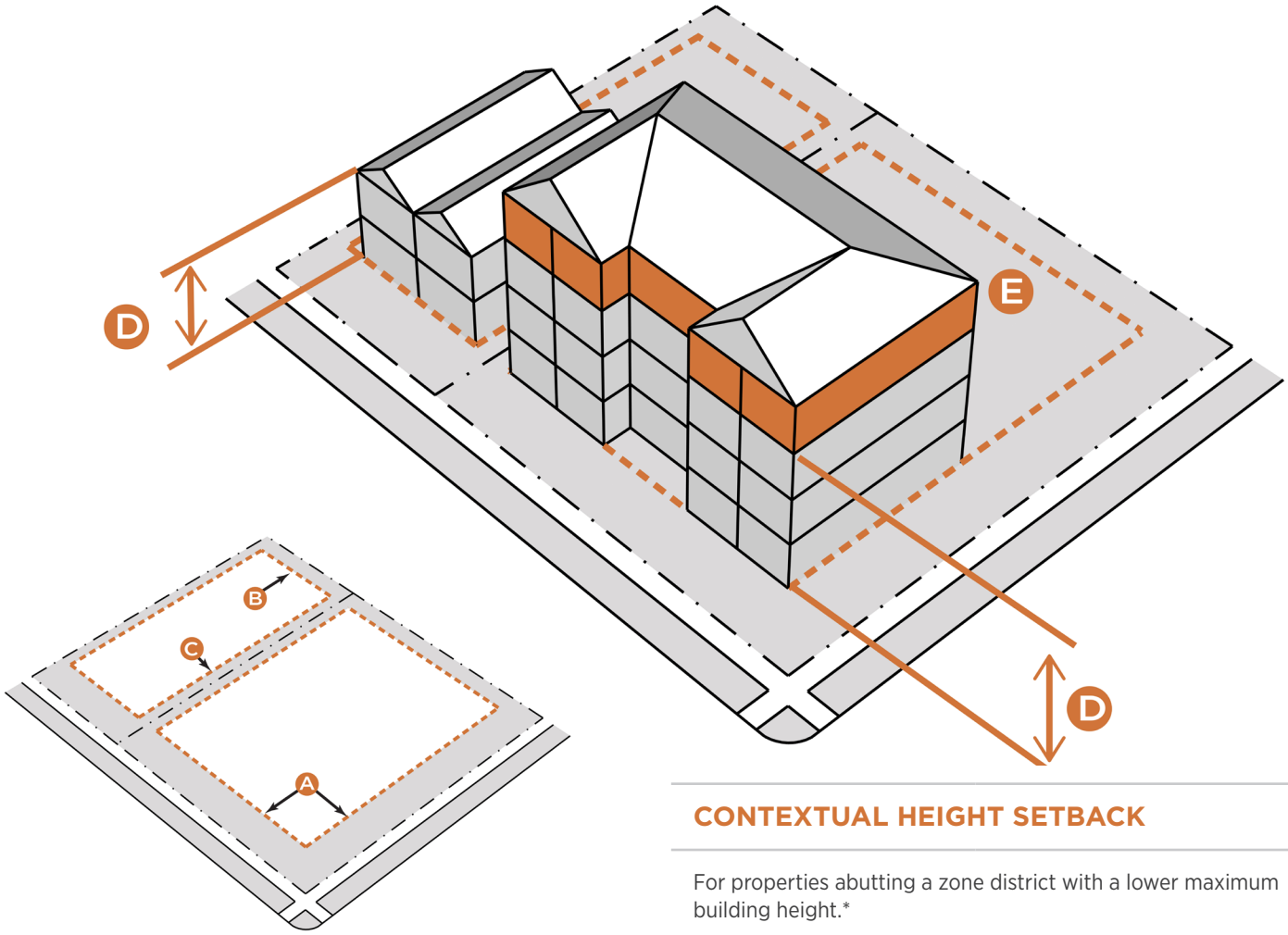
| MMN BUILDING TYPES | # OF UNITS | MAX. DENSITY | MINIMUM DENSITY | |
|---|---|---|---|---|
| | | | > 20 AC | < 20 AC |
| **Non-Residential** | N/A | N/A | N/A | N/A |
| **Mixed-Use** | 1 min. | None | 1 unit per 3,500 sq. ft. of site area | 1 unit per 5,000 sq. ft. of site area |
| **Apartment** | 3+ min. | | | |
| **Rowhouse** | 2+ min. | | | |
| **Cottage Court** | 3+ min. | | | |
| **Duplex** | 2 max. | | | |
| **Detached House - Urban** | 1 max. | | | |
| **Detached House - Suburban** | 1 max. | | | |
| **ADU** | 1 max. | N/A | N/A | N/A |
| **Detached Accessory Structure** | See Section 3.1.8 | N/A | N/A | N/A |

*Minimum and Maximum Density applies to an entire site or subdivision.*

# MMN - Medium Density Mixed-Use Neighborhood District

## DEVELOPMENT STANDARDS

### BUILDING PLACEMENT & BUILDING ENVELOPE




### RESIDENTIAL BUILDING SETBACKS

| | | |
|---|---|---|
| Front Setback - from Arterial streets | 15' min. | A |
| Front Setback - from Non-Arterial streets | 9' min. | |
| Rear Setback | 8' min. | B |
| Side Setback | 5' min. | C |

### CONTEXTUAL HEIGHT SETBACK

For properties abutting a zone district with a lower maximum building height.*

| | |
|---|---|
| Upper Story Setback | 25' min. upper story setback from property line above 2 stories |

* This does not apply to detached units, duplexes, or accessory structures.

### BUILDING HEIGHT

| | |
|---|---|
| All Buildings | 3 Stories max. D |
| Affordable Housing Development Bonus | 4 Stories max. E |

# MMN - Medium Density Mixed-Use Neighborhood District

## DEVELOPMENT STANDARDS

### BUILDING MASS & SCALE

#### BUILDING MASS

| | |
|---|---|
| **Residential - 4+ Units** | Walls >40 ft in width require Variation in Massing and Facade Articulation (F) |
| **Non-Residential & Mixed-Use** | >10,000 sf requires Variation in Massing |

**Variation in Massing** includes:

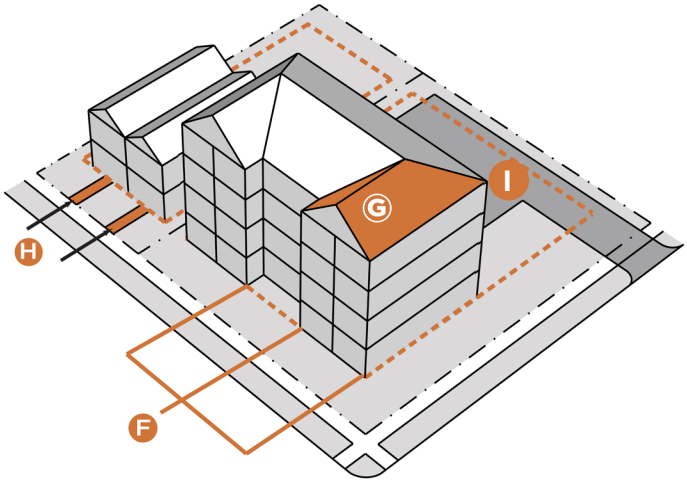
- Massing, wall plane, roof design proportions similar to detached house, so that larger buildings can be integrated into surrounding lower scale neighborhood
- Projections, recesses, covered doorways, balconies, covered box or bay windows and/or other similar features
- Dividing large facades and walls into human-scaled proportions similar to the adjacent single- or two-family dwellings
- Shall not have repetitive, monotonous undifferentiated wall planes.

**Facade articulation** can be accomplished by offsetting the floor plan, recessing or projection of design elements, or change in materials.

#### ROOF DESIGN

| | |
|---|---|
| **Non-Residential & Mixed-Use** | Buildings with a footprint >4000 sf shall have a minimum of 3 Roof Planes<br><br>Variation in roof plan shall relate to overall massing and facade design |
| **Residential - 4+ Units** (G) | Roof Shape shall be sloped (min pitch 6:12), flat, or curved, and must include 2 Roof Design Elements:<br>• Change in roof shape or plane<br>• Variation in height<br>• Flat roof that is stepped or terraced to form usable space, such as a balcony or green roof<br>• Roof element that is directly related to the primary entrance and/or facade articulation |

### ACCESS & PARKING




#### ENTRANCES & ORIENTATION

| | |
|---|---|
| **Residential** | Varies by Building Type (H) |
| | Clearly identifiable and visible connection from the street and public areas. |
| | Incorporate architectural elements and landscaping. |
| **Non-Residential & Mixed-Use** | Entrance faces street, opens directly onto adjoining local street |

If a building has more than one (1) front facade, and if one (1) of the front facades faces and opens directly onto a street sidewalk, the primary entrances located on the other front facade(s) need not face a street sidewalk or connecting walkway.

#### PARKING

| | |
|---|---|
| **Non-Residential & Mixed-Use** | Rear or Side Yards; Parking shall not be between the primary facade and the street. (I) |

# HMN

# High Density Mixed-Use Neighborhood District

*Illustration from City Plan*

## PURPOSE

The High Density Mixed-Use Neighborhood District is intended to be a setting for higher density multi-unit housing and group quarter residential uses (dormitories, fraternities, sororities, etc.) closely associated with, and in close proximity to, the Colorado State University Main Campus, provided that such areas have been given this designation in accordance with an adopted subarea plan. Multistory buildings (greater than one [1] story and up to five [5] stories) are encouraged in order to promote efficient utilization of the land and the use of alternative modes of travel.

# HMN - High Density Mixed-Use Neighborhood District

## EXISTING CONDITIONS

## BUILDING TYPES

The following building types are permitted in the HMN District:

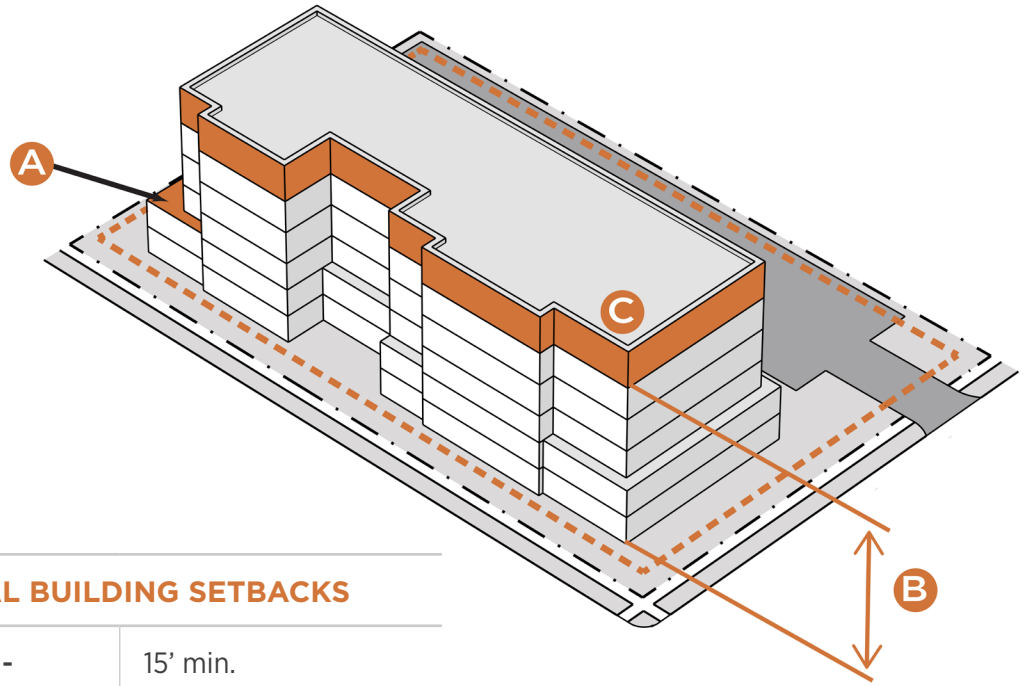
| HMN BUILDING TYPES | # OF UNITS | MAXIMUM DENSITY | MINIMUM DENSITY |
|---|---|---|---|
| **Non-Residential** | N/A | N/A | N/A |
| **Mixed-Use** | 4+ min. | None | 1 unit per 2,000 sq. ft. of site area |
| **Apartment** | 4+ min. | | |
| **Rowhouse** | 3+ min. | | |
| **ADU (with an existing Detached House)** | 1 max. | | |
| **Detached Accessory Structure (with an existing Detached House)** | 1 max. | | |

*Minimum and Maximum Density applies to an entire site or subdivision.*

# HMN - High Density Mixed-Use Neighborhood District

## DEVELOPMENT STANDARDS

### BUILDING PLACEMENT & BUILDING ENVELOPE




#### RESIDENTIAL BUILDING SETBACKS

| | |
|---|---|
| **Front Setback - from Arterial streets** | 15' min. |
| **Front Setback - from Non-Arterial streets** | 9' min. |
| **Rear Setback** | 8' min. |
| **Side Setback** | 5' min. |

#### BUILDING HEIGHT

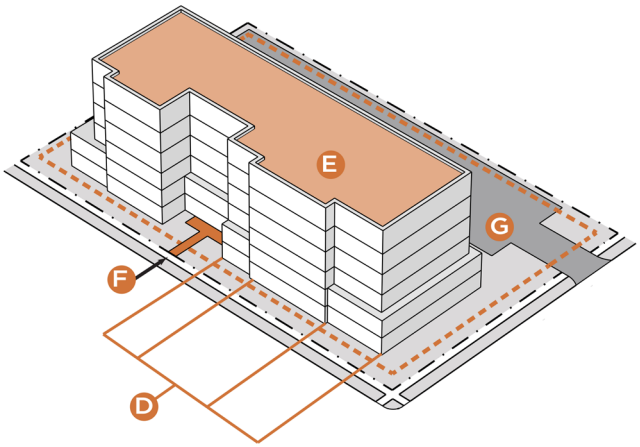
| | |
|---|---|
| **All Buildings** | 5 stories max. B |
| **Affordable Housing Development Bonus** | 6 Stories max. C |

#### CONTEXTUAL HEIGHT SETBACK

Properties abutting a zone district with a lower maximum building height shall comply.*

| | |
|---|---|
| **Upper Story Setback** | 25' min. upper story setback from property line above 2 stories A |
| **Upper Story Setback from Streets** | Wall height above 35' shall be set back an additional 1-ft for every 2-ft in height or fraction thereof |

* This does not apply to detached units, duplexes, or structures.




*Standards for D-Building Mass; E-Roof Design; F-Entrances; G-Parking are on the following page.*

# HMN - High Density Mixed-Use Neighborhood District

## DEVELOPMENT STANDARDS

## BUILDING MASS & SCALE

### BUILDING MASS

| | |
|---|---|
| **Residential - 4+ Units** | Walls >40 ft in width require Variation in Massing and Facade Articulation (D) |
| **Non-Residential & Mixed-Use** | >10,000 sf requires Variation in Massing |

**Variation in Massing** includes:

- Massing, wall plane, roof design proportions similar to detached house, so that larger buildings can be integrated into surrounding lower scale neighborhood
- Projections, recesses, covered doorways, balconies, covered box or bay windows and/or other similar features
- Dividing large facades and walls into human-scaled proportions similar to the adjacent single- or two-family dwellings
- Shall not have repetitive, monotonous undifferentiated wall planes.

**Facade articulation** can be accomplished by offsetting the floor plan, recessing or projection of design elements, or change in materials.

### ROOF DESIGN

| | |
|---|---|
| **Non-Residential & Mixed-Use** | Buildings with a footprint >4000 sf shall have a minimum of 3 Roof Planes<br><br>Variation in roof plan shall relate to overall massing and facade design |
| **Residential - 4+ Units** (E) | Roof Shape shall be sloped (min pitch 6:12), flat, or curved, and must include 2 Roof Design Elements:<br>• Change in roof shape or plane<br>• Variation in height<br>• Flat roof that is stepped or terraced to form usable space, such as a balcony or green roof<br>• Roof element that is directly related to the primary entrance and/or facade articulation |

## ACCESS, PARKING & SITE DESIGN

### ENTRANCES & ORIENTATION

| | |
|---|---|
| **Residential** | Varies by Building Type |
| | Clearly identifiable and visible connection from the street and public areas. (F) |
| | Incorporate architectural elements and landscaping. |
| **Non-Residential & Mixed-Use** | Entrance faces street, opens directly onto adjoining local street |

If a building has more than one (1) front facade, and if one (1) of the front facades faces and opens directly onto a street sidewalk, the primary entrances located on the other front facade(s) need not face a street sidewalk or connecting walkway.

### PARKING

| | |
|---|---|
| **Non-Residential & Mixed-Use** | Rear or Side Yards; Parking shall not be between the primary facade and the street. (G) |

### SITE DESIGN

| | |
|---|---|
| **Front Yards** | Building design, in conjunction with site design, shall include structured elements to mark the transition from the public street to doorways. Examples of such elements are porches, pediments, pergolas, low walls or fencing, railings, pedestrian light fixtures and hedges. |
| **Outdoor Activity** | Buildings and extensions of buildings shall be designed to form outdoor spaces such as balconies, terraces, patios, decks or courtyards. |

# NC
# Neighborhood Commercial District

## PURPOSE / INTENT

The Neighborhood Commercial District is intended to be a mixed-use commercial core area anchored by a supermarket or grocery store and a transit stop. The main purpose of this District is to meet consumer demands for frequently needed goods and services, with an emphasis on serving the surrounding residential neighborhoods typically including a Medium Density Mixed-Use Neighborhood. In addition to retail and service uses, the District may include neighborhood-oriented uses such as schools, employment, day care, parks, small civic facilities, as well as residential uses.

This District is intended to function together with a surrounding Medium Density Mixed-Use Neighborhood, which in turn serves as a transition and a link to larger surrounding low density neighborhoods. The intent is for the component zone districts to form an integral, town-like pattern of development with this District as a center and focal point; and not merely a series of individual development projects in separate zone districts.

## BUILDING TYPES

The following building types are permitted in the NC District:

- Mixed-Use, Apartment, Row House, and Duplex.
- ADU only with an existing Detached House.
- Detached Accessory Structure.
- See Division 3.1 for more details
- All nonresidential buildings permitted under this Section, including industrial buildings, shall meet the standards for mixed-use and commercial buildings contained in Section 5.15.2 of this Code.

# NC - Neighborhood Commercial District

## DEVELOPMENT STANDARDS

### BLOCK STANDARDS

#### BLOCK SIZE

| | |
|---|---|
| **All Blocks** | 7 Acres max. |
| **Blocks with Supermarkets** | 10 Acres max. |

### BLOCK STRUCTURE

Each development within this District shall be developed as a series of complete blocks bounded by public or private streets (see Section 5.3.2(E) for Multi-Family Block Requirements). Natural areas, irrigation ditches, high-voltage power lines, operating railroad tracks and other similar substantial physical features may form up to two (2) sides of a block.

### BUILDING STANDARDS

#### BUILDING HEIGHT

| | |
|---|---|
| **All Buildings** | 4 stories max. |
| **Affordable Housing Development Bonus** | 6 stories max. |

All buildings shall have a minimum height of twenty (20) feet, measured to the dominant roof line of a flat-roofed building, or the mean height between the eave and ridge on a sloped-roof building. In the case of a complex roof with different co-dominant portions, the measurement shall apply to the highest portion. All buildings shall be limited to four (4) stories.

#### BUILDING FRONTAGE

Minimum Building Frontage. Forty (40) percent of each block side or fifty (50) percent of the total of all block sides shall consist of either building frontage, plazas or other functional open space.

### CANOPIES

1. Primary canopies and shade structures shall be attached to and made an integral part of the main building and shall not be freestanding.
2. Freestanding secondary canopies and shade structures that are detached from the building, if any, shall be designed with a pitched roof, or have the appearance of a pitched roof through a false mansard or parapet, to match the primary canopy and relate to the neighborhood character.
3. All canopies shall be designed with a shallow-pitched roof, false mansard or parapet that matches the building. Such roofs, false mansards or parapets shall be constructed of traditional roofing materials such as shingles or cementitious, clay or concrete tiles, or standing seam metal in subdued, neutral colors in a medium value range. The colors shall be designed to relate to other buildings within the commercial center.
4. Canopy fascias and columns shall not be internally illuminated nor externally illuminated with neon or other lighting technique, nor shall canopy fascias or columns be accented, striped or painted in any color except that of the predominant building exterior color.
5. There shall be no advertising, messages, logos or any graphic representation displayed on the canopy fascias or columns associated with drive-in restaurants, financial services and retail stores. This prohibition shall not apply to canopies for covering the retail dispensing or sale of vehicular fuels.
6. Under-canopy lighting shall be fully recessed with flush-mount installation using a flat lens. There shall be no spot lighting.

# 2.3 COMMERCIAL DISTRICTS

SECTION 2.3.1

# CC

## Community Commercial District

### PURPOSE

The Community Commercial District provides a combination of retail, offices, services, cultural facilities, civic uses and higher density housing. Multi-story buildings are encouraged to provide a mix of residential and nonresidential uses. Offices and dwellings are encouraged to locate above ground-floor retail and services.

### BUILDING TYPES

The following building types are permitted in the CC District:

- Mixed-Use, Apartment, Row House and Duplex.
- Detached Accessory Structure
- ADU only with an existing Detached House.
- See Division 3.1 for more details.
- All nonresidential buildings permitted under this Section, including industrial buildings, shall meet the standards for mixed-use and commercial buildings contained in Section 5.15.2 of this Code.

# CC - Community Commercial District

## DEVELOPMENT STANDARDS

### CENTRAL FEATURE OR GATHERING PLACE

At least one (1) prominent or central location within each geographically distinct Community Commercial District shall include a convenient outdoor open space or plaza with amenities such as benches, monuments, kiosks or public art. This feature and its amenities may be placed on blocks with community facilities.

### BLOCK STRUCTURE

Each Community Commercial District and each development within this District shall be developed as a series of complete blocks bounded by public or private streets (see Section 5.3.2(E) for Multi-Family Block Requirements). Natural areas, irrigation ditches, high-voltage power lines, operating railroad tracks and other similar substantial physical features may form up to two (2) sides of a block.

| BLOCK SIZE | |
|---|---|
| **All Blocks** | 7 Acres max. |
| **Blocks with Supermarkets** | 10 Acres max. |

### BUILDING FRONTAGE

Minimum Building Frontage. Forty (40) percent of each block side or fifty (50) percent of the total of all block sides shall consist of either building frontage, plazas or other functional open space.

### INTEGRATION OF THE TRANSIT STOP

Community Commercial Districts shall be considered primary stops on the regional transit network. Transit stops, to the maximum extent feasible, shall be centrally located and adjacent to the core commercial area.

Commercial buildings must be directly visible and accessible from the transit stop. Transfers to feeder buses shall be provided for in the design and location of these stops. (See also Section 5.4.9, Bus Stop Design Standards).

### BUILDING ORIENTATION

The configuration of shops in the Community Commercial District shall orient primary ground-floor commercial building entrances to pedestrian-oriented streets, connecting walkways, plazas, parks or similar outdoor spaces, not to interior blocks or parking lots.

Anchor tenant retail buildings may have their primary entrances from off-street parking lots; however, on-street entrances are strongly encouraged.

The lot size and layout pattern for individual blocks within the Community Commercial District shall support this requirement.

### BUILDING ENVELOPE

| BUILDING HEIGHT | |
|---|---|
| **All Buildings** | 4 stories max. |
| **Affordable Housing Development Bonus** | 6 stories max. |

# CCN

# Community Commercial - North College District

## PURPOSE

The Community Commercial - North College District is for fringes of retail/commercial core areas and corridors. This District is intended for moderate intensity uses that are supportive of the commercial core or corridor, and that help to create a transition and a link between the commercial areas and surrounding residential areas. This designation is only for areas identified for its application in the North College Corridor Plan.

## BUILDING TYPES

The following building types are permitted in the CCN District:

- Mixed-Use, Apartment, Row House and Duplex.
- ADU only with an existing Detached House.
- Detached Accessory Structure.
- See Division 3.1 for more details.
- All nonresidential buildings permitted under this Section, including industrial buildings, shall meet the standards for mixed-use and commercial buildings contained in Section 5.15.2 of this Code.

## DEVELOPMENT STANDARDS

All development in the Community Commercial - North College District shall also comply with the standards contained in the Standards and Guidelines for the North College Avenue Corridor as adopted by the City, to the extent that such standards and guidelines apply to the property to be developed.

### BUILDING HEIGHT

| | |
|---|---|
| **All Buildings** | 4 stories max. |
| **Affordable Housing Development Bonus** | 6 stories max. |

### DENSITY

Single-unit, two-unit and multi-unit housing shall have a minimum density of five (5) dwelling units per net acre calculated on a gross residential acreage basis for any development project. Single-unit housing shall be limited to a maximum of forty (40) percent of the geographically distinct district area.

# CCR
# Community Commercial - Poudre River District

## PURPOSE

The Community Commercial - Poudre River District is for Downtown fringe areas in the Cache la Poudre River corridor with both public street frontage and River frontage. This District provides locations for redevelopment or development of moderate intensity uses that are supportive of Downtown, subject to floodplain restrictions. Such redevelopment or development shall be compatible with the scenic, cultural, natural and historical context of the River and Downtown.

A main purpose of the District is to foster a healthy and compatible relationship between the River, the Downtown and surrounding urban uses. Any significant redevelopment shall be designed as part of a master plan for the applicable group of contiguous properties.

## BUILDING TYPES

The following building types are permitted in the CCR District:

- Mixed-Use, Apartment, Row House and Duplex.
- ADU only with an existing Detached House.
- Detached Accessory Structure
- See Division 3.1 for more details.
- All nonresidential buildings permitted under this Section, including industrial buildings, shall meet the standards for mixed-use and commercial buildings contained in Section 5.15.2 of this Code.

### Prospect Road Streetscape Program

All development in this zone district that is located within the planning area for the Prospect Road Streetscape Program shall also comply with the Prospect Road Streetscape Standards as adopted by the City, to the extent that such Standards apply to the property proposed to be developed.

# CCR - Poudre River District

## DEVELOPMENT STANDARDS

### BUILDING STANDARDS

#### BUILDING HEIGHT

| | |
|---|---|
| All Buildings | 3 stories max. |
| Affordable Housing Development Bonus | 5 stories max. |

#### ROOFLINES

| | |
|---|---|
| Pitch - Gable & Hiproofs | 8:12 min. |
| Pitch - Hipped Roofs Only | 6:12 min. |

Flat-roofed buildings shall feature three-dimensional cornice treatment on all walls facing streets, the River or connecting walkways, unless they are stepped and terraced back to form a usable roof terrace area(s). A single continuous horizontal roofline shall not be used on one-story buildings except as part of a design style that incorporates corbelled masonry and/or cornices.

### PARKING LOTS

Buildings shall be sited so that any new parking lots and vehicle use areas are located in either: 1) interior block locations between buildings that face the street and buildings that face the River, or 2) side yards.

### LANDSCAPE & VEGETATION PROTECTION

The natural qualities of the River landscape shall be maintained and enhanced using plants and landscape materials native to the River corridor in the design of site and landscape improvements.

### OUTDOOR SPACES

Buildings and extensions of buildings shall be designed to form outdoor spaces such as balconies, arcades, terraces, decks or courtyards, and to integrate development with the landscape to the extent reasonably feasible.

### WINDOWS

Windows shall be individually defined with detail elements such as frames, sills and lintels, and placed so as to visually establish and define the building stories and establish human scale and proportion. Glass curtain walls and spandrel-glass strip windows shall not be used as the predominant style of fenestration for buildings in this District. This requirement shall not serve to restrict the use of atrium, lobby or greenhouse-type accent features used as embellishments to the principal building.

### BUILDING MATERIALS

Predominant building colors shall be subdued or neutral shades, within a medium or moderately dark range of value, and not white or reflective.

Textured unit masonry such as brick, stone and tinted, variously textured concrete masonry units, as well as treated wood siding, shall be used in repeating pattern as integral parts of the building fabric to the maximum extent feasible. Any other exterior materials, if used, shall be used as integral parts of the overall building fabric, in repeating modules, proportioned both horizontally and vertically to relate to human scale, and with enough depth at joints between architectural elements to cast shadows.

# CG
# General Commercial District

## PURPOSE

The General Commercial District is intended to be a setting for development, redevelopment and infill of a wide range of community and regional retail uses, offices and personal and business services. Secondarily, it can accommodate a wide range of other uses including creative forms of housing.

While some General Commercial District areas may continue to meet the need for auto-related and other auto-oriented uses, it is the City's intent that the General Commercial District emphasize safe and convenient personal mobility in many forms, with planning and design that accommodates pedestrians.

## BUILDING TYPES

The following building types are permitted in the CG District:

- Mixed-Use, Apartment, Row House and Duplex.
- ADU only with an existing Detached House.
- Detached Accessory Structure.
- See Division 3.1 for more details.
- All nonresidential buildings permitted under this Section, including industrial buildings, shall meet the standards for mixed-use and commercial buildings contained in Section 5.15.2 of this Code.

## DEVELOPMENT STANDARDS

### BUILDING STANDARDS

#### BUILDING HEIGHT

| | |
|---|---|
| **All Buildings** | 4 stories max. |
| **Affordable Housing Development Bonus** | 6 stories max. |

**Prospect Road Streetscape Program**
All development in this zone district that is located within the planning area for the Prospect Road Streetscape Program shall also comply with the Prospect Road Streetscape Standards as adopted by the City, to the extent that such Standards apply to the property proposed to be developed.

### OUTDOOR SPACES

Pedestrian-oriented outdoor spaces shall be placed next to activity areas that generate the users (such as street corners, shops, stores, offices, day care and dwellings). Because liveliness created by the presence of people is the main key to the attractiveness of such spaces, to the maximum extent feasible, the development shall link outdoor spaces to and make them visible from streets and sidewalks. Sculpture, kiosks or shelters are encouraged to be prominently placed in outdoor spaces.

### LANDSCAPE & OPEN SPACE

In multiple-building developments, outdoor spaces and landscaped areas shall be integral to an open space system in conjunction with streets and connections, and not merely residual areas left over after buildings and parking lots are sited.

# CS
# Service Commercial District

## PURPOSE

The Service Commercial District is intended for high traffic commercial corridors where a range of uses is encouraged to create a transition from commercial operations on a highway, arterial street or rail spur, to less intensive use areas or residential neighborhoods. This designation is only for areas that have been designated under an adopted subarea plan as being appropriate for the C-S District.

## BUILDING TYPES

The following building types are permitted in the CS District:

- Mixed-Use, Apartment, Row House and Duplex.
- ADU only with an existing Detached House.
- Detached Accessory Structure
- See Division 3.1 for more details.
- All nonresidential buildings permitted under this Section, including industrial buildings, shall meet the standards for mixed-use and commercial buildings contained in Section 5.15.2 of this Code.

## DEVELOPMENT STANDARDS

## BUILDING STANDARDS

| BUILDING HEIGHT | |
|---|---|
| **Maximum** | 3 stories max. |
| **Affordable Housing Development Bonus** | 5 stories max. |

See Article 5 for additional building design standards.

# CL
# Limited Commercial District

## PURPOSE

The Limited Commercial District is intended for areas primarily containing existing, small commercial uses that are adjacent to residential neighborhoods. Many of these areas have transitioned over time from residential to commercial uses. The District is divided into the Riverside Area and all other areas. The purpose of this District is to allow small scale nonresidential uses to continue to exist or to expand while still protecting surrounding residential areas, provided that such areas have been designated under an adopted subarea plan as being appropriate for the CL District.

## BUILDING TYPES

The following building types are permitted in the CL District:

- Mixed-Use, Apartment, Row House and Duplex.
- ADU only with an existing Detached House.
- Detached Accessory Structure.
- See Division 3.1 for more details.
- All nonresidential buildings permitted under this Section, including industrial buildings, shall meet the standards for mixed-use and commercial buildings contained in Section 5.15.2 of this Code.

### Development Standards in the Riverside Area

Within the Riverside Area, any nonresidential use shall be separated from abutting residential land uses or residential zone districts by a solid fence or wall at least [illegible]t in height.

## DEVELOPMENT STANDARDS

## BUILDING STANDARDS

### BUILDING HEIGHT

| | |
|---|---|
| **All Buildings** | 3 Stories max. |

### BUILDING MASS

| | |
|---|---|
| **Residential - 4+ Units** | Walls >40 ft require Variation in Massing and Facade Articulation |
| **Non-Residential & Mixed-Use** | >10,000 sf requires Variation in Massing |

**Variation in Massing** includes:

- Massing, wall plane, roof design proportions similar to detached house, so that larger buildings can be integrated into surrounding lower scale neighborhood
- Projections, recesses, covered doorways, balconies, covered box or bay windows and/or other similar features
- Dividing large facades and walls into human-scaled proportions similar to the adjacent single- or two-family dwellings
- Shall not have repetitive, monotonous undifferentiated wall planes.

**Facade articulation** can be accomplished by offsetting the floor plan, recessing or projection of design elements, change in materials and/or change in contrasting colors.

### BUILDING SIZE

No building permitted by this Section shall have a single undifferentiated mass with a footprint over ten thousand (10,000) square feet. Except for schools and places of worship or assembly, no building footprint shall exceed a total of twenty thousand (20,000) square feet.

For any building with a footprint in excess of ten thousand (10,000) square feet, walls that are greater than seventy-five (75) feet in length shall incorporate recesses or projections created by wall plane returns of at least thirty (30) feet; any such building shall be differentiated into multiple sections of mass in order to achieve proportions that are compatible in scale with adjacent residential neighborhoods.

# DOWNTOWN DISTRICT

## SECTION 2.4.1 DOWNTOWN DISTRICT (D)

### (A) Purpose

The Downtown District is intended to provide a concentration of retail, civic, employment and cultural uses in addition to complementary uses such as hotels, entertainment, and housing, located along the backdrop of the Poudre River Corridor. It is divided into nine (9) subdistricts as depicted on Figure 18. The development standards for the Downtown District are intended to encourage a mix of activity in the area while providing for high quality development that maintains a sense of history, human scale, and pedestrian-oriented character.

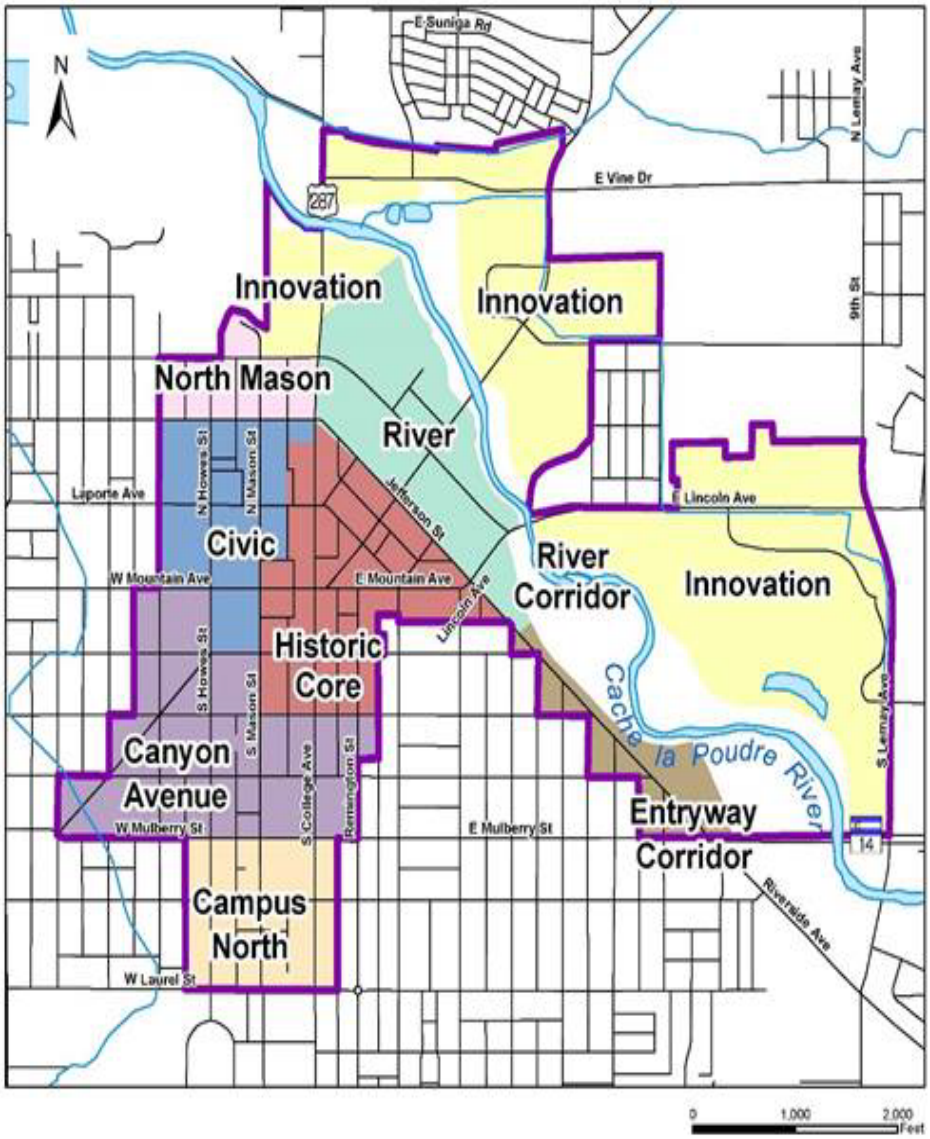



Figure 18
Downtown District Subdistricts

### (B) Street Frontage Types

Three types of street frontages have evolved in the Downtown District shaping public space and building placement. Applicable street frontage types are depicted on Figure 18.1.

- *Storefront* -Found primarily within the Historic Core, and along Laurel Street, buildings abut a wide sidewalk. Retail and commercial uses predominate the ground floor with a high degree of visual interest and transparency into shops and restaurants.
- *Mixed Use* - Found adjacent the Historic Core Subdistrict on streets such as Mason, this street character is a hybrid and transition between the Storefront and Green Edge frontage types. Buildings are set a little farther back from the street than along Storefront streets, often with small landscape beds separating the building from the sidewalk. There is significantly less ground floor retail space, but buildings still address the sidewalk in a similar way.
- *Green Edge* - Found primarily in the subdistricts away from the Historic Core, this frontage type is best recognized for generous parkway widths and landscaped setbacks between the sidewalk and the building. Ground floor uses are mostly residential and office, with a scattering of other commercial uses, often in much larger buildings than are found in the Historic Core Subdistrict.

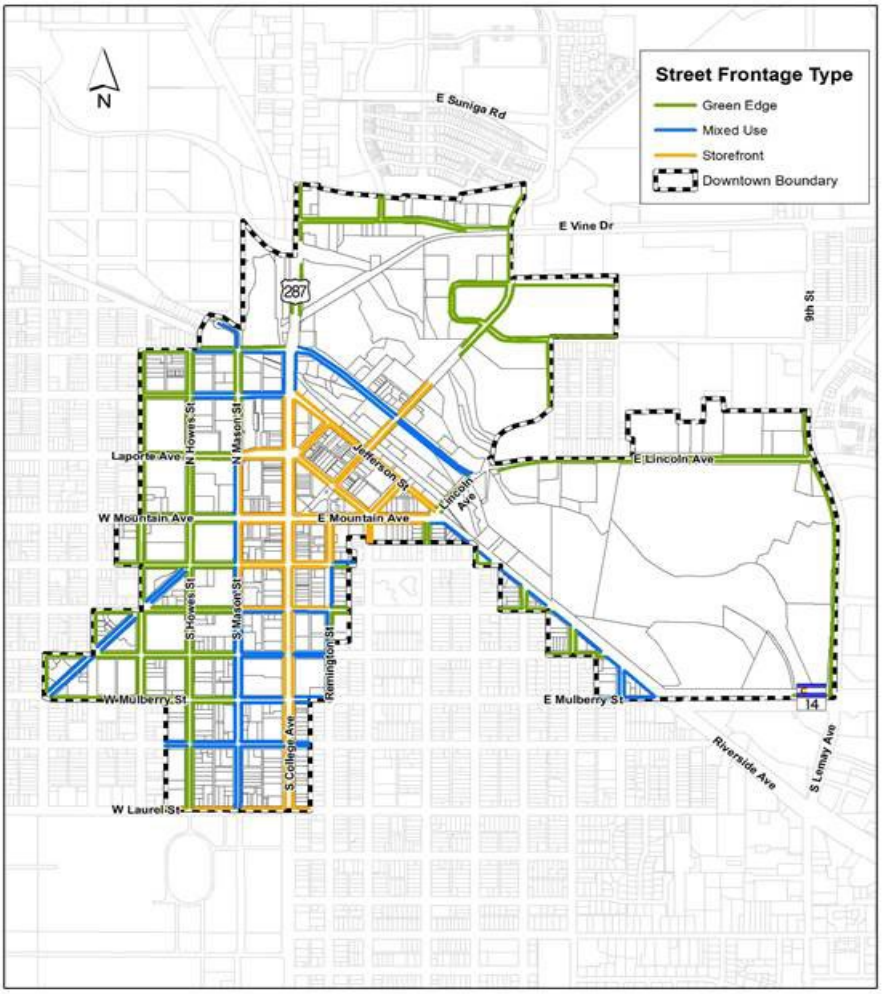



Figure 18.1
Downtown District Street Frontage Types

***Street Frontage and Building Placement Requirements.*** The following standards shall apply to the Downtown District:

**Figure 18.2**
**Building Design based on Street Frontage**

| | STREET FRONTAGE TYPE | | |
|---|---|---|---|
| | Storefront | Mixed Use | Green Edge |
| **Minimum Setback from Back of Curb** (right of way included in setback) | Min. 9′ from back of curb to building | Min. 19′ from back of curb to building<br>Min. 6′ sidewalk if detached<br>Min. 10′ sidewalk if attached<br>Min. 5′ back of walk to building | Min. 24′ from back of curb to building<br>Min. 9′ parkway<br>Min. 10′ back of walk to building |
| **Min. Alley, Sidelot and Rear Lot Setback** (measured from property line) | 0′ Sidelot<br>5′ Alley<br>0′ Rear Yard | 0′ Sidelot<br>5′ Alley<br>5′ Rear Yard | 10′ Sidelot<br>5′ Alley<br>5′ Rear Yard |
| **Required Street Frontage Build-To Range** (as measured from the setback) *See Figure 18.3* | 90% at 0 to 5′ | 75% at 5 to 10′ | 50% at 10 to 20′ |
| **Primary Entrance Location** | For parcels with multiple street frontage types, the primary entrance must face a Storefront Street if present, otherwise a Mixed-Use Street. The primary entrance may face a Green Edge Street only when other street frontage types are not present. | | |
| **Primary Entrance Articulation** | The primary entrance on a storefront street shall be recessed from the front facade so that the door swing does not encroach the sidewalk while the upper floors maintain the sidewalk edge except as required to meet upper story stepbacks. | The primary building entrance shall be a clearly defined, demarcated architectural feature of the building easily distinguishable from secondary building entrances. | |
| **Garage Entry Location** | Garage entries and service locations shall be located in alleys. If no alley is present, they may be located on a Green Edge street. If a Green Edge street is not present, they may be located on a Mixed-Use street. To the maximum extent feasible, garage entries and service locations shall not be located on Storefront street frontages. | | |
| **Building Base Materials** *See Figure 18.4* | Lower story facades until any stepbacks (required or otherwise) must be constructed of authentic, durable, high-quality materials (brick, stone, glass, terra cotta, stucco (non EFIS), precast concrete, wood, cast iron, architectural metal - or similar modular materials) installed to industry standards. | | |
| **Ground-Floor Transparency** *See Figure 18.5* | 60% | 40% | 25% |
| **Ground Floor Use Requirements** | Maximum 25% street-facing linear frontage for residential living space. | None. | |

Figure 18.3
Street Frontage Build-To Range

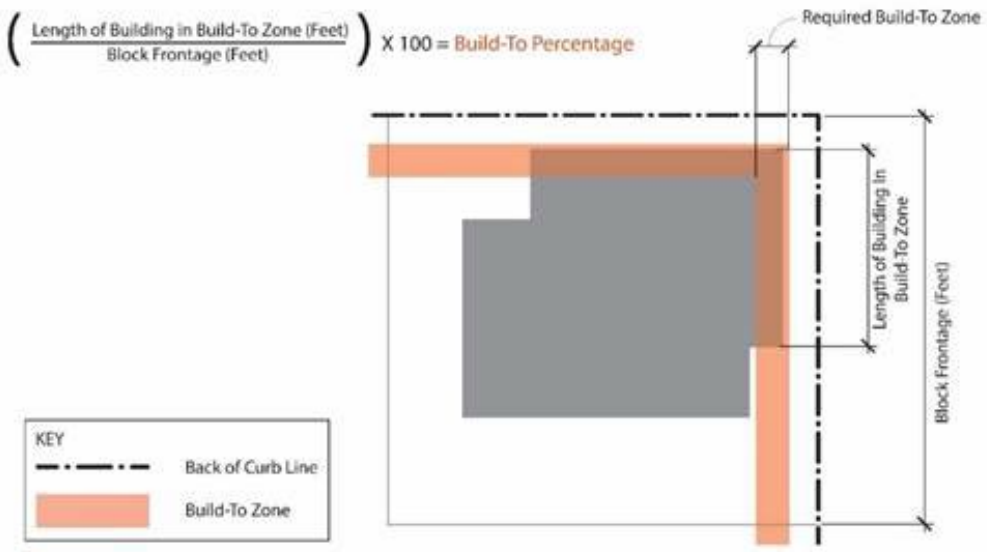



Figure 18.4
Building Base Materials

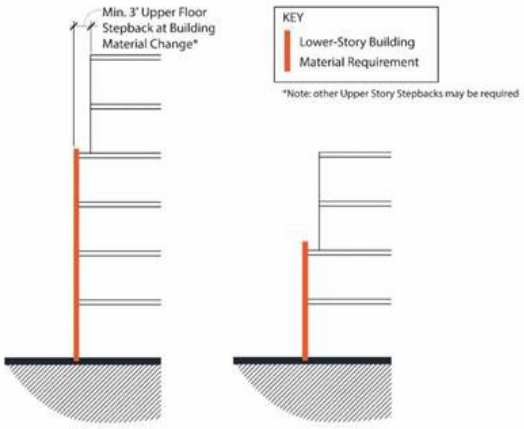
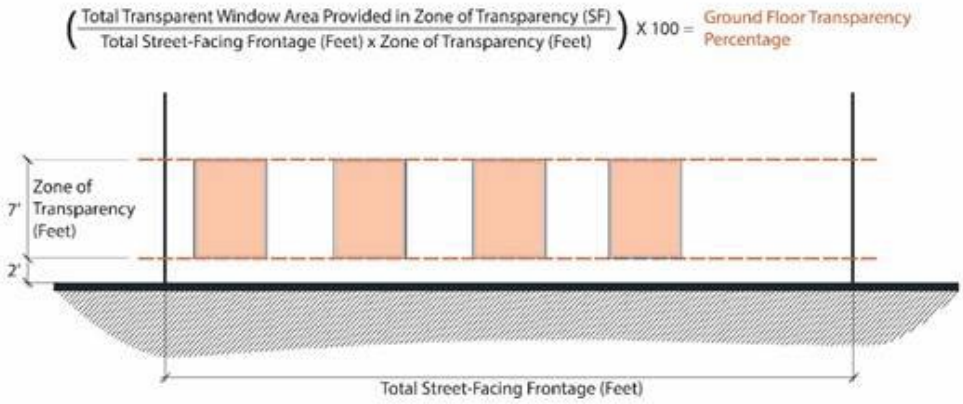


Figure 18.5
Ground Floor Transparency Calculation



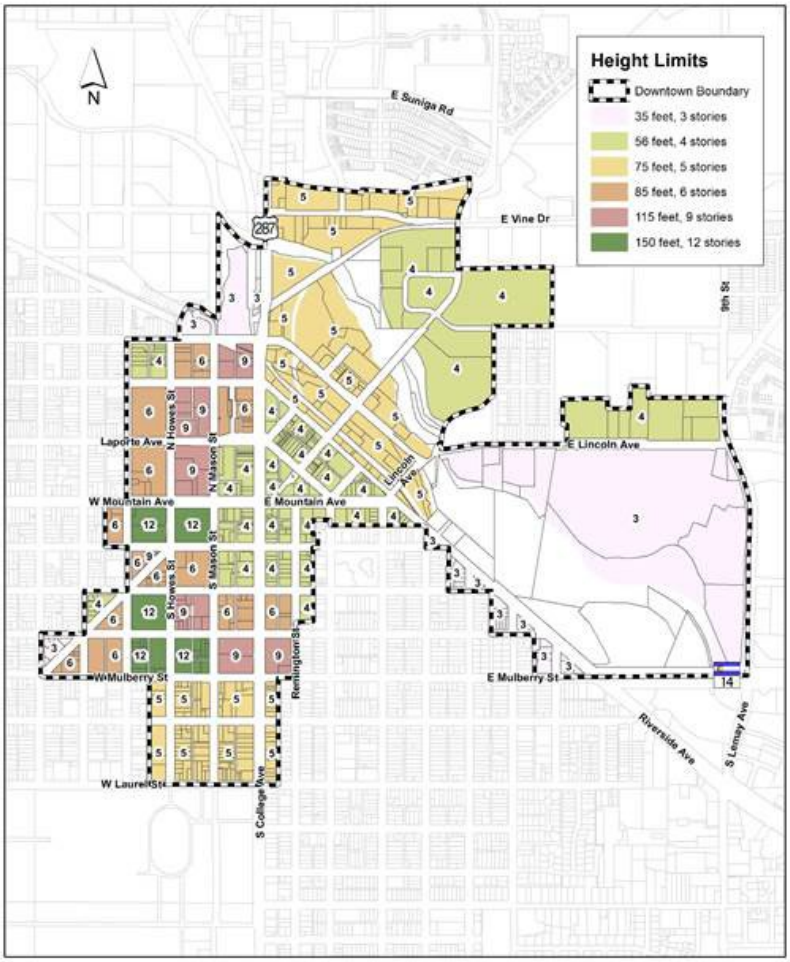
(C) **Building Heights and Mass Reduction.**
The following standards shall apply to the Downtown District:

**Figure 18.6**
**Building Mass Reduction and Articulation**

| | MAXIMUM HEIGHT ALLOWANCE | | | | |
|---|---|---|---|---|---|
| | 3 Stories | 4 Stories | 5 Stories | 6 Stories | 12 Stories |
| Maximum Building Footprint | None. | | | | For contiguous commonly-zoned lots over 60,000 SF, interior floor plates above the 6th story shall not exceed 40,000 SF |
| Upper-Story Stepbacks | None. | Any portion of the building within the build-to-range must have a stepback that averages at least 10′ along all street frontages. Stepbacks may be continuous or may vary with up to 20′ counting towards the calculation of the average. Stepbacks may occur at the 2nd-5th story. Exception: If directly across the street from a height allowance of 3 stories, the stepback must occur at the 2nd or 3rd story. | | | |
| Maximum Wall Length | For buildings over 100′ long, the maximum wall length for the base of the building (defined as the portion of the building below any required upper-story stepbacks) without a *Major Facade Plane Change* shall be 50 feet. A *Major Facade Plane Change* must be a minimum of 2 feet deep and shall be related to entrances, the integral structure, and/or the organization of interior spaces and activities. | | | | |
| Building Articulation | Street-facing facades shall incorporate a minimum of 3 of the following articulation techniques to avoid long, undifferentiated facades:<br>1.Minor Facade Plane Changes- minimum 3 inches;<br>2.Vertical Projections;<br>3.Horizontal Projections (awnings, canopies, cornice articulation) that are integrated into the architecture;<br>4.Balconies or terraces; and/or<br>5.Fenestration details, including window depth and sills or lintels. | | | | |

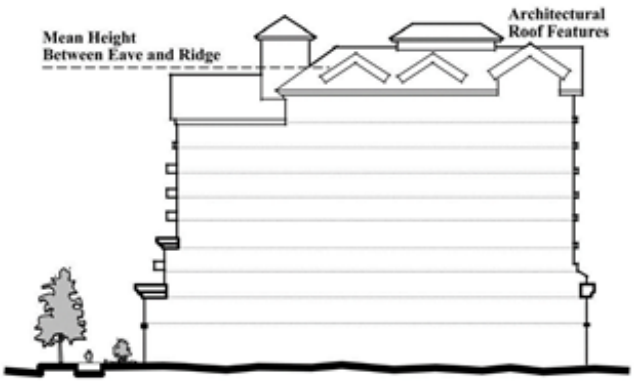
1. **Building Height Limits.** The maximum height of buildings within the Downtown District shall be as shown on the Building Heights Map See Figure 18.7.

Figure 18.7
Building Heights Map




2. **Measurement of Height Limits.** The maximum height limits are intended to convey a scale of building rather than an exact point or line. In the case of sloped roofs, building height shall be measured to the mean height between the eave and ridge. The maximum height limits are not intended to hinder architectural roof features such as sloped roofs with dormers, penthouses, chimneys, towers, shaped cornices or parapets, or other design features that exceed the numerical limits but do not substantially increase bulk and mass. Lofts or penthouses projecting above the limits shall not exceed one-third (1/3) of the floor area of the floor below and shall be set back from any roof edge along a street, by a distance equal to or greater than the height of the loft or penthouse structure. See Figure 18.8.

Figure 18.8
Measurement of Height Limits




3. Upper Story Stepbacks.

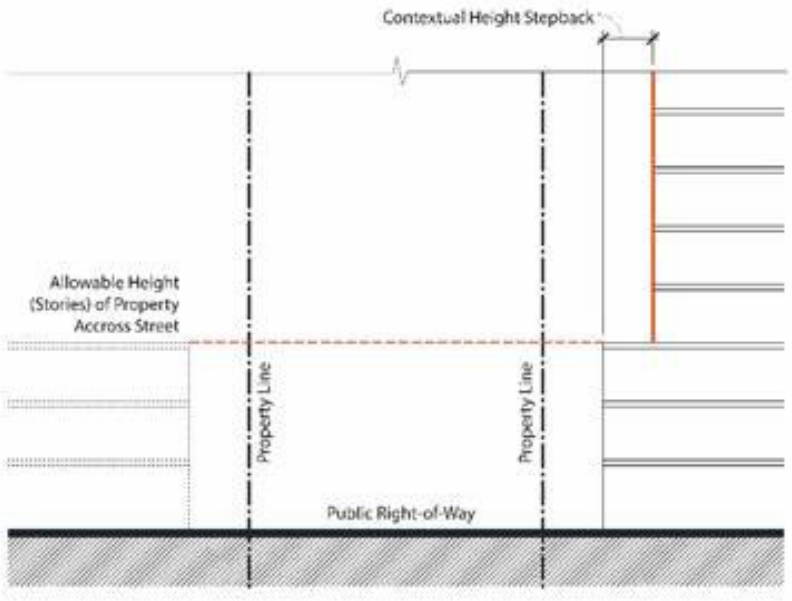
   a. **Historic Core, Innovation and North Mason Stepbacks:** The fourth story of a building shall be stepped back an average of at least ten (10) feet along all street frontages. Stepbacks may be continuous or may vary with a twenty (20) foot stepback counting towards the calculation of the required ten (10) foot average.

   b. **Canyon Avenue, Civic and Campus North Stepbacks:** The fifth story of a building shall be stepped back an average of at least ten (10) feet along all street frontages. Stepbacks may be continuous or may vary with up to a twenty (20) foot stepback counting towards the calculation of the required ten (10) foot average. Stepbacks may occur at the second to fifth stories.

4. Contextual Height Stepback.

   To provide an appropriate scale transition between opposing block faces with dissimilar height allowances, buildings shall provide a contextual height stepback. Upper floors shall be stepped back a minimum of three (3) feet at the equivalent height limit on the opposing block face. See Figure 18.9.

Figure 18.9
Contextual Height Stepbacks




5. **Planning and Zoning Commission Review of Large Buildings.** Development plans with new buildings (or building additions) greater than twenty-five thousand (25,000) square feet in floor area per story, or that exceed either six (6) stories or eight-five (85) feet in height, shall be subject to Planning and Zoning Commission review.

(D) Site Design.
The following standards shall apply to the Downtown District:

1. **Parking lots, garage entries and service locations.**
Parking lots, garage entries and service locations shall be located on alleys. If no alley is present, they may be located on a Green Edge street. If a Green Edge street is not present, they may be located on a Mixed-Use street. To the maximum extent feasible, parking lots and garage entries shall not be located on Storefront streets. Auto entrances shall be located to minimize pedestrian/auto conflicts.

2. **Parking structures.**
**To the extent reasonably feasible, all parking structures shall meet the following design criteria:**

a. Where parking structures abut streets, retail and other uses shall be required along the ground level frontage to minimize interruptions in pedestrian interest and activity. The decision maker may grant an exception to this standard for all or part of the ground level frontage on streets with low pedestrian interest or activity.
b. Parking and awnings, signage and other architectural elements shall be incorporated to encourage pedestrian activity at the street-facing level.
c. Architectural elements, such as openings, sill details, emphasis on vertical proportions such as posts, recessed horizontal panels and other architectural features shall be used to establish human scale at the street-facing level

3. **Outdoor activity.**
To the extent reasonably feasible, outdoor spaces shall be placed next to activity that generates the users (such as street corners, offices, day care, shops and dwellings). Outdoor spaces shall be linked to and made visible from streets and sidewalks to the extent reasonably feasible. Buildings shall promote and accommodate outdoor activity with balconies, arcades, terraces, decks and courtyards for residents' and workers' use and interaction, to the extent reasonably feasible.

(E) **Special Subdistrict Provisions.**

1. **Canyon Avenue and Civic Center Subdistricts: Plazas**. For buildings located within the Canyon Avenue and Civic Center Subdistricts that are four (4) stories or taller, ground floor open space shall be provided that is organized and arranged to promote both active and passive activities for the public. Such space must be highly visible and easily accessible to the public and must include features that express and promote a comfortable human sense of proportionality between the individual and the environment, whether natural or man-made.

2. **Civic Subdistrict**

a. **Purpose.** The Civic Subdistrict will serve as an important element of the Downtown District and as the primary location for new civic uses and buildings.

b. **Development Standards.** The following standards shall apply to all development in the Civic Subdistrict:

I. *Civic Spine.* All development shall incorporate the concept of the "Civic Spine" as described in the Downtown Civic Center Master Plan, allowing for continuous north-south and east-west pedestrian connections. The Civic Spine will serve to connect various buildings to unify parks and plazas.

II. *Building materials.* The use of local sandstone is required in all civic buildings to establish a visual continuity and a local sense of place.

III. *Civic buildings.* New major civic buildings, such as a library, government offices, courthouses, performing arts facilities and transit centers, shall be located within the Civic Subdistrict and placed in central locations as highly visible focal points. To the extent reasonably feasible, they shall be close to a transit stop.

IV. *Incorporation of new buildings.* New buildings shall be designed in a manner that establishes continuity and a visual connection between new and existing buildings within and adjacent to the Civic Subdistrict. The height, mass and materials of major public buildings shall convey a sense of permanence and importance.

3. **Old Town Fort Collins Historic District.** Buildings located within the locally designated Old Town Fort Collins Historic District shall also comply with the *Old Town Historic District Design Standards* adopted by Ordinance 094, 2014, Chapter 14 of the City Code, and the *U.S. Secretary of the Interior Standards for the Treatment of Historic Properties*. (*See* Old Town Fort Collins Historic District, Figure 19).

Figure 19
Old Town Fort Collins Historic District

4. Innovation Subdistrict

a. **Purpose**. The Innovation Subdistrict is intended to recognize continuing redevelopment in this former industrial area, promoting employment and innovation. Redevelopment projects will continue to build up a fitting identity and character related to the Downtown District edge setting with contemporary semi-industrial building styles and materials. Streetscapes and sites will reinforce the area's identity and character with design features that reflect an industrial character and the river landscape corridor.

b. **Development Standards.** The following standards shall apply to all development in the Innovation Subdistrict:

I. Site Design

i. **Landscaping/Vegetation Protection.** Naturalistic characteristics of the river landscape shall be maintained and enhanced using plants and landscape materials native to the river corridor in the design of site and landscape improvements.

ii. **Outdoor Spaces.** Development shall incorporate outdoor spaces such as patios, courtyards, terraces and plazas to add interest and facilitate interaction.

iii. **Color/Materials.** Heavy, durable, locally fabricated components, with materials such as metal and stone, shall be used to complement building design.

II. Buildings.

i. **Height/Mass.** Multi-story buildings shall be designed to step down to one (1) story directly abutting any natural habitat or feature protection buffer, and 2) must step down to three (3) stories at least 150 feet from any parcel zoned Low Density Residential (RL) or Medium Density Mixed Use Neighborhood (MMN).

ii. **Parking lots.** Buildings shall be sited so that any new parking lots and vehicle use areas are located in either: 1) interior block locations between buildings that face the street and buildings that face the river; or 2) side yards.

5. River Subdistrict.

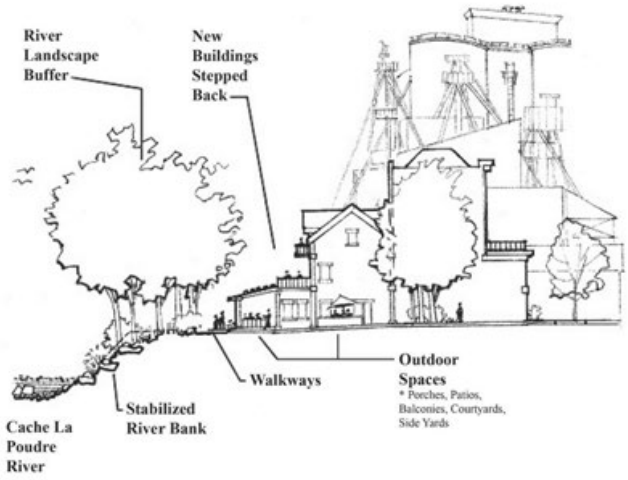
a. **Purpose.** The River Subdistrict is intended to reestablish the linkage between the Historic Core and the Cache la Poudre River (the "River") through redevelopment in the corridor. This Subdistrict offers opportunities for more intensive redevelopment of housing, businesses, and workplaces to complement the Historic Core Subdistrict. Improvements should highlight the historic origin of Fort Collins and the unique relationship of the waterway and railways to the urban environment as well as expand cultural opportunities in the Downtown area. Redevelopment will extend the positive characteristics of Downtown such as the pattern of blocks, pedestrian-oriented street fronts and lively outdoor spaces.

b. Development Standards.

I. Transition between the River and Development.

i. **River Landscape Buffer.** In substitution for the provisions contained in Section 5.6.1 (E) (Establishment of Buffer Zones) requiring the establishment of "natural area buffer zones," the applicant shall establish, preserve or improve a continuous landscape buffer along the river as an integral part of a transition between development and the river. To the maximum extent feasible, the landscape buffer shall consist predominantly of native tree and shrub cover. (See Figure 19.1.) The landscape buffer shall be designed to prevent bank erosion and to stabilize the River bank in a manner adequate to withstand the hydraulic force of a 100-year flood event. The bank stabilization shall comply with the following criteria:

Figure 19.1
Landscape Buffer




Any bank stabilization improvements shall consist of native plants and stone, to the extent reasonably feasible. If any structural materials such as concrete are required, such materials shall be designed to emphasize characteristics of the native landscape such as color, texture, patterns and proportions, to minimize contrast with the river landscape.

The predominant visual elements in any bank stabilization improvements shall be native vegetation and stone. Notwithstanding the use of any integrated structural elements, blank walls shall not be used to retain the slope of the river bank.

ii. **Outdoor spaces.** On sites that have river frontage between Linden Street and Lincoln Avenue, buildings or clusters of buildings shall be located and designed to form outdoor spaces (such as balconies, arcades, terraces, decks or courtyards) on the river side of the buildings and/or between buildings, as integral parts of a transition between development and the River. A continuous connecting walkway (or walkway system) linking such spaces shall be developed, including coordinated linkages between separate development projects.

II. Streets and Walkways.

i. **Streets.** Redevelopment shall maintain the existing block grid system of streets and alleys. To the extent reasonably feasible, the system shall be augmented with additional connections, such as new streets, alleys, walkway spines, mid-block passages, courtyards and plazas, to promote a detailed pedestrian circulation network that supplements public sidewalks.

ii. **Driveways.** To the extent reasonably feasible, driveways and curb cuts must be minimized to avoid disruption to the sidewalk network, by using shared driveways between properties. The width of driveways and turning radii must be minimized except where truck access is required.

iii. **Jefferson Streetscape.** Redevelopment activity along the Jefferson Street frontage shall provide formal streetscape improvements including street trees in sidewalk cutouts with tree grates and planters to screen parking. Planters to screen parking shall be designed and constructed to appear as integral extensions of the building design. Materials used shall not be inferior to those used in the construction of the principal building.

III. Buildings.

i. **Industrial Buildings.** Except as otherwise provided in this subsection (3), all new nonresidential buildings, including industrial buildings, shall comply with the standards for Mixed-use and Commercial Buildings contained in Section 5.15.2.

ii. **Programming, Massing and Placement**.

- **Height Mass.** Multiple story buildings are permitted, provided that massing of multiple story buildings shall be terraced back from the River and from streets so that multiple story buildings are stepped down to one (1) story abutting the River landscape frontage and are stepped down to three (3) stories or less abutting any street frontage. Such terraced massing shall be a significant and integral aspect of the building design.
- **Parking lots**. Buildings shall be sited so that any new parking lots and vehicle use areas are in either: (1) interior block locations between buildings that face the street and buildings that face the river, or (2) side yards.

- **Frequent view/access**. No building wall abutting the landscape corridor along the river shall exceed one hundred twenty-five (125) feet on the axis along the river.
- **Outdoor spaces and amenities**. To the extent reasonably feasible, all development shall provide on-site outdoor space such as courtyard, plaza, patio, or other pedestrian-oriented outdoor space. To the extent reasonably feasible, outdoor spaces shall be visible from the street and shall be visually or physically connected with any outdoor spaces on adjacent properties.

iii. **Character and Image.** New buildings shall be designed to demonstrate compatibility with the historical agricultural/industrial characteristics of the Subdistrict to promote visual cohesiveness and emphasize positive historical attributes. Such characteristics include simple rectilinear building shapes, simple rooflines, juxtaposed building masses that directly express interior volumes/functions, visible structural components and joinery, details formed by brickwork, sandstone, sills, lintels, headers and foundations and details formed by joinery of structural materials.

- **Outdoor spaces.** Buildings and extensions of buildings shall be designed to form architectural outdoor spaces such as balconies, arcades, terraces, decks or courtyards.
- **Windows.** Windows shall be individually defined with detail elements such as frames, sills and lintels, and placed to visually establish and define the building stories and establish human scale and proportion. Windows shall be placed in a symmetrical pattern relative to the wall and massing. Glass curtain walls and spandrel-glass strip windows shall not be used as the predominant style of fenestration for buildings in this Subdistrict. This requirement shall not serve to restrict the use of atrium, lobby or greenhouse-type accent features used as embellishments to the principal building.
- **Roof forms.** Flat, shed and gable roof forms corresponding to massing and interior volumes/functions shall be the dominant roof forms. Flat-roofed masonry buildings shall feature three-dimensional cornice treatment integral with masonry on all walls facing streets, the River or connecting walkways. Additional decorative shaped cornices in wood (or other material indistinguishable from wood) shall be permitted in addition to the top masonry cornice treatment. Sloped metal roofs are allowed. Barrel roofs may be used as an accent feature but must be subordinate to the dominant roof. Specialized or unusual roof forms, including mansards and A-frames, are prohibited. A single continuous horizontal roofline shall not be used on one-story buildings except as part of a design style that emulates nearby landmarks (or structures eligible for landmark designation).
- **Materials.** Building materials shall contribute to visual continuity within the Subdistrict. Textured materials with native and historic characteristics, such as brick, stone, wood, architectural cast stone and synthetic stone in historically compatible sandstone patterns only, architectural metals and materials with similar characteristics and proportions shall be used in a repeating pattern as integral parts of the exterior building fabric. Masonry units must wrap around the corners of walls to not appear as an applied surface treatment. Other exterior materials, if any, shall be used as integral parts of the overall building

fabric, in repeating modules, proportioned both horizontally and vertically to relate to human scale, and with enough depth at joints between architectural elements to cast shadows, to better ensure that the character and image of new buildings are visually related to the Downtown and River context. Lapped aluminum siding, vinyl siding, smooth-face concrete masonry units, synthetic stucco coatings and imitation brick are prohibited.

- **Primary entrance**. The primary entrance must be clearly identified and must be oriented to a major street, pedestrian way, place, courtyard and/or other key public space. The primary entrance must feature a sheltering element such as a canopy or be defined by a recess or a simple surround.
- **Accent features**. Accent features, where used, must complement and not dominate the overall composition and design of the building and may include secondary entrances, loading docks, garage bays, balconies, canopies, cupolas, vertical elevator/stair shafts and other similar features.
- **Awnings and canopies.** Awnings and canopies must complement the character of the building and must be subordinate to the facade. Colors must be solid or two (2) color stripes for simplicity.

IV. **Site Design.**

i. **River Landscape.** The natural qualities of the River landscape shall be maintained and enhanced, using plants and landscape materials native to the River corridor in the design of site and landscape improvements.

ii. **Walls, Fences and Planters.** Walls, fences and planters shall be designed to match or be consistent with the quality of materials, the style and colors of nearby buildings. Brick, stone or other masonry may be required for walls or fence columns.

iii. **Street Edge.** A well-defined street edge must be established and shall be compatible with the streetscape in the public realm. Components may include any of the following: planted areas, decorative paving, public art, street furnishing with ornamental lighting and iron and metal work that reflect on the agricultural/industrial heritage of the Subdistrict.

iv. **Corner Lots.** For sites located at public street corners, parking lots and vehicular use areas shall not abut more than one (1) street frontage.

v. **Parking.** Where parking lots are highly visible from streets or pedestrian-oriented outdoor spaces, a visual buffer must be provided. Such buffering may consist of any of the following singularly or in combination: a low solid screen wall, a semi-opaque screen or a living green wall consisting of plant material sufficient to provide a minimum of seventy-five-percent opacity year-round or other City approved screening device that is sensitive to pedestrian activity.

vi. **Interim Parking.** Interim parking lots as a principal use may be approved with a gravel surface and without lighting and landscape improvements and shall be restricted to a period of use not to exceed three (3) years. Extensions for two (2) successive periods of one (1) year each may be granted by the Planning and Zoning Commission upon a finding

that the use is compatible with the context of the area and is a beneficial use which supports the purpose of the River Subdistrict.

vii. **Service Areas and Outside Storage Areas.** Service areas and outside storage areas that are not used for trash and recycling containers, dumpsters and mechanical equipment must, to the maximum extent feasible, be located to the side or rear of the building and be screened from public view. Notwithstanding the foregoing, where industrial processes and outdoor mechanical activities are functionally integral to the principal use, such areas must, to the extent reasonably feasible, be located to the side or rear of the building and not impact pedestrian areas. Partial screening must be provided with design and materials consistent with the building and/or the agricultural/industrial character of the area.

viii. **Design Guidelines.** See also the Fort Collins River District Design Guidelines, which are intended to assist applicants in the preparation of development plans within the Subdistrict.

# EMPLOYMENT, INDUSTRIAL, OTHER DISTRICTS

## SECTION 2.5.1 HARMONY CORRIDOR DISTRICT (HC)

### (A) Purpose.

The Harmony Corridor District is intended to implement the design concepts and land use vision of the Harmony Corridor Plan - that of creating an attractive and complete mixed-use area with a major employment base.

### (B) Land Use Standards.

6. All development in the HC Harmony Corridor District shall comply with the Harmony Corridor land use and locational standards as adopted by the City and the following specific standards to the extent that such standards apply to the property proposed to be developed.

7. All secondary uses shall be integrated both in function and appearance into a larger employment-based development plan that emphasizes primary uses. A secondary use shall be subject to administrative review or Planning and Zoning Commission review as required for such use in Division 4.2. The following permitted uses shall be considered secondary uses in this zone district and together shall occupy no more than twenty-five (25) percent of the total gross area of the development plan.

   a. Community facilities.
   b. Public facilities.
   c. Child care centers.
   d. Print shops.
   e. Food catering.
   f. Workshops and custom small industry uses.
   g. Residential uses (except mixed-use dwellings when the residential units are stacked above a primary use which occupies the ground floor).
   h. Lodging establishments.
   i. Convenience shopping centers.
   j. Standard restaurants.
   k. Bed and breakfast establishments.
   l. Clubs and lodges.
   m. Health and membership clubs.
   n. Convention and conference centers.
   o. Places of worship or assembly.
   p. Limited indoor recreation establishments.
   q. Unlimited indoor recreation use and facility.
   r. Food truck rally.
   s. Microbrewery/distillery/winery.
   t. Seasonal overflow shelters.

### (C) Dimensional Standards.

1. Maximum height for all nonresidential buildings, including those containing mixed-use dwelling units, shall be six (6) stories. Maximum height for residential buildings shall be three (3) stories.

2. All new structures greater than eighty thousand (80,000) square feet in gross leasable area shall be subject to Planning and Zoning Commission review.

3. Any building addition that exceeds eighty thousand (80,000) square feet in gross leasable area and exceeds twenty-five (25) percent of the gross leasable area of the existing building shall be subject to Planning and Zoning Commission review.

(D) **Density/Intensity.**
All residential development in the HC Harmony Corridor District shall have an overall minimum average density of seven (7) dwelling units per net acre of residential land.

(E) **Site Design**

1. In the case of multiple parcel ownership, to the extent reasonably feasible, an applicant shall enter into cooperative agreements with adjacent property owners to create a comprehensive development plan that establishes an integrated pattern of streets, outdoor spaces, building styles and land uses.

2. Where an employment or industrial use abuts a residential area, there shall be no drastic and abrupt change in the scale and height of buildings.

3. All commercial/retail and industrial uses, except for off-street parking and loading, shall be conducted or carried out entirely within completely enclosed buildings or structures.

(F) **Building Standards.**

1. **Industrial Buildings.** To the extent reasonably feasible, industrial buildings shall provide a primary entrance that faces and opens directly onto the abutting street sidewalk or a walkway, plaza or courtyard that has direct linkage to the street sidewalk without requiring pedestrians to cross any intervening driveways or parking lots.

2. **Campus Exception.** An exception shall be permitted to subsection (1) above, and to the requirements contained in Section 5.15.2(B) if the development provides a "campus or park-like development block," meaning development with a unifying, formative internal framework of pedestrian-oriented, nonvehicular outdoor spaces and walkways that function as an alternative to street sidewalks by organizing and connecting buildings. The internal campus pedestrian circulation system shall be designed to provide direct connections to common origins and destinations (such as street sidewalks, transit stops, restaurants, child care facilities and convenience shopping centers).

# SECTION 2.5.2 EMPLOYMENT DISTRICT (E)

## (A) Purpose.

The Employment District is intended to provide locations for a variety of workplaces including light industrial uses, research and development activities, offices and institutions. This District also is intended to accommodate secondary uses that complement or support the primary workplace uses, such as hotels, restaurants, convenience shopping, child care and housing.

Additionally, the Employment District is intended to encourage the development of planned office and business parks; to promote excellence in the design and construction of buildings, outdoor spaces, transportation facilities and streetscapes; to direct the development of workplaces consistent with the availability of public facilities and services; and to continue the vitality and quality of life in adjacent residential neighborhoods.

## (B) Land Use Standards.

1. **Prospect Road Streetscape Program.**
All development in this zone district that is located within the planning area for the Prospect Road Streetscape Program shall also comply with the Prospect Road Streetscape Standards as adopted by the City, to the extent that such Standards apply to the property proposed to be developed.

2. **Secondary Uses.**
All secondary uses shall be integrated both in function and appearance into a larger employment district development plan that emphasizes primary uses. A secondary use shall be subject to administrative review or Planning and Zoning Commission review as required for such use in Division 4.2. The following permitted uses shall be considered secondary uses in this zone district and together shall occupy no more than twenty-five (25) percent of the total gross area of the development plan.

a. Veterinary facilities and small animal clinics.
b. Clubs and lodges.
c. Child care centers.
d. Residential uses (except mixed-use dwellings when the residential units are stacked above a primary use which occupies the ground floor).
e. Standard and fast food restaurants.
f. Lodging establishments.
g. Bed and breakfast establishments.
h. Funeral homes.
i. Health and membership clubs.
j. Convenience shopping centers.
k. Convention and conference center.
l. Food catering.
m. Minor public facilities.
n. Community facilities.
o. Bars and taverns.
p. Plant nurseries and greenhouses.
q. Dog day-care facilities.
r. Print shops.
s. Workshops and custom small industry uses.
t. Artisan and photography studios and galleries.
u. Limited indoor recreation establishments.
v. Enclosed mini-storage facilities.
w. Places of worship or assembly.
x. Personal and business service shops.
y. Music studios.
z. Homeless shelters (including seasonal overflow shelters).

3. **Locational Standards along I-25.**
Along I-25, any secondary uses shall be located at least one thousand four hundred forty-five (1,445) feet from the centerline of I-25. Such secondary uses shall be located so that they have direct access from a collector or local street.

4. **Dimensional Standards.**

aa. Maximum height shall be four (4) stories.

bb. All new structures greater than fifty thousand (50,000) square feet in gross leasable area shall be subject to Planning and Zoning Commission review.

cc. Any building addition that exceeds fifty thousand (50,000) square feet in gross leasable area and exceeds twenty-five (25) percent of the gross leasable area of the existing building shall be subject to Planning and Zoning Commission review.

**(C) Density/Intensity.**

All residential development in the E Employment District shall have an overall minimum average density of seven (7) dwelling units per net acre of residential land.

**(D) Development Standards**

1. **Site Design.**

a. In the case of multiple parcel ownership, to the extent reasonably feasible, an applicant shall enter into cooperative agreements with adjacent property owners to create a comprehensive development plan that establishes an integrated pattern of streets, outdoor spaces, building styles and land uses.

b. Where an employment or industrial use abuts a residential area, there shall be no drastic and abrupt change in the scale and height of buildings.

c. Except for off-street parking and loading areas, all veterinary hospitals and all industrial uses (except commercial composting) shall be carried out entirely within completely enclosed buildings or structures.

2. **Building Design.**
To the extent reasonably feasible, industrial buildings shall provide a primary entrance that faces and opens directly onto the abutting street sidewalk or a walkway, plaza or courtyard that has direct linkage to the street sidewalk without requiring pedestrians to cross any intervening driveways or parking lots. The following exceptions shall be permitted to this standard and to the requirements contained in subsection 5.15.2(B):

a. Buildings may orient away from the street if the development provides a campus or park-like development block with a unifying, formative internal framework of outdoor spaces and connecting walkways that function as an alternative to street sidewalks by connecting buildings within the site and directly connecting to common destinations in the district (such as transit stops, restaurants, child care facilities and convenience shopping centers). Such an internal network shall provide direct pedestrian access to the street sidewalk(s).

3. **Enclosed Mini-Storage Facilities.**
Where enclosed mini-storage facilities face a public street, the entire linear frontage along such street shall include only buildings designed for human occupancy, landscaping, accessory parking and/or drives.

**(E) Development Standards for the I-25 Corridor.**
Development located within one thousand three hundred twenty (1,320) feet (one-quarter [¼] mile) of the centerline of I-25 shall be subject to the requirements of Section 2.6.3.

**(F) Development Standards for the Transit-Oriented Development (TOD) Overlay Zone.**
Development located within the TOD Overlay Zone shall be subject to the requirements of Section 2.6.1.

# SECTION 2.5.3 INDUSTRIAL DISTRICT (I)

## (A) Purpose.

The Industrial District is intended to provide a location for a variety of work processes and work places such as manufacturing, warehousing and distributing, indoor and outdoor storage, and a wide range of commercial and industrial operations. The Industrial District also accommodates complementary and supporting uses such as convenience shopping, child care centers and housing. While this District will be linked to the City's transportation system for multiple modes of travel, some may emphasize efficient commercial trucking and rail traffic as needed. Industrial and manufacturing processes used in this District may, by necessity, be characteristically incompatible with residential uses.

## (B) Land Use Standards.

### 1. Prohibited Uses.

The following uses are specifically prohibited in the Industrial District:

a. Feedlots.

b. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 29, Petroleum Refining and Related Industries, as identified in the Standard Industrial Classification Manual (OMB 1987).

c. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 331, Steel Works, Blast Furnaces, and Rolling and Finishing Mills, as identified in the Standard Industrial Classification Manual (OMB 1987).

d. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 33, Primary Metal Industries, as identified in the Standard Industrial Classification Manual (OMB 1987).

e. All electrical generation facilities falling within Standard Industrial Classification (SIC) Major Group No. 4911, as identified in the Standard Industrial Classification Manual (OMB 1987).

f. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 4925, Mixed, Manufactured, or Liquefied Petroleum Gas Products and/or Distribution, as identified in the Standard Industrial Classification Manual (OMB 1987).

g. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 2011, Meat Packing Plants, as identified in the Standard Industrial Classification Manual (OMB 1987).

h. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 2015, Poultry Slaughtering and Processing, as identified in the Standard Industrial Classification Manual (OMB 1987).

i. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 2077, Animal and Marine Fats and Oils, as identified in the Standard Industrial Classification Manual (OMB 1987).

### 2. Dimensional Standards.

a. Maximum height for all nonresidential buildings, including those containing mixed-use dwelling units, shall be four (4) stories.

b. All new structures greater than fifty thousand (50,000) square feet in gross leasable area shall be subject to Planning and Zoning Commission review.

c. Any building addition that exceeds fifty thousand (50,000) square feet in gross leasable area and exceeds twenty-five (25) percent of the gross leasable area of the existing building shall be subject to Planning and Zoning Commission review.

## (C) Development Standards.

### 1. Prospect Road Streetscape Program

All development in this zone district that falls within the planning area for the Prospect Road Streetscape Program shall also comply with the Prospect Road Streetscape Program Standards as adopted by the City, to the extent that such Standards apply to the property proposed to be developed.

### 2. Building Design.

a. Applicability of Division 5.15
Compliance with the standards contained in Section 5.15.2 of this Code shall be required only for the following permitted uses in this zone district:

I. Standard and Fast Food Restaurants

II. Bars and Taverns

III. Bed and Breakfast Establishments

IV. Child Care Centers

V. Convenience Shopping Centers

b. **Orientation.** Along arterial streets and any other streets that directly connect to other districts, buildings shall be sited so that a building face abuts upon the required minimum landscaped yard for at least thirty (30) percent of the building frontage. Such a building face shall not consist of a blank wall.

c. **Building character and color.** New building color shades shall be neutral, with a medium or dark color range, and not white, bright or reflective.

### 3. Site Design.

a. Screening.

I. Industrial and commercial activities shall not abut a residential area unless the activities and related storage are contained within a building or otherwise completely screened from view from the residential area.

II. A minimum thirty (30) foot deep landscaped yard shall be provided along all arterial streets, and along any district boundary line that does not adjoin a residential land use. If a district boundary line abuts upon or is within a street right-of-way, then the required landscaped yard shall commence at the street right-of-way line on the district side of the street, rather than at the district boundary line. This requirement shall not apply to development plans that comply with the standards contained in Section 5.15.2 of this Code.

III. A minimum eighty (80) 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.

b. **Storage and Operational Areas.**

I. Storage, loading and work operations shall be screened from view along all district boundary lines and along all public streets.

II. Within internal district areas, buildings may be surrounded by paving for vehicle use. To the extent reasonably feasible, side and rear yards in interior block locations shall be used for vehicle operations and storage areas, and front yards shall be used for less intensive automobile parking. At district edges, side yards shall be used for vehicle operations and storage areas, in order to allow for a finished, attractive rear building wall and a landscaped rear yard.

**(D) Development Standards for the I-25 Corridor.**
Development located within one thousand three hundred twenty (1,320) feet (one-quarter [¼] mile) of the centerline of I-25 shall be subject to the requirements of Section 2.6.3.

# SECTION 2.5.4 TRANSITION DISTRICT (T)

**(A) Purpose.**

The Transition District is intended for properties for which there are no specific and immediate plans for development. The only permitted uses are those existing at the date the property was placed into this District.

**(B) Permitted Uses.**

1. The following uses are permitted in the T District:

   a. No use shall be permitted of properties in the T District except such legal use as existed on the date the property was placed into this zone district. No permanent structures shall be constructed on any land in this District, except that at the time of zoning or rezoning of the property into this District the City Council may grant a variance permitting the installation or enlargement of a permanent structure containing a legal use which was existing, or is ancillary to the legal use of the property, at the time of such zoning or rezoning upon the following conditions:

      I. The owner of the property, prior to the City Council meeting at which the zoning or rezoning is to be heard, shall submit a site plan showing in reasonable detail the existing and proposed uses of such property; and

      II. The City Council shall grant such variance only upon a finding that the strict application of this Code would result in exceptional or undue hardship upon the owner of the property and that the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of this Code.

   b. After the property has been placed in the T District, the Land Use Review Commission may grant a variance in accordance with Division 6.14 permitting installation or enlargement of a permanent structure containing a use which was existing at the time the property was placed in this District, or containing a use which is ancillary to such existing use. When applying the standards of Section 6.14.4(H), paragraph 6.14.4(H)(2) shall not apply. Any proposal for the installation or enlargement of such a structure for which a variance has been approved must comply with the requirements contained in Section 6.17.5 and the applicable general development and site standards contained in Article 5.

   c. Notwithstanding the other provisions contained in paragraphs (a) and (b) above, a property in the T District can be used for off-site staging in compliance with Section 4.4.5(E) of this Code.

2. The owner of any property in the T District may at any time petition the City to remove the property from this zone district and place it in another zone district. Unless the following time limitations are waived by the owner, any such petition shall be referred to the Planning and Zoning Commission to be considered at the next regular meeting of such Commission which is scheduled at least thirty (30) days from the date the petition is filed with the City Clerk. Within sixty (60) days from the date the matter is considered by the Commission, the City Council shall change the zoning for the property in question to another zone district authorized under this Code.

3. Any use which was nonconforming upon a parcel prior to placement into this zone district shall continue to be nonconforming upon removal of such parcel or property from this zone district unless such parcel is placed into a

zone district where such use is listed as a permitted use.

# SECTION 2.5.5 PUBLIC OPEN LANDS DISTRICT (POL)

**(A) Purpose.**

The Public Open Lands District is for large publicly owned parks and open lands which have a community-wide emphasis or other characteristics which warrant inclusion under this separate designation rather than inclusion in an adjoining neighborhood or other District designation.

# SECTION 2.5.6 RIVER CONSERVATION DISTRICT (RC)

## (A) Purpose.

The River Conservation District is designed for the conservation and protection of predominately undeveloped land in the Cache la Poudre River (the "River") corridor. The main purpose of this District is to accommodate land use functions such as stormwater management, native wildlife habitat and sand and gravel operations, all of which depend primarily on the continued functioning of natural river systems or are incompatible with significant urban development. Urban development, if any, will be limited and will be located and designed in a way to avoid or minimize impacts upon the scenic, cultural, natural and historical values of the River landscape.

This District offers opportunities for scientific research and education, recreation, wildlife observation, crop agriculture, grazing, sand and gravel mining and reclamation and large-lot residential uses.

## (B) Land Use Standards.

### 1. Dimensional Standards.

a. Maximum building height shall be two (2) stories.

b. To the maximum extent feasible, no building, structure or private parking lot shall be developed within a natural area protection buffer; provided, however, that public parking may be constructed in the buffer areas to provide convenient public access to trails, parks and natural areas when such parking cannot reasonably be contained on other nearby developed areas. The natural area protection buffer shall mean that area extending three hundred (300) feet from the bank of the River.

c. A landscaped building setback of at least fifty (50) feet shall be provided along all streets. The setback will be measured from the future edge of the public right-of-way as determined by the City Engineer.

d. The site layout for permitted nonresidential uses shall, to the maximum extent feasible, maintain large, contiguous areas of open land. The proportion of the site used for development (including buildings, streets and parking areas) shall be no more than thirty (30) percent of the total site.

## (C) Development Standards.

### 1. Street/Access.

a. Development in this District shall be exempt from the standards contained in Section 5.4.7, Street Pattern and Connectivity Standards.

b. No new streets shall be constructed within the natural area protection buffer.

c. Any new streets shall be constructed to maximize "shared access points" for contiguous properties and minimize the total land area devoted to street development.

d. The layout and design of any new streets shall emphasize characteristics and views of the River landscape. Roadway design alternatives to city standards shall be developed by January 1, 1998, consistent with the pastoral character of the landscape in this District. Examples of special street design characteristics appropriate to this District are divided lanes, landscape islands and landscape solutions to drainage instead of standard curb and gutter, with stormwater runoff directed into open swales and ditches. Local and residential access roads shall be

designed without curbs and gutters unless deemed necessary for health and safety by the City Engineer.

2. **Walkways, Trails and Paths.**

a. Walkways, trails and paths may be constructed to serve as access to passive recreation, scientific, educational or interpretation areas within this District. All walkways, trails or paths shall be sited and designed to minimize or avoid impacts to environmentally sensitive areas in conformance with the requirements described in the Parks and Recreation Policy Plan adopted in December 1996.

b. Environmental or historical interpretation areas shall be integrated with the walkway and/or trail/path system to the maximum extent feasible. Interpretation areas shall include benches, trash receptacles and bike racks.

c. Detached sidewalks along arterial streets shall follow a meandering rather than straight alignment, with at least ten (10) feet of separation from the edge of the roadway, and shall be designed with long, smooth, sweeping curves of not less than a sixty (60) foot radius.

d. At intersections, the sidewalk shall be parallel to the road for a minimum distance of sixty (60) feet and shall connect to pedestrian crosswalks at the corner.

3. **Building Design.**

a. Façades.

I. No building wall shall exceed seventy-five (75) feet in length, in order to accommodate frequent views of the River.

II. Extensions of building walls shall be used to form outdoor spaces, integrate development with the landscape and screen service and accessory functions.

b. Color/Materials.

I. In order to minimize contrast with the River landscape, building colors shall be subdued or neutral shades, within a medium or moderately dark color range, and not white or reflective.

II. Textured materials with native and historic characteristics, such as stone, wood and brick, and materials which mimic those characteristics, such as tinted, textured concrete masonry units, shall be used in a repeating pattern as integral parts of the building fabric, to the maximum extent feasible.

4. **Site Design.**

a. The natural qualities of the River landscape shall be maintained and enhanced using plants and landscape materials native to the River corridor in the design of site and landscape improvements.

b. Parking.

I. Parking areas shall have blocks of parking stalls interspersed with landscaped islands in order to minimize the visual contrast of the parking area with the natural landscape. To the maximum extent feasible, pavement edges shall be flush with abutting landscape materials or walkways to minimize the appearance of standard concrete curbs and to emphasize the integration of development with the landscape.

II. Parking areas within the RC District shall be screened from view from public streets, trails and

the River by plant material, fencing and/or berming.

III. Berms planned to screen adjacent parking areas next to arterial and collector streets shall be at least four (4) feet high.

c. Landscaping.

I. Landscaping and restoration of disturbed lands shall be designed to maximize the characteristics of the native riparian ecosystem and short grass prairie. Such characteristics include thickets of native shrubs massed in broad, blended drifts and clumps. Riparian plant materials shall be maintained or enhanced in the natural area protection buffer along the River and around ponds and wetlands. Upland grasses and forbs shall be planted outside of the natural area protection buffer. Groves and belts of native trees may be used as accents or to frame buildings or views. Recommended plant materials for use in this District are listed in Appendix D through G of the Prospect Road Streetscape Program.

II. Planting shall be spaced informally in masses or groups as is characteristic of the native vegetation.

III. Berms, swales and contour grading shall be designed to form varied, naturalistic contours in areas that are disturbed by development or street construction. Grading along arterial streets shall be designed to screen and soften the visual impact of adjacent development, to the maximum extent feasible.

IV. Berms, swales and detention ponds shall be graded in such a manner as to make them appear to be integral parts of the landscape, designed with smooth transitions between changes in a slope and shall not exceed a 3:1 slope.

d. Drainage.

I. Ditches or swales will be allowed for the purpose of providing for drainage and for controlling run-off between the roadway edges and sidewalks.

II. The use of concrete or asphalt to line drainage conveyance channels shall not be permitted in this District. Drainage conveyance channels shall be designed to blend into the natural landscape.

e. Walls and Fences.

I. Fencing, screening or architectural walls are prohibited in the natural area protection buffer, except to define a public property boundary. Any such fencing shall be a rural two-rail corral and/or a three-strand smooth wire fencing not to exceed five (5) feet in height.

II. Outside of the natural area protection buffer, other open and penetrable view fencing is allowed. Solid wood fencing or walls for a distance of twenty (20) feet or less is permissible for screening and buffering. Such fencing or screening shall be six (6) feet or less in height and constructed of similar building materials and design to the primary structure or of a material that will harmonize with the architectural character and identity of the proposed development.

III. Unclad chain link fences that are visible from public areas, arterial or collector streets are prohibited.

# OVERLAY DISTRICTS

## SECTION 2.6.1 TRANSIT-ORIENTED DEVELOPMENT OVERLAY (TOD)

### (A) Applicability.

These standards apply to applications for development within the boundary of the TOD Overlay Zone, south of Prospect Road and provided further that the provisions contained in subsection 2.6.1(D) regarding parking structure design shall also apply to the HMN, High Density Mixed-Use Neighborhood and the CC, Community Commercial zone districts throughout the City.

### (B) Purpose.

The purpose of this Section is to modify the underlying zone districts south of Prospect Road to encourage land uses, densities and design that enhance and support transit stations along the Mason Corridor. These provisions allow for a mix of goods and services within convenient walking distance of transit stations; encourage the creation of stable and attractive residential and commercial environments within the TOD Overlay Zone south of Prospect Road; and provide for a desirable transition to the surrounding existing neighborhoods. Accordingly, in the event of a conflict between the provisions contained in this Section and the provisions contained in Article 2, this Section shall control. The purpose of this Section is also to apply the standards contained in subsection 2.6.1(D) regarding parking structure design to all land within the City that is located in the HMN, High Density Mixed-Use Neighborhood and the CC, Community Commercial zone districts.

### (C) Site Planning.

1. **Building Orientation**
   Primary commercial and residential building entrances shall face streets, connecting walkways, plazas, parks or similar outdoor spaces, but not parking lots. Buildings shall face all street frontages to the maximum extent feasible, with highest priority given to east-west streets that lead from transit stations to destinations.

2. **Central Feature or Gathering Place.**
   At least one (1) prominent or central location within each transit station area shall include a convenient outdoor open space or plaza with amenities such as benches, monuments, kiosks or public art. This feature and its amenities shall be placed adjacent to a transit station, to the extent reasonably feasible.

3. **Outdoor Spaces.** To the extent reasonably feasible, buildings and extensions of buildings shall be designed to form outdoor spaces such as courtyards, plazas, arcades, terraces, balconies and decks for residents' and workers' use and interaction, and to integrate the development with the adjacent physical context. To the extent reasonably feasible, a continuous walkway system linking such outdoor spaces shall be developed and shall include coordinated linkages between separate developments.

### (D) Streetscape and Pedestrian Connections.

1. **Streetscape.** Developments shall provide formal streetscape improvements which shall include sidewalks having street trees in sidewalk cutouts with tree grates, planters or other appropriate treatment for the protection of pedestrians, and shall provide seating and pedestrian light fixtures. Specific design details shall be subject to approval by the City Engineer in accordance with the design criteria for streets.

2. **On-street Parking.** On-street parking shall be defined by landscaped curb extensions or bulb-outs. Conventional or enhanced crosswalks shall be provided at all

intersections.

3. **Off-street Parking.** Off-street parking shall be located behind, above, within or below street-facing buildings to the maximum extent feasible. No parking will be allowed between the street and the front or side of a building.

4. **Parking Structure Design.**
To the extent reasonably feasible, all parking structures shall meet the following design criteria:

a. Where parking structures face streets, retail or other nonresidential uses shall be required along at least fifty (50) percent of the ground level frontage to minimize interruptions in pedestrian interest and activity. The decision maker may grant an exception to this standard for all or part of the ground level frontage on streets with low pedestrian interest or activity.

b. Awnings, signage and architectural elements shall be incorporated to encourage pedestrian activity at the street-facing level.

c. Auto entrances shall be located and designed to minimize pedestrian/auto conflicts. Where service entries or parking structure entries are needed, the following standards shall be met: (See Figure 16.5)

I. The crown of the underground parking access ramp shall be at least four (4) feet behind the back edge of the sidewalk;

II. The beginning of the ramp for an above-ground parking garage shall be at least four (4) feet behind the back edge of the sidewalk;

III. The entry to the parking structure shall be separated from the sidewalk by low planters or a low wall;

IV. No blank walls shall be allowed on either side of the entry;

V. The sidewalk pavement shall be continuous across the drive aisle. Any break in the paving surface or scoring shall be in the drive surface and not in the pedestrian surface; and

VI. Appropriate cautionary signage shall be used to alert pedestrians to the presence of entering and existing vehicles and to inform drivers that pedestrians have priority.

Figure 16.5

Clear Sight Lines for Pedestrian Safety

(E) Character and Image.

1. Articulation

Exterior building walls shall be subdivided and proportioned to human scale, using projections, overhangs and recesses in order to add architectural interest and variety and avoid the effect of a single, massive wall with no relation to human size.

2. Rooflines.

Flat-roofed buildings shall feature three-dimensional cornice treatment on all walls facing streets or connecting walkways, or a rail at the top of the wall of a usable rooftop deck, unless the top floor is stepped back to form a usable roof terrace area. A single continuous horizontal roofline shall not be used on one-story buildings. Accent roof elements or towers may be used to provide articulation of the building mass. To the maximum extent feasible, a minimum pitch of 6:12 shall be used for gable and hipped roofs. Where hipped roofs are used alone, the minimum pitch shall be 4:12.

3. Materials and Colors.

a. Predominant exterior building materials shall be high quality materials, including, but not limited to, brick, sandstone, other native stone, tinted/textured concrete masonry units, stucco systems or treated tilt-up concrete systems.

b. All building facades shall incorporate stone, stone veneer, brick, brick veneer, stucco, corrugated metal, wood and/or equivalent accent material in a manner that highlights the articulation of the massing or the base and top of the building. An all-brick building does not need to incorporate an accent material, though soldier courses and banding or other brick, stone or metal detailing are encouraged in order to subdivide masses and establish human scale.

c. Predominant or field colors for facades shall be low reflectance, subtle, neutral or earth tone colors. The use of high-intensity colors, black or fluorescent colors shall be prohibited.

d. Building trim and accent areas may feature brighter colors, including primary colors, and black, but neon tubing shall not be an acceptable feature for building trim or accent areas.

e. Exterior building materials shall not include smooth-faced concrete block, untreated or unpainted tilt-up concrete panels or prefabricated steel panels.

4. **Multiple Store Fronts.**
Buildings with multiple storefronts shall be unified through the use of architecturally compatible features, such as colors, details, awnings, signage and lighting fixtures.

5. **Walls, Fences and Planters.**
Walls, fences and planters shall be designed to match or be consistent with the quality of materials, style and colors of the development.

6. **Building Height.**
All buildings shall have a minimum height of twenty (20) feet, measured to the dominant roof line of a flat-roofed building, or the mean height between the eave and ridge on a sloped-roof building. In the case of a complex roof with different, co-dominant portions, the measurement shall apply to the highest portion.

a. All buildings shall be limited to the maximum height allowed in the underlying zone district unless:

I. the development is mixed-use and contains at least one-seventh (1/7) of its total building square footage as either residential or office use, in which case the maximum allowable height shall be the base height plus one (1) story; or

II. the development is mixed-use and contains at least one-seventh (1/7) of its total building square footage as residential use and at least ten (10) percent of the residential units are either affordable housing units for rent or affordable housing units for sale as defined in Article 5 or structured parking (underground, interior to the site or above ground), in which case the maximum allowable height shall be the base height plus two (2) stories; or

III. the project is mixed-use and contains at least one-seventh (1/7) of its total building square footage as residential use, and at least ten (10) percent of the residential units are either affordable housing units for rent or affordable housing units for sale as defined in Article 5, and the project contains structured parking (underground, interior to the site or above ground), in which case the maximum height shall be the base height plus three (3) stories.

b. Buildings shall have a base portion consisting of one (1) or two (2) stories. The base portion shall be clearly defined by a prominent, projecting cornice or roof, fenestration, different material and different color from the remainder of the building. If the base portion is two (2) stories, the ground floor shall be further differentiated by fenestration and other detailing.

c. Buildings greater than two (2) stories in height shall also be designed so that upper portions of the building are stepped back from the base. The adequacy of

upper floor step-backs shall be determined by the extent to which they advance the following objectives:

I. providing pedestrian scale along sidewalks and outdoor spaces;

II. enhancing compatibility with the scale and massing of nearby buildings;

III. preserving key sunshine patterns in adjacent spaces; and

IV. preserving views.

7. **Windows.**
Standard storefront window and door systems may be used as the predominant style of fenestration for nonresidential or mixed-use buildings as long as the building facade visually establishes and defines the building stories and establishes human scale and proportion. Minimum glazing on pedestrian-oriented facades of buildings shall be sixty (60) percent on the ground floor and forty (40) percent on upper floors. Subject to approval by the decision maker, projects functionally unable to comply with this requirement shall mitigate such noncompliance with ample, enhanced architectural features such as a change in massing or materials, enhanced landscaping, trellises, arcades or shallow display window cases.

(F) **Display Windows**.
Ground floor retail, service and restaurant uses shall have large-pane display windows. Such windows shall be framed by the surrounding wall and shall not exceed ninety (90) percent of the total ground level facade area.

# SECTION 2.6.2 SOUTH COLLEGE GATEWAY OVERLAY (SCG)

**(A) Applicability.**
These standards apply to applications for development within the South College Gateway Area.

**(B) Purpose.**
The purpose of this Section is to provide standards to modify the underlying zone districts north of the intersection of South College Avenue and Carpenter Road to encourage land uses and designs that implement the South College Corridor Plan regarding the enhancement of the South College Gateway Area (see Figure 16.7).

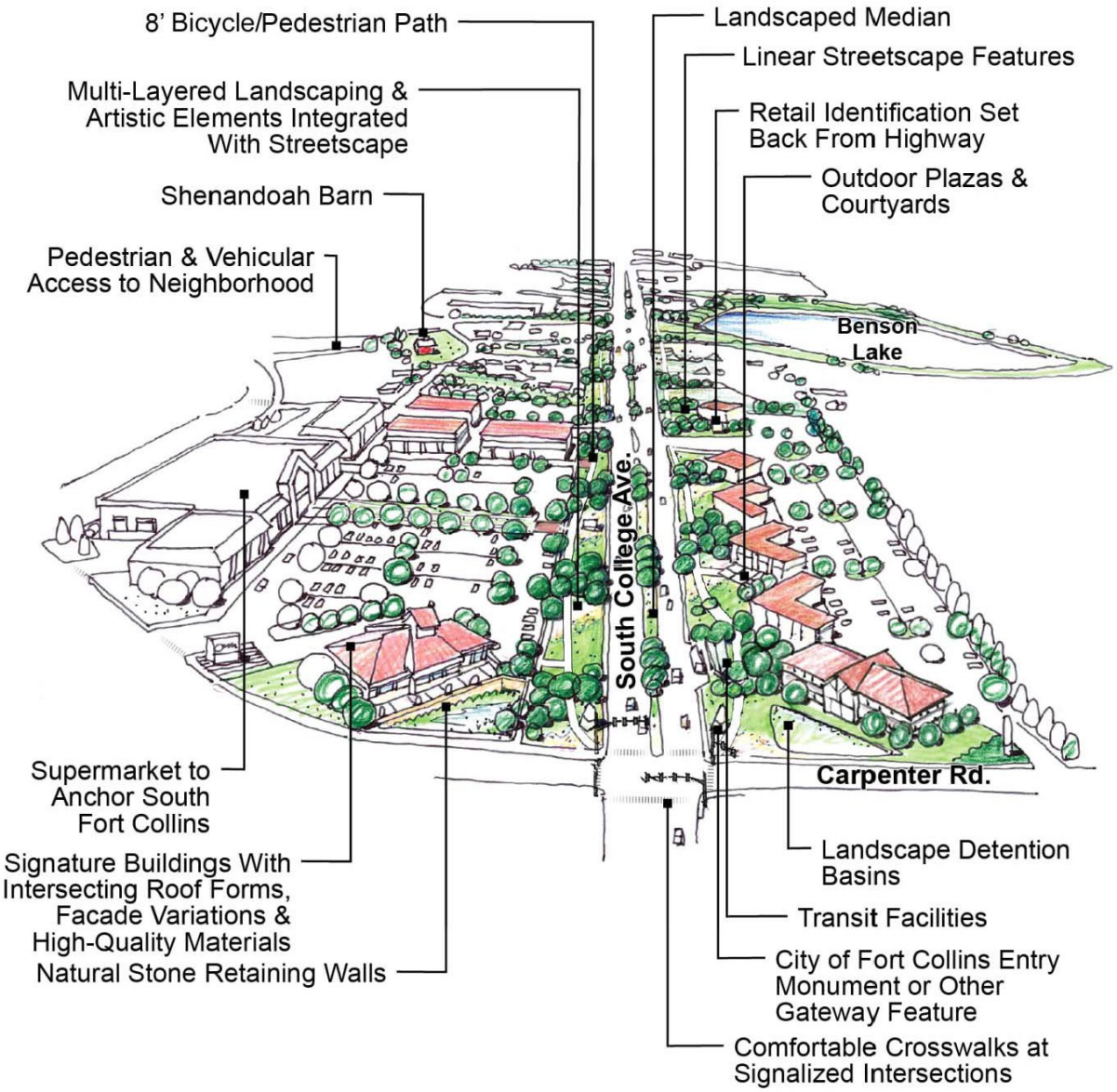



Figure 16.7
Example of the South College Gateway Area Concept

(C) Setback Area.

1. Setback Area Distance.
A setback area of at least fifty (50) feet shall be provided along South College Avenue, measured from the curb to the nearest edge of adjacent buildings or parking areas.

2. Landscaping.
Gateway landscaping shall be provided consisting of groups of deciduous, evergreen and ornamental trees repeated across both sides of South College Avenue, including the median where permitted, in a coordinated massing pattern, with openings between groups. The massing pattern of tree groups and openings shall be placed to manage views and to reinforce such features and spaces along the streetscape as transit stops, signs and outdoor spaces that are defined by buildings, as well as community identity features, such as entry monuments, retaining walls, welcome signs and public art.

3. Sidewalks.
Sidewalks/paths along College Avenue shall be located in the landscaped setback area and shall be designed to connect key points, such as street intersections, transit stops, outdoor spaces in adjacent developments and walkway connections while providing greater separation from College Avenue than would be provided by a parkway strip in the typical cross-section.

4. Plaza Element.
At least one (1) pedestrian or courtyard plaza element shall be provided within or immediately adjacent to the setback area and connected to the off-street path.

(D) Site Planning.

1. Building Placement.
There shall be a building or structure placed on each side of South College Avenue at the Carpenter Road intersection.

a. The buildings or structures shall be placed and designed to form a coordinated overall appearance across the intersection with similar placement and image, including roof forms, materials and other design characteristics.

b. A context diagram shall be provided for each development plan to indicate how the building placement on each side will relate to building placement across the intersection. The context diagram shall include any existing or proposed buildings and other physical features.

c. Buildings shall provide roofs with sloping pitches of at least 5:12 or arc, barrel or other architectural distinctive forms.

(E) Character and Image

1. Building masses shall be varied with elements such as slipped-plane offsets, recesses and projections, reveals, harmonious variations in roof shape or height and vertical extensions at focal points.

2. Buildings shall be multi-story or a minimum of twenty (20) feet in height.

3. Retaining walls shall be constructed of materials that match or complement the architecture of the building.

# SECTION 2.6.3 PLANNED UNIT DEVELOPMENT (PUD) OVERLAY

## (A) Purpose.

1. Directs and guides subsequent Project Development Plans and Final Plans for large or complex developments governed by an approved PUD Comprehensive Plan.

2. Substitutes a PUD Comprehensive Plan for an Overall Development Plan for real property within an approved PUD Overlay.

3. Positions large areas of property for phased development.

4. Encourages innovative community planning and site design to integrate natural systems, energy efficiency, aesthetics, higher design, engineering and construction standards and other community goals by enabling greater flexibility than permitted under the strict application of the Code, all in furtherance of adopted and applicable City plans, policies, and standards.

5. Allows greater flexibility in the mix and distribution of land uses, densities, and applicable development and zone district standards.

## (B) Objectives.

1. Encourage conceptual level review of development for large areas.

2. In return for flexibility in site design, development under a PUD Overlay must provide public benefits significantly greater than those typically achieved through the application of a standard zone district, including one or more of the following as may be applicable to a particular PUD Comprehensive Plan:

   a. Diversification in the use of land;
   b. Innovation in development;
   c. More efficient use of land and energy;
   d. Public amenities commensurate with the scope of the development;
   e. Furtherance of the City's adopted plans and policies; and
   f. Development patterns consistent with the principles and policies of the City's Comprehensive Plan and adopted plans and policies.

3. Ensure high-quality urban design and environmentally-sensitive development that takes advantage of site characteristics.

4. Promote cooperative planning and development among real property owners within a large area.

5. Protect land uses and neighborhoods adjacent to a PUD Overlay from negative impacts.

## (C) Applicability.

1. Any property or collection of contiguous properties of a minimum of fifty (50) acres in size is eligible for a PUD Overlay provided all owners authorize their respective property to be included.

2. An approved PUD Overlay will be shown upon the Zoning Map and will overlay existing zoning, which will continue to apply, except to the extent modified by or inconsistent with the PUD Comprehensive Plan.

3. An approved PUD Comprehensive Plan will substitute for the requirement for an Overall Development Plan. Development within the boundaries of an approved PUD Overlay may proceed directly to application for Project Development Plan(s) and Final Plan(s).

**(D) PUD Comprehensive Plan Review Procedure.**

**Step 1** (Conceptual Review / Preliminary Design Review):
Applicable.

**Step 2** (Neighborhood Meeting):
Applicable to any proposed PUD Overlay subject to Planning and Zoning Commission or City Council review. If a neighborhood meeting is required at the conceptual planning stage pursuant to Division 6.3, a second neighborhood meeting shall be required after the PUD Overlay application has been submitted and the first round of staff review completed.

**Step 3** (Development Application Submittal):
All items or documents as described in the development application submittal master list for a PUD Overlay shall be submitted. Notwithstanding, the Director may waive or modify the foregoing submittal requirements if, given the facts and circumstances of the specific application, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary for the full and complete review of the application.

**Step 4** (Review of Application): Applicable.

**Step 5** (Staff Report): Applicable.

**Step 6** (Notice): Applicable.

**Step 7(A)** (Decision Maker):
Applicable as follows:

1. Planning and Zoning Commission review (Type 2 review) applies to PUD Overlay applications between 50 and 640 acres;

2. City Council is the decision maker for PUD Overlay applications greater than 640 acres after receiving a Planning and Zoning Commission recommendation. City Council approval of a PUD Overlay shall be by ordinance.

**Step 7(B) through (G)** Conduct of a Public Hearing, Order of Proceedings at Public Hearing, Decision and Findings, Notification to Applicant, Record of Proceeding, Recording of Decision:
Applicable.

**Step 8** (Standards):
Applicable. In order to approve a proposed PUD Comprehensive Plan, the decision maker must find that the PUD Comprehensive Plan satisfies all of the following criteria:

1. The PUD Comprehensive Plan achieves the purpose and objectives of Sections 2.6.3(A) and (B);

2. The PUD Comprehensive Plan provides high quality urban design within the subject property or properties;

3. The PUD Comprehensive Plan will result in development generally in compliance with the principles and policies of the City's Comprehensive Plan and adopted plans and policies;

4. The PUD Comprehensive Plan will, within the PUD Overlay, result in compatible design and use as well as public infrastructure and services, including public streets, sidewalks, drainage, trails, and utilities; and

5. The PUD Comprehensive Plan satisfies all applicable Land Use Code permitted uses and standards except to the extent additional permitted uses or modified standards, including densities, have been approved pursuant to Subsections (E) or (G) below.

The standards for granting additional uses within a PUD Overlay are set forth below in Subsection (E) and the standards for granting modifications of densities and development standards are set forth in below Subsection (G).

**Step 9** (Conditions of Approval):
Applicable.

**Step 10** (Amendments):
Applicable.

**Step 11** (Lapse):

Applicable.

**Step 12** (Appeals):
Applicable. A Planning and Zoning Commission decision on a PUD Overlay between 50 and 640 acres is appealable to City Council pursuant to Section 6.3.12(A). Appeals of Project Development Plans within PUD Overlays are subject to the limitations of Section 2.6.3(I).

### (E) Permitted Uses.

1. Any uses permitted in the underlying zone district are permitted within an approved PUD Overlay.

2. Additional uses not permitted in the underlying zone district may be requested for inclusion in a PUD Comprehensive Plan along with the type of review for such use, whether Type I, Type II, or Basic Development Review. The application must enumerate the additional use being requested, the proposed type of review, and how the use satisfies below criteria (a) through (d). The decision maker shall approve an additional use only if it satisfies criteria (a) through (d). For each approved additional use, the decision maker shall determine the applicable type of review and may grant a requested type of review if it would not be contrary to the public good.

3. The use advances the purpose and objectives of the applicable PUD Overlay provisions set forth in Sections 2.6.3(A) and (B) and the principles and policies of the City's Comprehensive Plan and adopted plans and policies;

4. The use complies with applicable Code provisions regarding the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment;

5. The use is compatible with the other proposed uses within the requested PUD Overlay and with the uses permitted in the zone district or districts adjacent to the proposed PUD Overlay; and

6. The use is appropriate for the property or properties within the PUD Overlay.

### (F) Prohibited Uses.

All uses that are not expressly allowed in an approved PUD Comprehensive Plan, in the underlying zone district, or determined to be permitted pursuant to Land Use Code Division 6.9 shall be prohibited.

### (G) Modification of Densities and Development Standards.

1. Certain densities and development standards set forth in the Land Use Code and described below in Subsection (G)(2) may be modified as part of a PUD Comprehensive Plan. The modification procedure described in this Section (G) substitutes for the modification procedure set forth in Division 6.8.

2. The application must enumerate the densities and development standards proposed to be modified.

   a. The application shall describe the minimum and maximum densities for permitted residential uses.

   b. The application shall enumerate the specific Land Use Code standards of Articles 2 through 5 that are proposed to be modified and the nature of each modification in terms sufficiently specific to enable application of the modified standards to Project Development Plans and Final Plans submitted subsequent to, in conformance with and intended to implement, the approved PUD Comprehensive Plan. Modifications under this Section may not be granted for Engineering Design Standards referenced in Section 5.4.3 and variances to such standards are addressed below in Subsection (L).

3. In order to approve requested density or development standard modifications, the decision maker must find that the density or development standard as modified satisfies all of the following criteria:

   a. The modified density or development standard is consistent with the applicable purposes, and advances the applicable objectives of, the PUD Overlay as described in Sections 2.6.3(A) and (B);

   b. The modified density or development standard significantly advances the development objectives of the PUD Comprehensive Plan;

   c. The modified density or development standard is necessary to achieve the development objectives of the PUD Comprehensive Plan; and

   d. The modified density or development standard is consistent with the principles and policies of the City's Comprehensive Plan and adopted plans and policies.

(H) **PUD Comprehensive Plan Termination and Amendment.**

4. **Termination.**
   An approved PUD Comprehensive Plan may be terminated in accordance with the following provisions:

   a. Termination may be initiated by any of the following:

      I. The written request of all of the real property owners within a PUD Overlay; or

      II. The City, provided no vested property right approved in connection with the PUD Comprehensive Plan would be in effect upon termination.

   b. Upon receiving a valid request to terminate, the original decision maker of the PUD Comprehensive Plan shall terminate unless termination is determined to be detrimental to the public good after holding a public hearing to address the issue.

   c. If the PUD Comprehensive Plan is terminated, the City may remove the overlay designation on the zoning map and the underlying zone district regulations in effect at the time of such removal shall control.

   d. Any nonconforming uses resulting from expiration or termination of a PUD Comprehensive Plan are subject to Division 6.17.

5. PUD Comprehensive Plan Amendment. An approved PUD Comprehensive Plan may be amended pursuant to the procedures set forth in Section 6.3.10 in accordance with the following provisions:

   a. Amendments may be initiated by any of the following:

      I. The written request of all real property owners within the PUD Overlay; or

      II. The written request of the original applicant, property owner, and/or developer for the approved PUD Comprehensive Plan, or any successor or assign thereof authorized in writing by such party or parties to have the ability pursuant to this Subsection to request an amendment, provided the following conditions are met:

         i. The name or names of the original applicant, property owner, and/or developer authorized to request an amendment must be set forth in writing in the PUD Comprehensive Plan.

         ii. The authorized applicant, property owner, developer, or successor or assign, owns

or otherwise has legal control of real property within the PUD Overlay; and

iii. The right of the authorized applicant, property owner, developer, or successor or assign, to amend the PUD Comprehensive Plan without the consent of other owners of real property within the PUD Overlay has been recorded as a binding covenant or deed restriction recorded on the respective real property; or

III. The City, provided the amendment does not amend, modify, or terminate any existing vested right approved in connection with the PUD Comprehensive Plan without the permission of the beneficiary or beneficiaries of such vested right.

b. Except as to real property within the PUD Overlay owned or otherwise under the control of the authorized applicant, property owner, developer, or successor or assign, any approved amendment requested by the authorized applicant, property owner, developer, or successor or assign, shall not apply to any other real property within the PUD Overlay which:

I. Is already developed pursuant to the applicable PUD Comprehensive Plan;

II. Has a valid and approved Project Development Plan or Final Plan; or

III. Is the subject of ongoing development review at the time the authorized applicant, property owner, developer, or successor or assign amendment request is submitted to the City.

**(I) Appeals.**

1. A Planning and Zoning Commission final decision on a PUD Comprehensive Plan is appealable to Council pursuant to Section 6.3.12(A).

2. Any Project Development Plan wholly located within a PUD Overlay may be appealed pursuant to Section 6.3.12(A). However, the validity of the uses, densities, and development standards approved in a PUD Comprehensive Plan shall not be the subject of any such Project Development Plan appeal.

3. Vesting of PUD Comprehensive Plan. Subject to the provisions of Section 6.3.11(C), the only aspects of an approved PUD Comprehensive Plan eligible for vested property rights are the enumerated uses, densities, development standards, and variances from Engineering Design Standards granted pursuant to Section 2.6.3(K). Such uses, densities, and development standards may be those for which modifications have been granted or uses, densities, and development standards set forth in the Code. The applicant shall specify in the PUD Comprehensive Plan if it is requesting vested property rights for uses, densities, development standards, and variances from Engineering Design Standards in excess of the three (3) year period specified in Section 6.3.11(C)(2) and the justification therefor.

**(J) Vesting of PUD Comprehensive Plan.**

Subject to the provisions of Section 6.3.11(C), the only aspects of an approved PUD Master Plan eligible for vested property rights are the enumerated uses, densities, development standards, and variances from Engineering Design Standards granted pursuant to Section 2.6.3(K). Such uses, densities, and development standards may be those for which modifications have been granted or uses, densities, and development standards set forth in the Code. The applicant shall specify in the PUD Master Plan if it is requesting vested property rights for uses, densities, development standards, and

variances from Engineering Design Standards in excess of the three (3) year period specified in Section 6.3.11(C)(2) and the justification therefor.

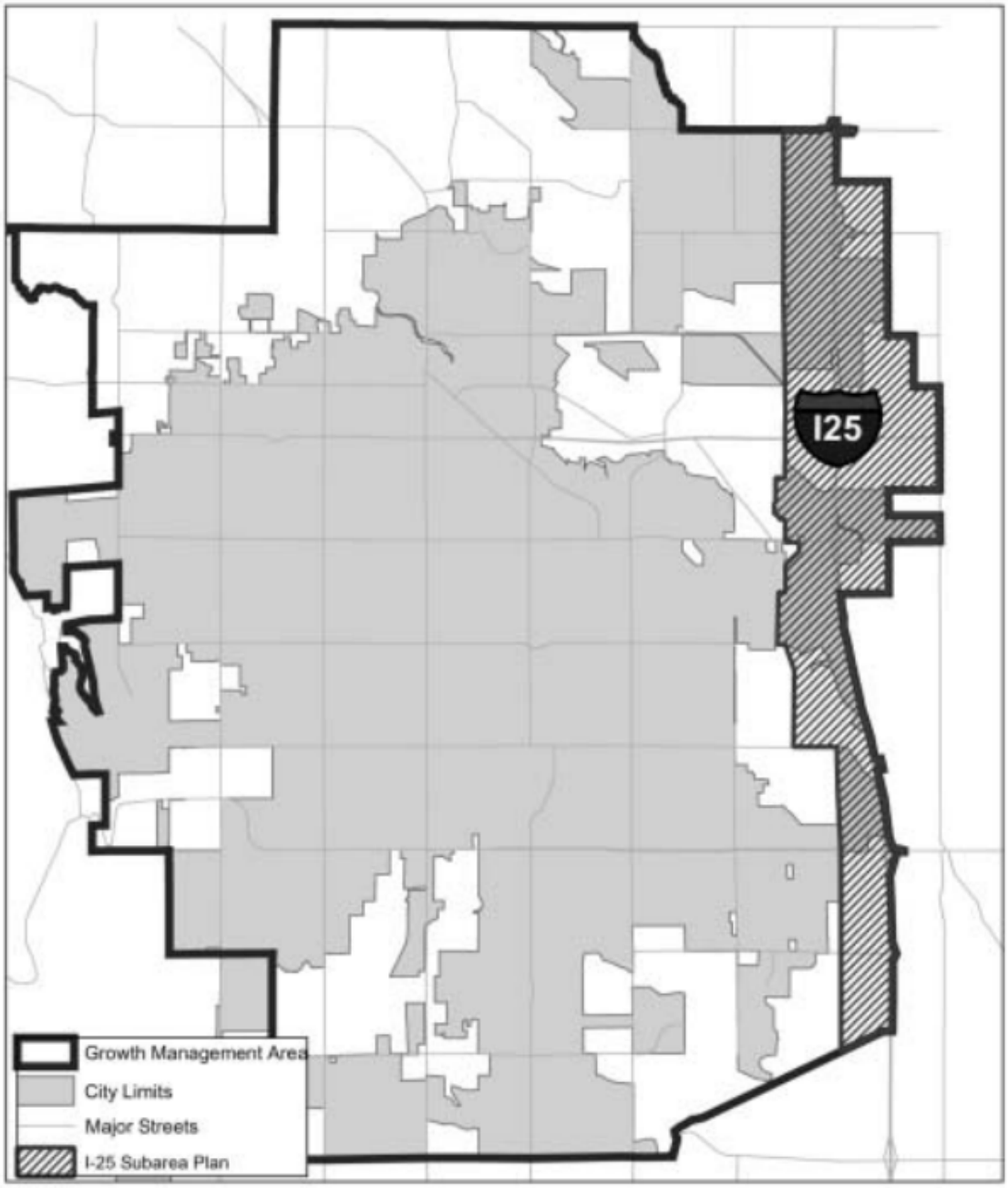
**(K) Variances.**

Variances from the Engineering Design Standards listed in Section 5.4.3, including variances from the Larimer County Area Urban Street Standards, may be requested in connection with a PUD Comprehensive Plan. A request for such variances shall be processed in accordance with and subject to the standards applicable to the variance. Variances so requested and approved prior to the approval of a PUD Comprehensive Plan may be incorporated into and approved as a part of the PUD Comprehensive Plan, and if so incorporated and approved, shall be applicable to Project Development Plans and Final Plans submitted subsequent to, in conformance with and intended to implement, the approved PUD Comprehensive Plan. The decision maker on the PUD Comprehensive Plan shall not have the authority to alter or condition any approved variance as part of the PUD Comprehensive Plan review. Variances may also be processed in connection with a Project Development Plan or Final Plan submitted subsequent to an approved PUD Comprehensive Plan.

## SECTION 2.6.4 I-25 DEVELOPMENT STANDARDS

**(A) Applicability.**

The provisions contained in Section 2.6.4 shall apply to applications for development within the boundary of the I-25 Subarea Plan, and, to the extent that such provisions regulate Activity Centers, they shall also apply to the I-25/State Highway 392 Corridor Activity Center; and the provisions contained in Section 2.6.4(M) shall apply only to the I-25/State Highway 392 Corridor Activity Center.




**(B) Purpose.**

The purpose of this Section is to provide standards to implement the model standards outlined in the "Development Standards for the I-25 Corridor" and the "Fort Collins I-25 Corridor Subarea Plan," in addition to the standards contained elsewhere in this Land Use Code.

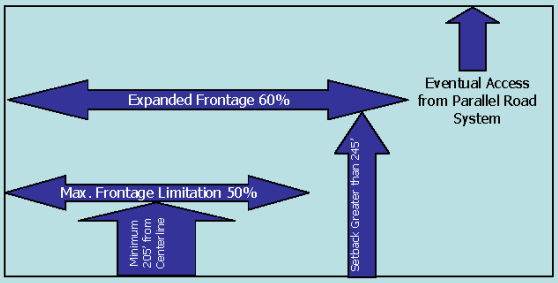
**from I-**

1. Development of new single-unit residential lots within one thousand three hundred twenty (1,320) feet (one-quarter [¼] mile) of

the centerline of Interstate Highway 25 (I-25) shall be prohibited. Exception: single-unit detached dwellings in the Rural Lands District (RUL) shall be exempt from this standard.

2. In the Urban Estate zone district, development that creates new single-unit residential lots located between one-quarter (¼) and one-half (½) mile from the centerline of I-25 shall utilize the clustering technique (as provided for in Section 2.1.2 of this Land Use Code for the Urban Estate District) in order to concentrate densities away from I-25, maximize views and preserve landscape features or open space.

Outside of Activity Centers maximum building frontage allowances are dependent upon setback distances from the I-25 Centerline.




## (D) Building Placement Standards.

1. Minimum setback of any building on a lot, tract or parcel of land adjoining the I-25 right-of-way shall be two hundred five (205) feet from the centerline of I-25.

2. Outside of I-25 activity centers, the placement of a building on a lot, tract or parcel of land adjoining the I-25 right-of-way where the building is located between two hundred five (205) feet and two hundred forty-five (245) feet from the centerline of I-25 shall be restricted so that no more than fifty (50) percent of the total frontage of the lot, tract or parcel of land is occupied by the building.

3. Outside of I-25 activity centers, the placement of a building on a lot, tract or parcel of land adjoining the I-25 right-of-way where the building is located more than two hundred forty-five (245) feet from the centerline of I-25 shall be restricted so that no more than sixty (60) percent of the total frontage of the lot, tract or parcel of land is occupied by the building.

## (E) Landscaping Standards.

1. Parking Lot Perimeter Landscaping. At least seventy-five (75) percent of the perimeter of all parking areas shall be screened from nearby streets, public rights-of-way, public open space and nearby uses by at least one (1) of the following methods:

   a. A berm at least three (3) feet high with a maximum slope of 3:1 in combination with evergreen and deciduous trees and shrubs;

   b. A hedge at least three (3) feet high, consisting of a double row of shrubs readily capable of growing to form a hedge, planted three (3) feet on center in a triangular pattern;

   c. A decorative fence or wall between three (3) and four (4) feet in height in combination with landscaping including, without limitation, evergreen and deciduous trees and shrubs.

2. Site Perimeter Landscaping Abutting the I-25 Right-of-Way.

   a. Buffers abutting I-25. Developments with a site perimeter which is adjoining the I-25 right-of-way shall provide a landscaped buffer of at least eighty (80) feet between the building or parking lot edge and the I-25 right-of-way. The buffer shall consist of

informal clusters of deciduous and evergreen trees and shrubs planted in an offset pattern and shall consist of one (1) tree and ten (10) shrubs per twenty-five (25) lineal feet of frontage.

b. Berms. Berms greater than three (3) feet in height shall not be permitted adjoining the I-25 right-of-way if they block long-range views of mountains and open lands for motorists on I-25 (not including motorists on frontage roads or ramps). Notwithstanding this limitation, additional berm height may be required to screen the following areas visible to motorists on I-25: parking lots, drive-thru lanes, and service areas, including but not limited to, loading areas, service entrances, and trash and recycling enclosures.

c. Parking and Service Areas. When berms screening parking and service areas are less than five (5) feet in height, berms and surrounding landscape areas shall be planted with a minimum of eight (8) trees and eight (8) shrubs per one hundred (100) lineal feet. A minimum of fifty (50) percent of the required trees shall be evergreens.

d. Additional Screening Elements. In conjunction with the buffering, landscaping and berms, additional elements allowed within the 80-foot buffer may include screen walls in accordance with the provisions of Section 3.9.8(A), (B) and (C).

## (F) Commercial Building Design Standards.

### Roof Form

1. Roofs on principal structures with a building footprint of less than ten thousand (10,000) square feet shall:

   a. be pitched with a minimum slope of at least 5:12;

   b. incorporate the 5:12 pitch by use of a modified Mansard roof, covering a sufficient area of the roof so as to create the appearance that the Mansard roof covers the entire structure, and;

   c. incorporate at least one (1) of the following elements into the design for each fifty (50) lineal feet of roof:

      I. Projecting gables/dormers

      II. Hips

      III. Horizontal or vertical breaks

      IV. Three (3) or more roof planes

2. Roofs on structures with a footprint of greater than ten thousand (10,000) square feet shall have at least two (2) of the following features:

   a. Parapet walls featuring three-dimensional cornice treatment that at no point exceeds one-third (⅓) of the height of the supporting wall.

   b. Overhanging eaves, extending at least three (3) feet beyond the supporting walls.

   c. Sloping roofs not exceeding the average height of the supporting walls, with an average slope greater than or equal to one (1) foot of vertical rise for every one (1) foot of horizontal run.

   d. Three (3) or more roof slope planes.

### Building Form/Façade Treatment

3. Buildings that face public streets, adjoining developments or connecting pedestrian frontage shall be articulated, fenestrated and proportioned to human scale along at least sixty (60) percent of the facade using features such as windows, entrances, arcades, arbors or awnings.

4. Building facades facing a primary access street shall have clearly defined, highly visible

customer entrances that feature at least two (2) of the following:

a. Canopies or porticos
b. Overhangs
c. Recesses or projections of at least three (3) percent of wall length
d. Arcades
e. Distinctive roof forms
f. Arches
g. Outdoor patios
h. Display windows
i. Planters or wing walls that incorporate landscaped areas and/or places for sitting

**Materials and Colors**

5. One (1) or more of the following building materials shall be incorporated into the design of a structure and used to provide visual interest at the sidewalk level for pedestrians:

a. Stucco
b. Brick
c. Stone
d. Tinted, textured masonry block

6. Smooth-faced gray concrete block and tilt-up concrete panels are prohibited.

7. Metal is prohibited as a primary exterior surface material. It may be used as trim material covering no more than ten (10) percent of the facade or as a roof material.

8. Facade colors shall only be earth tone colors with a low reflectance.

9. High-intensity primary colors are prohibited on any roof area visible from a public or private right-of-way or public open space

**(G) Block Pattern for Activity Centers.**

1. To the maximum extent feasible, larger sites containing multiple buildings and uses shall be composed of a series of urban-scale blocks of development defined and formed by streets or drives that provide links to nearby streets along the perimeter of the site.

2. Block sizes shall not exceed ten (10) acres for commercial development.

3. In addition to a network of streets and drives, blocks shall be connected by a system of parallel tree-lined sidewalks that adjoin the streets and drives combined with off-street connecting walkways so that there is a fully integrated and continuous pedestrian network.

4. To the maximum extent feasible, remote or independent pad sites, separated by their own parking lots and service drives, shall be minimized. Such buildings shall be directly connected to the pedestrian sidewalk network.

**(H) Service Areas, Outdoor Storage and Mechanical Equipment.**

1. Location. Loading docks, outdoor storage yards and all other service areas shall be located to the sides and/or rear of a building, except when a site abuts I-25, in which event said areas shall be located to the sides of the building that do not face I-25.

2. Screening.

a. All outdoor storage yards, loading docks, service areas and mechanical equipment or vents larger than eight (8) inches in diameter shall be concealed by screens at least as high as the equipment they hide, of a color and material matching or compatible with the dominant colors and materials found on the facades of the principal building. Chain link, with or without slats, shall not be used to satisfy this requirement.

b. Equipment that would remain visible despite screening, due to differences in topography (i.e., a site that is at a lower grade than surrounding roadways) shall be completely enclosed except for vents needed for air flow, in which event such

vents shall occupy no more than twenty-five (25) percent of the enclosure facade.

(I) Fencing and Walls.

1. Materials. Walls and fences shall be constructed of high-quality materials, such as tinted, textured blocks; brick; stone; treated wood; or ornamental metal; and shall complement the design of an overall development and its surroundings. The use of chain link fencing or exposed cinder block walls shall be prohibited.

2. Location. Fences and walls shall be set back at least six (6) feet from the back edge of an adjoining public sidewalk, and such setback area shall be landscaped with turf, shrubs and/or trees, using a variety of species to provide seasonal color and plant variety.

3. Maximum Length. The maximum length of continuous, unbroken and uninterrupted fence or wall plane shall be forty (40) feet. Breaks shall be provided through the use of columns, landscaping pockets, transparent sections and/or a change to different materials.

(J) Wireless Telecommunication.

1. Location. Wireless telecommunication facilities shall not be permitted within one thousand four hundred forty-five (1,445) feet of the centerline of I-25.

2. Height. Wireless telecommunication facilities shall not exceed the maximum height allowed for a structure as specified in the underlying zone district.

(K) Height.

1. Outside the I-25 activity centers, nonresidential building heights shall not exceed twenty (20) feet within two hundred twenty-five (225) feet of the centerline of I-25.

2. Outside the I-25 activity centers, nonresidential and residential building heights shall not exceed forty (40) feet between two hundred twenty-six (226) feet and seven hundred twenty-five (725) feet of the centerline of I-25.

3. Where existing site topography (whether natural or man-made) blocks views of the mountains or open lands from I-25, these height restrictions shall not apply.

(L) Minimum Residential Density in Activity Centers.

1. Minimum residential density in activity centers shall be twelve (12) dwelling units per gross acre.

(M) Corridor Activity Center Design Standards.

1. On any first floor building elevation that is visible from a public right-of-way, masonry materials limited to natural stone, synthetic stone, brick and concrete masonry units that are textured or split face, solely or in combination, shall be applied to cover from grade to the top of the entry feature of such elevation, or if there is no entry feature on any particular elevation, to a height that would be equivalent to the top of the first floor. For first floor building elevations not visible from a public right-of-way and on all upper stories, other exterior finish materials, including, but not limited to, synthetic stucco (E.I.F.S.), architectural metals, clay units, terra cotta, prefabricated brick panels or wood, can be applied in whole, or in combination with the masonry materials described above. For the purposes of this provision, architectural metals shall mean metal panel systems that are either coated or anodized; metal sheets with expressed seams; metal framing systems; or cut, stamped or cast ornamental metal panels, but not ribbed or corrugated metal panel systems. Standard concrete masonry units or tilt-up concrete with applied texturing are prohibited on any building elevation.

2. A roof pitch shall be required for buildings containing less than twenty-five thousand (25,000) square feet and having three (3)

stories or less. In cases where mechanical equipment must be mounted on the roof, a sloping mansard roof shall be allowed.

3. The maximum building height shall be ninety (90) feet.

4. All freestanding signs shall be ground signs and shall be limited to a maximum height of fourteen (14) feet along and perpendicular to I-25 and twelve (12) feet along and perpendicular to all other streets. Such ground signs shall be subject to all other requirements in Division 5.16.

# ARTICLE 3

# BUILDING TYPES

## DIVISION 3.1 RESIDENTIAL BUILDING TYPES

**3.1.1 Mixed-Use**
**3.1.2 Apartment Building**
**3.1.3 Cottage Court**
**3.1.4 Rowhouse**
**3.1.5 Duplex**
**3.1.6 Detached House - Urban**
**3.1.7 Detached House - Suburban**
**3.1.8 Detached Accessory Structures**
**3.1.9 Accessory Dwelling Unit**
**3.1.10 Residential Cluster**

SECTION 3.1.1

# Mixed-Use

## DESCRIPTION

In “mixed-use” buildings, there shall be a combination of retail, office, and/or residential spaces within one or several buildings. Mixed-use buildings are usually in more urban areas and can vary in their size and number of stories. A mixed-use building type can be identified by its approachable and pedestrian friendly look. The buildings may be farther away from the street with wider sidewalk areas, street plantings, or outdoor seating.

## ZONE DISTRICTS

The following Zone Districts allow Mixed-Use building types:

- **LMN**
- **MMN**
- **HMN**
- **OT-C**
- **NC**
- **CC**
- **CCN**
- **CCR**
- **D**
- **CG**
- **CS**
- **CL**
- **HC**
- **E**
- **Overlay Districts**

## BUILDING TYPE EXAMPLES

ColoProperty.com, IRES MLS

Myriad Condominiums, Dohn Construction

TMA CHA Architects

SECTION 3.1.1

# Mixed-Use

## BUILDING STANDARDS

### BUILDING HEIGHT

| | | |
|---|---|---|
| **Maximum** | 4-12 stories max.* | A |
| **Affordable Housing Bonus** | 1-2 additional stories | B |

*See Zone District standards for specific maximum height.

### BUILD-TO LINES C

| | |
|---|---|
| **Smaller than Arterial** | 0'min. - 15' max. |
| **On-Street Parking** | 0'min. - 15' max. |
| **Arterial or larger** | 10'min. - 25'max. |

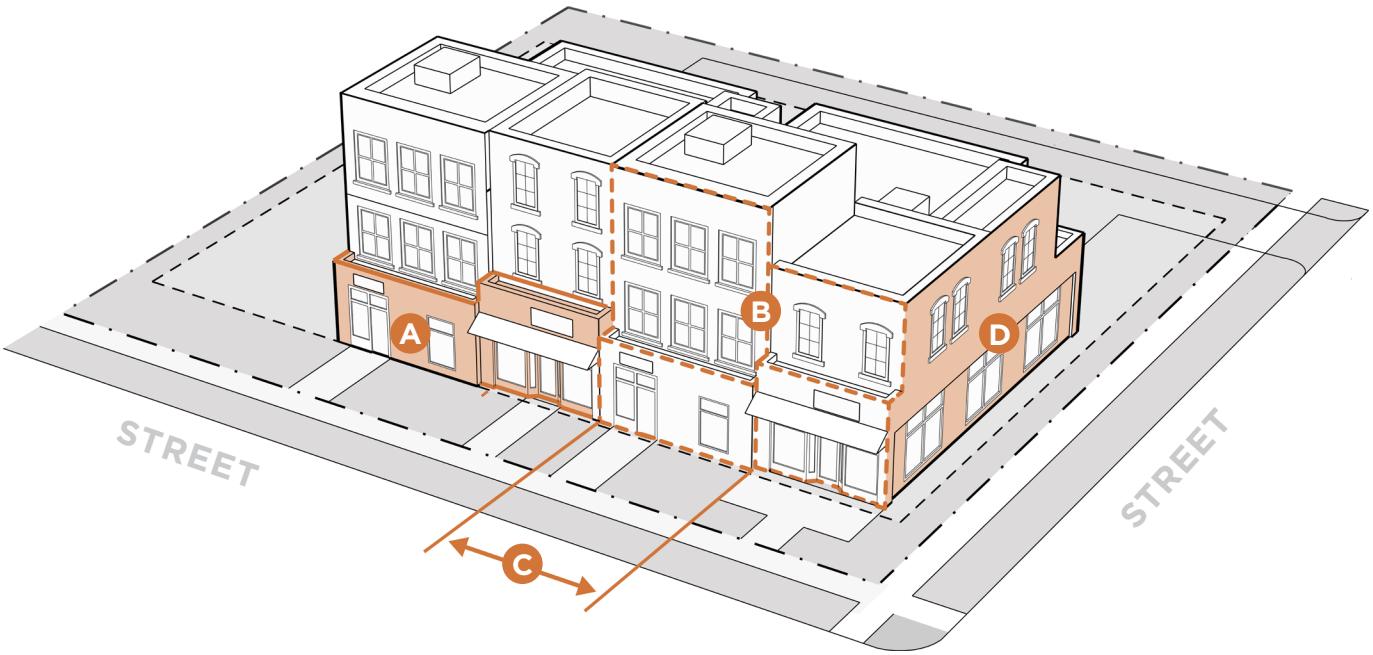
### BUILD-TO LINE EXCEPTIONS

| | |
|---|---|
| **Plaza, courtyard, patio or garden** | Landscaping, low walls, fencing or railings, a tree canopy and/ or other similar site improvements are required. |
| **Easement** | As required by the City to continue an established drainage channel or access drive, or other easement. |
| **Contextual Build-To** | A contextual build-to line may fall at any point between the required build-to line and the build-to line that exists on a lot that abuts, and is oriented to, the same street as the subject lot. |

SECTION 3.1.1

# Mixed-Use

## MASSING & ARTICULATION




### FACADE BASE (A)

**All facades shall have a recognizable "base"** consisting of (but not limited to):

- thicker walls, ledges or sills;
- textured materials such as stone or masonry;
- integrally colored and patterned materials such as smooth-finished stone or tile;
- lighter or darker colored materials;
- mullions or panels; and
- planters.

### FACADE TOP (B)

**All facades shall have a recognizable "top"** consisting of (but not limited to):

- cornice treatments, other than just colored "stripes" or "bands," with integrally textured materials such as stone or other masonry or differently colored materials;
- sloping roof with overhangs and brackets; and
- stepped parapets.

### MASSING

| | | |
|---|---|---|
| **Building Bays* - Maximum Width** | 30′ | (C) |

Footprints over ten-thousand (10,000) sf shall incorporate recesses/projections with bays no wider than thirty (30) ft.

*Building bay is defined as at least two (2) of the following:

- change in plane;
- change in height;
- change in texture or masonry pattern, windows, treillage with vines; and/or
- an equivalent element that subdivides the wall into human scale proportions.

### FOUR-SIDED DESIGN

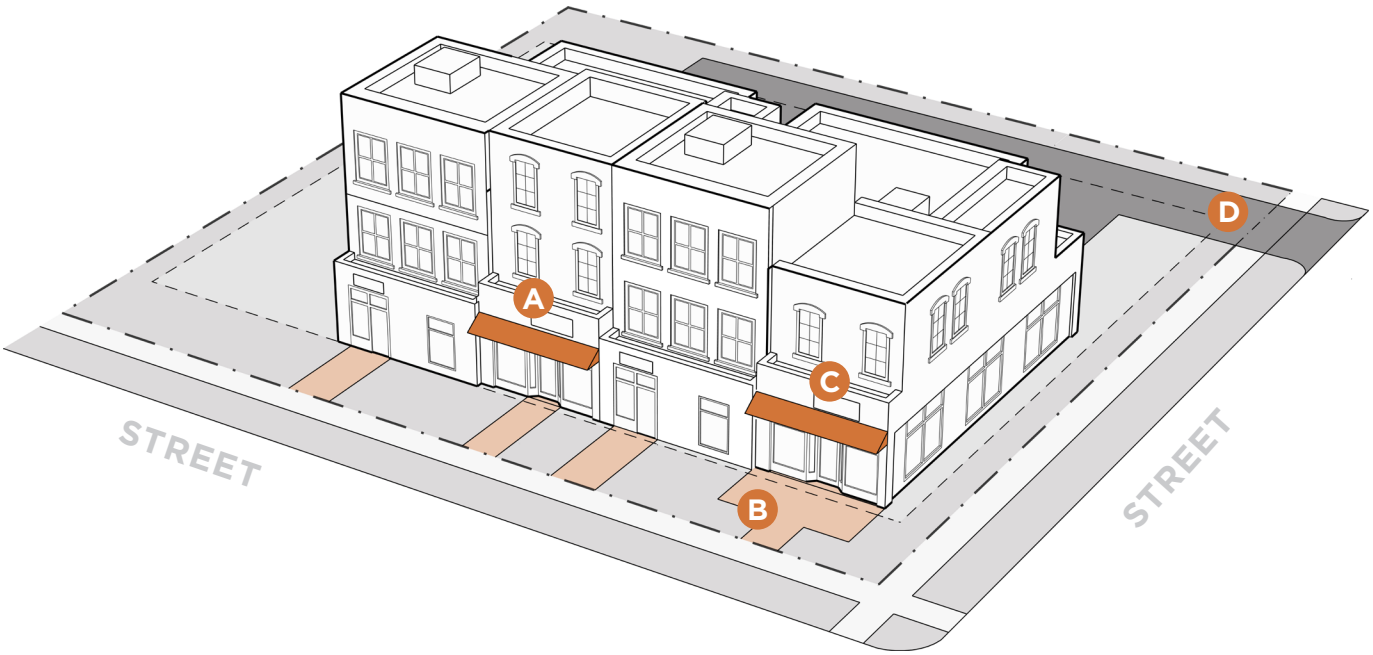
| | | |
|---|---|---|
| **Building Materials** | Consistent with Front of Building | (D) |

*Standard also applies to rear facade..

SECTION 3.1.1

# Mixed-Use

## SITE ACCESS




### ENTRYWAYS

| | |
|---|---|
| **Primary Entrance Features** | Sheltering Element Required* (A) |
| **Primary Entrance Orientation** | Opens to a Connecting Walkway With Pedestrian Frontage** (B) |
| **Awning Width** | No shorter than Single Storefront (C) |

*Includes clearly defined and recessed or framed element such as an awning, arcade, or portico to provide shelter.

**Buildings with vehicle bays and/or service doors for intermittent/infrequent nonpublic access to equipment, storage or similar rooms (e.g., self-serve car washes and self-serve mini-storage warehouses) are exempt from this standard.

### WALKWAYS

| | |
|---|---|
| **Primary Function** | Pedestrian Accommodation |
| **Secondary Function** | Vehicular Movement |

### VEHICULAR ACCESS & PARKING

| | |
|---|---|
| **Alley Access*** ** | Setback additional 15' min. from the building wall (D) |
| **Off-Street Parking** | Shall not be located any closer to a public street right-of-way than the principal building is set back from the street. |

***Any new access must obtain access from an alley when present, unless proposed alley access is deemed hazardous by the City Engineer.

SECTION 3.1.2

# Apartment Building

## DESCRIPTION

An apartment building is a residential building that has three (3) or more housing units. Apartment buildings are typically medium to large in size because the units are placed side-by-side and/or stacked vertically. Apartment buildings have a variety of architectural styles but are usually at least 2 stories tall and have common entries that face the street.

## ZONE DISTRICTS

The following Zone Districts allow Apartment building:

- LMN
- MMN
- HMN
- OT-B
- OT-C
- NC
- CC
- CCN
- CCR
- CG
- D
- HC
- CS
- CL
- E
- Overlay Districts

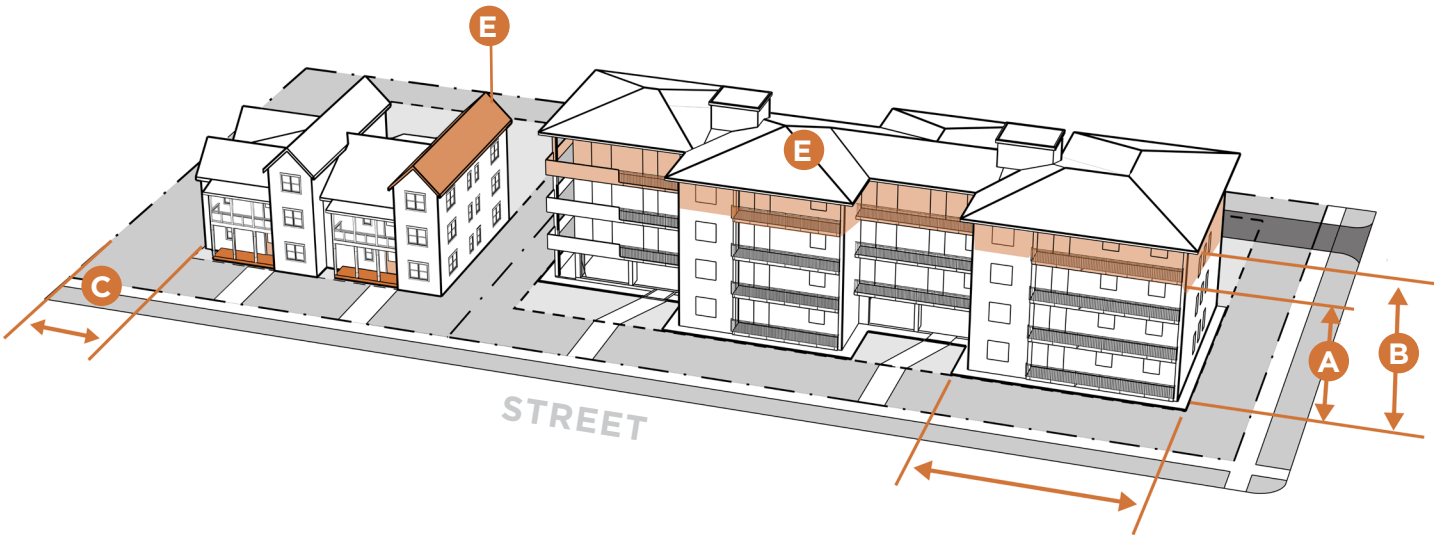
## BUILDING TYPE EXAMPLES

*ce, Fort Collins*

SECTION 3.1.2

# Apartment Building

## BUILDING STANDARDS




### BUILDING HEIGHT

| | | |
|---|---|---|
| **Maximum** | 3 - 12 stories max.* | A |
| **Affordable HousingBonus** | 1-2 additional stories | B |

*See Zone District standards for specific maximum height.

### CONTEXTUAL HEIGHT SETBACK C

| | |
|---|---|
| **Upper Story Setback**** | 25' min. upper story setback above 2 stories |

**Only properties abutting a zone district with a lower maximum building height shall comply.

### ROOF DESIGN E

**Roof lines may be either sloped, flat or curved, but must include at least two (2) of the following:**

- The primary roof line shall be articulated through a variation or terracing in height, detailing and/or change in massing.
- Secondary roofs shall transition over entrances, porches, garages, dormers, towers or other architectural projections.
- Offsets in roof planes shall be a minimum of two (2) feet in the vertical plane.
- Termination at the top of flat roof parapets shall be articulated by design details and/or changes in materials and color.
- Rooftop equipment shall be hidden from view by incorporating equipment screens of compatible design and materials.

SECTION 3.1.2

# Apartment Building

## BUILDING STANDARDS

### FACADES & WALLS

| | |
|---|---|
| **Building Facade Articulation*** | Required when 40′ or more (D) |

***Facade articulation can be accomplished by:**

- Covered doorways, balconies, covered box or bay windows, and/or other similar features;
- Offsetting the floor plan;
- Recessing or projection of design elements;
- Change in materials; and/or
- Change in contrasting colors.

### MASSING (D)

- Massing, wall plane, and roof design proportions shall be similar to a detached house, so that larger buildings can be integrated into surrounding lower scale neighborhoods.
- Projections, recesses, covered doorways, balconies, covered box or bay windows and/or other similar features.
- Dividing large facades and walls into human-scaled proportions similar to the adjacent single- or two-family dwellings shall not have repetitive, monotonous undifferentiated wall planes.
- Horizontal and/or vertical elements that break up blank walls of forty (40) feet or longer.

### PRIMARY ENTRANCES

| | |
|---|---|
| **Architectural Feature** | Primary entrances shall include architectural features such as a porch, landing, portico, similar feature or landscaping. |
| **Location** | Primary entry(ies) shall be located on the street-facing facade. (G) |

### VEHICULAR ACCESS & PARKING (F)

| | |
|---|---|
| **Alley Access**** | Setback additional 15’ min. from building wall. |
| **Off-Street Parking** | Shall not be located any closer to a public street right-of-way than the principal building is set back from the street. |

**Any new access must obtain access from an alley when present, unless proposed alley access is deemed hazardous by the City Engineer.

SECTION 3.1.3

# Cottage Court

## DESCRIPTION

Cottage Court complexes are a grouping of residential units that are organized around a shared courtyard accessible to all residents. Some cottages face the street while others face towards the courtyard. The cottages are usually smaller in scale with friendly architectural styles that provide a neighborhood feel, such as porches or stoops for each residential unit.

## ZONE DISTRICTS

The following Zone Districts allow cottage court building types:

- **OT-C**
- **LMN**
- **MMN**
- **HC**
- **E**
- **D**
- **Overlay Districts**

Only when part of a Residential Cluster:

- **UE**
- **RUL**
- **RF**

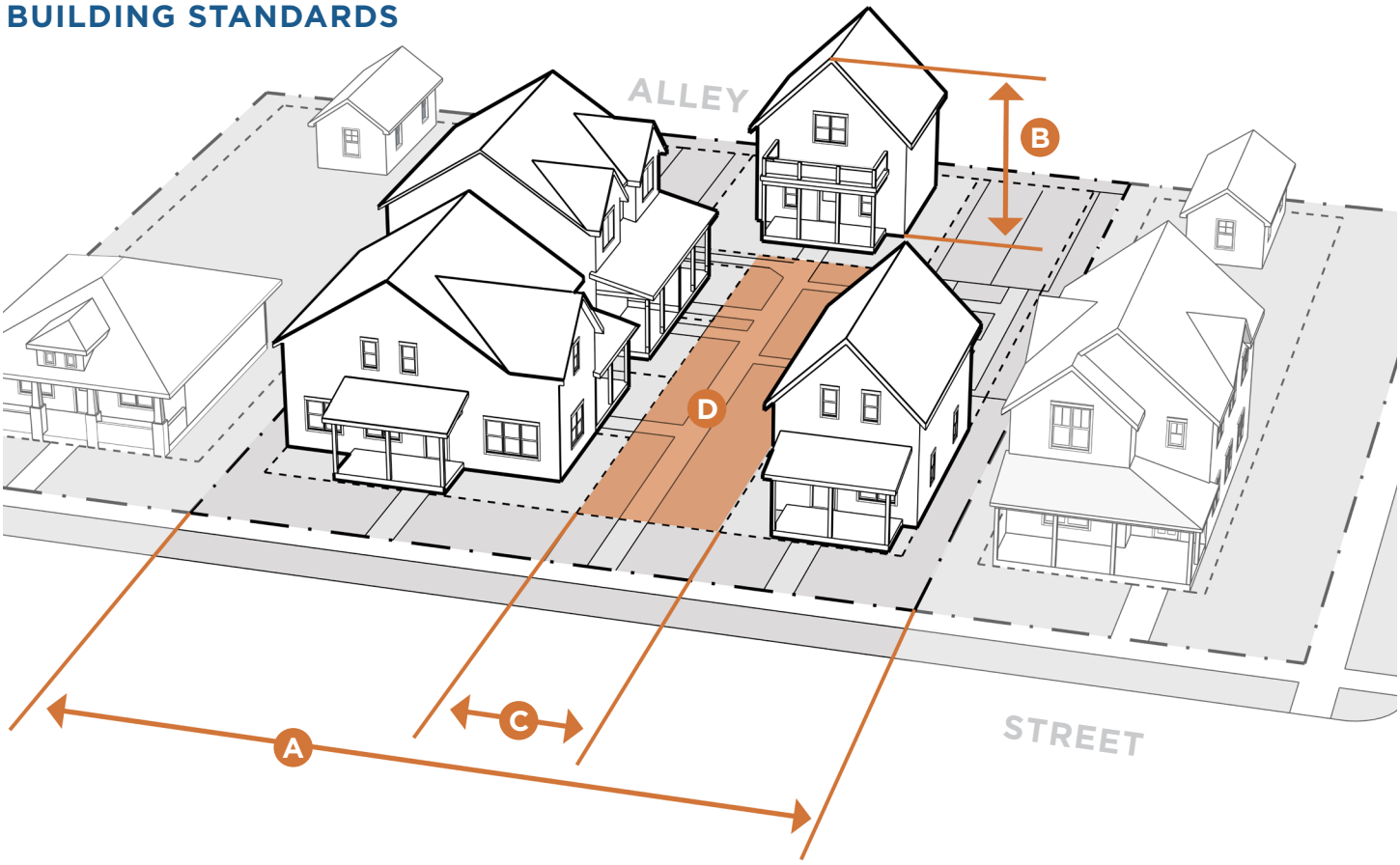
## BUILDING TYPE EXAMPLES

*rtesy of Ross Chapin Architects*

SECTION 3.1.3

# Cottage Court

## BUILDING STANDARDS




### LOT STANDARDS

| | |
|---|---|
| **Lot Area - Minimum** (Prior to Subdivision) | 9000 ft² min. |
| **Lot Area / Unit - Minimum** | 1400 ft² min. |
| **Lot Width - Minimum** (Prior to Subdivision) | 100′ min. A |

### DWELLING UNITS

| | |
|---|---|
| **# of Dwelling Units** | 3 - 12 max. |
| **Distance between units** | 10′ min. |

### FLOOR AREA (Maximum)

| | |
|---|---|
| **Cottage** | 1200-1500 sf on average |

### BUILDING MASS

| | |
|---|---|
| **Building Height - Maximum** | 1.5 - 2.5 stories / 26 - 32′ max.* B |
| **Eave Height - Maximum** | 13′ - 18′ max.* |

*See Zone District standards for specific maximum height.

### COMMON COURT

| | |
|---|---|
| **Court Width - Minimum** | 16′ min.* C |
| **Court Area - Minimum** | 800 ft² min. D |

*Along frontage line.

SECTION 3.1.3

# Cottage Court

## SITE ACCESS

### ENTRANCES

| | |
|---|---|
| **Primary Entrance Orientation*** | Toward street or shared court |
| **Architectural Features** | Required |
| **Single-Unit Detached** | 6′ deep min. x 8′ length min. A |
| **Single-Unit Attached** | 4′ x 4′ min. covered porch or stoop required** B |

*For new construction on rear area of a lot that consists of frontage on two (2) streets and an alley, frontage shall face street.

**Porch Depth is as measured from the building facade to the posts, railings and spindles.

### ACESSS & CIRCULATION

| | |
|---|---|
| **Walkways** | Shared pathways C |
| **Off-Street Parking - Alley Access** | Behind street fronting dweilling |
| **Off-Street Parking - No-Alley Access** | 12′ max. driveway width, 1 driveway / lot D |
| **Parking Ratio per number of bedrooms** | 1 or less br: 1.0<br>2 br: 1.50<br>3 br: 2.00<br>4 br: 2.50 E |

- Off-street parking area shall be prohibited within the court.

SECTION 3.1.4

# Rowhouse

## BUILDING STANDARDS

A rowhouse consists of 2-8 residential units that are placed side-by-side and share walls. Rowhouses are typically narrow and 2-3.5 stories tall, with each home having its own entrance that usually faces the street. It is common for homes in rowhouses to have porches and some may have an attached or detached garage behind each unit.

## ZONE DISTRICTS

The following Zone Districts allow Rowhouse building types:

- **LMN**
- **MMN**
- **HMN**
- **OT-C**
- **NC**
- **D**
- **CC**
- **CCN**
- **CCR**
- **CG**
- **CS**
- **CL**
- **HC**
- **E**

Only when part of a Residential Cluster:

- **UE**
- **RUL**
- **RF**

## BUILDING TYPE EXAMPLES

*uilders*

*CG Architect*

SECTION 3.1.4

# Rowhouse

## BUILDING STANDARDS

### LOT STANDARDS

| | |
|---|---|
| **Lot Area / Unit** | 1400 ft² min. |
| **Lot Width - Minimum** | 15′ min. A |
| **Private Outdoor Space*** | 12′ x 18′ / unit |

*Clearly defined space such as a patio, courtyard or deck.

### BUILDING MASS

| | |
|---|---|
| **Building Height - Maximum** | 2-3.5 Stories** B |
| **# of Rowhouse Groupings** | 2 - 8 max.*** |
| **Building Orientation** | Front faces street **** |

**See Zone Distrcit standards for max. height.
***Maximum is dependent on Zone District standards.
ower side of unit faces the street.

### ROOF DESIGN

**Roof lines may be either sloped, flat or curved, but must include at least two (2) of the following elements:**

- The primary roof line shall be articulated through a variation or terracing in height, detailing and/or change in massing.
- Secondary roofs shall transition over entrances, porches, garages, dormers, towers or other architectural projections.
- Offsets in roof planes shall be a minimum of two (2) feet in the vertical plane.
- Termination at the top of flat roof parapets shall be articulated by design details and/or changes in materials and color.
- Rooftop equipment shall be hidden from view by incorporating equipment screens of compatible design and materials.

SECTION 3.1.4

# Rowhouse

## SITE ACCESS

## ACESSS & CIRCULATION

| | |
|---|---|
| **Off-Street Parking - Alley Access** | Behind dwelling (A) |
| **Off-Street Parking - No-Alley Access** | 12′ max. driveway width |

- Off Street Parking area shall not be visible from the street or shared court the primary entrance faces.

## ENTRANCES (B)

| | |
|---|---|
| **Primary Entrance Orientation** | Toward street or shared court |
| **Architectural Features** | Required |
| **Porch Dimensions** | 6′ deep min. x 8′ length min. |

- For new construction on rear area of a lot that consists of frontage on two (2) streets and an alley, frontage shall face street.
- Architectural features include porch, portico or similar feature.
- Porch Depth is as measured from the building facade to the posts, railings and spindles

SECTION 3.1.5

# Duplex

## DESCRIPTION

A duplex consists of one building with two (2) side-by-side residential units that both face the street or two (2) units that are stacked vertically. A duplex is commonly 1.5 to 2 stories and usually features porches, stoops, and pitched roofs, so it can look like a medium to large detached house and fit in well with single-unit neighborhoods. Other types of duplexes may not face the street, such as over-the-garage duplexes or basement duplexes.

## ZONE DISTRICTS

The following Zone Districts allow Duplex building types:

- LMN
- MMN
- OT-B
- OT-C
- UE
- NC
- CC
- CCN
- CCR
- CG
- CS
- CL
- HC
- E

Only when part of a Residential Cluster:

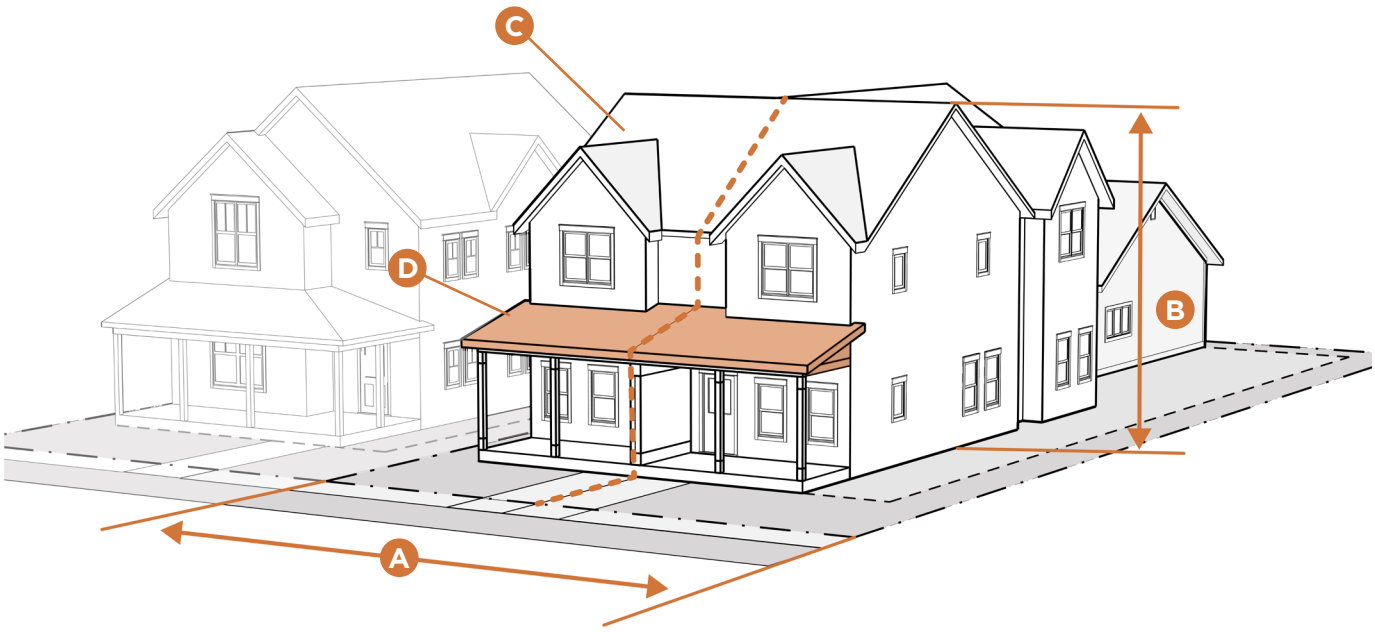
- RUL
- RF

## BUILDING TYPE EXAMPLES

SECTION 3.1.5

# Duplex

## BUILDING STANDARDS




### LOT STANDARDS

| | |
|---|---|
| **Lot Size - Minimum** | 4500 ft² |
| **Lot Width - Minimum** | 40′ min. A |
| **Floor Area - Maximum** | 1500 ft² / unit |
| **Private Outdoor Space*** | 12′ x 18′ / unit |

*Clearly defined space such as a patio, courtyard or deck

### BUILDING MASS

| | |
|---|---|
| **Building Height - Maximum** | 35′** B |
| **# of Duplex Groupings** | 3 - 6 max. |
| **Building Orientation** | Front faces street or shared court |

- A second floor shall not overhang the lower front or side exterior walls of a new or existing building.

**See Zone District standards for specific maximum height.

### ROOF DESIGN C

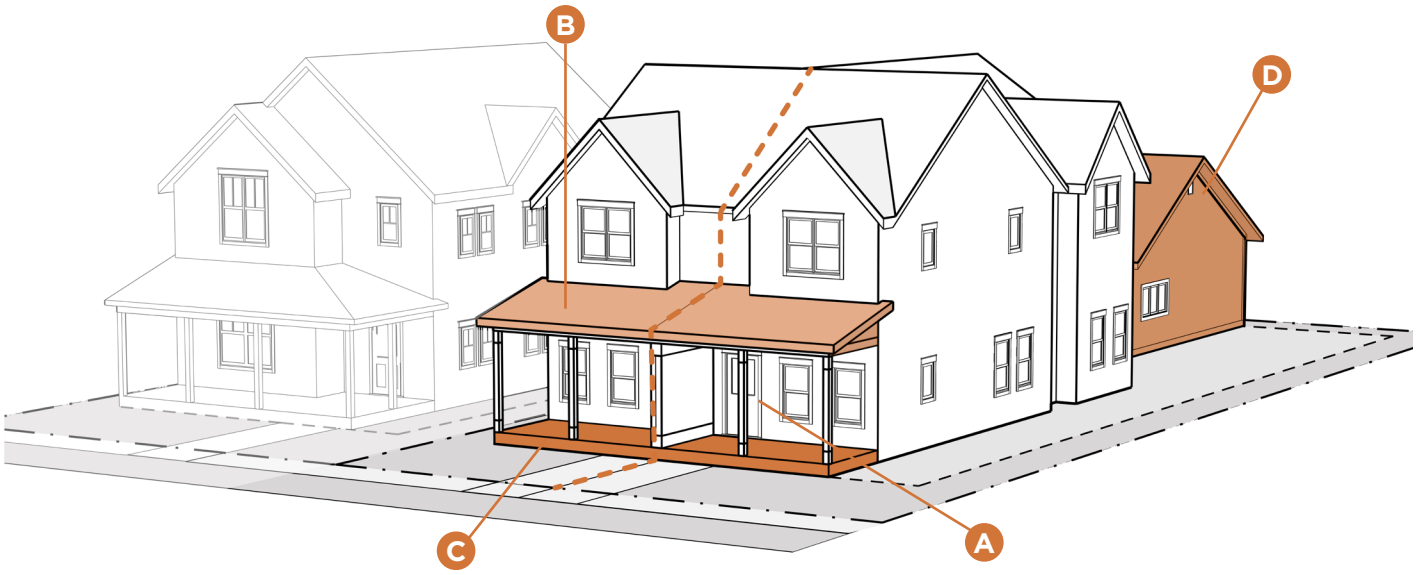
| | |
|---|---|
| **Roof Pitch - Minimum** | 2:12 |
| **Roof Pitch - Maximum** | 12:12 |
| **Roof Pitch - Architectural Features** | 24:12*** D |

***Covered porch may be flat whenever the roof of such a porch is also considered to be the floor of a second-story deck.

SECTION 3.1.5

# Duplex

## SITE ACCESS




### ENTRANCES

| | |
|---|---|
| **Private Entrance for Individual Units** | Min. of one entry required to orient toward street; may be shared entry for stacked units. A |
| **Architectural Features** | Required |
| **Shared Front Porch** | 6′ deep min. x 8′ length min. B |
| **Individual Entry Feature** | 4′ x 4′ min. covered ground-floor stoop C |

- Entrances must be visible from the street or shared court.
- Architectural features include porch, portico or similar feature. Covered porch may be flat whenevr the roof of such porch is also considered to be the floor of a second-story deck.
- Porch Depth is as measured from the building facade to the posts, railings and spindles.

### ACESSS & CIRCULATION

| | |
|---|---|
| **Off-Street Parking - Alley Access** | Behind dwelling D |
| **Street-Facing Garage Setback*** | Recessed 4′ behind a porch or front facade |
| **Off-Street Parking - No-Alley Access*** | 12′ max. driveway width |

* Allowed only when there is no alley access.

SECTION 3.1.6

# Detached House, Urban

## DESCRIPTION

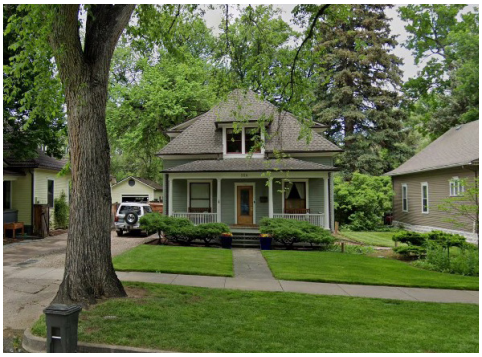
An urban detached house is a small to medium-sized 1-2 story home on a single lot located in established neighborhoods. Most have one main entrance and often attached or detached garages. Urban detached houses are distinct in that they are usually on smaller lots, and within walking distance to key amenities and services.

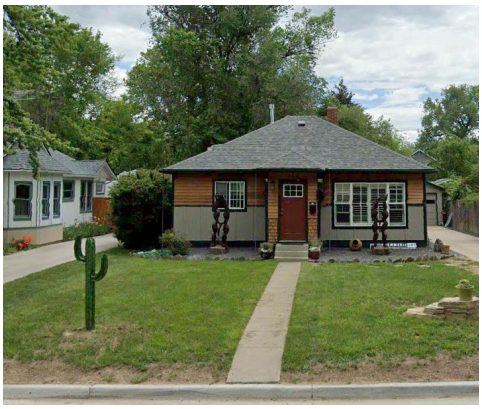
## ZONE DISTRICTS

The following Zone Districts allow Detached House, Urban building:

- OT
- LMN
- MMN
- RL
- RF
- RUL
- UE
- MH
- HC
- CL
- CS
- CCR
- CCN

## BUILDING TYPE EXAMPLES

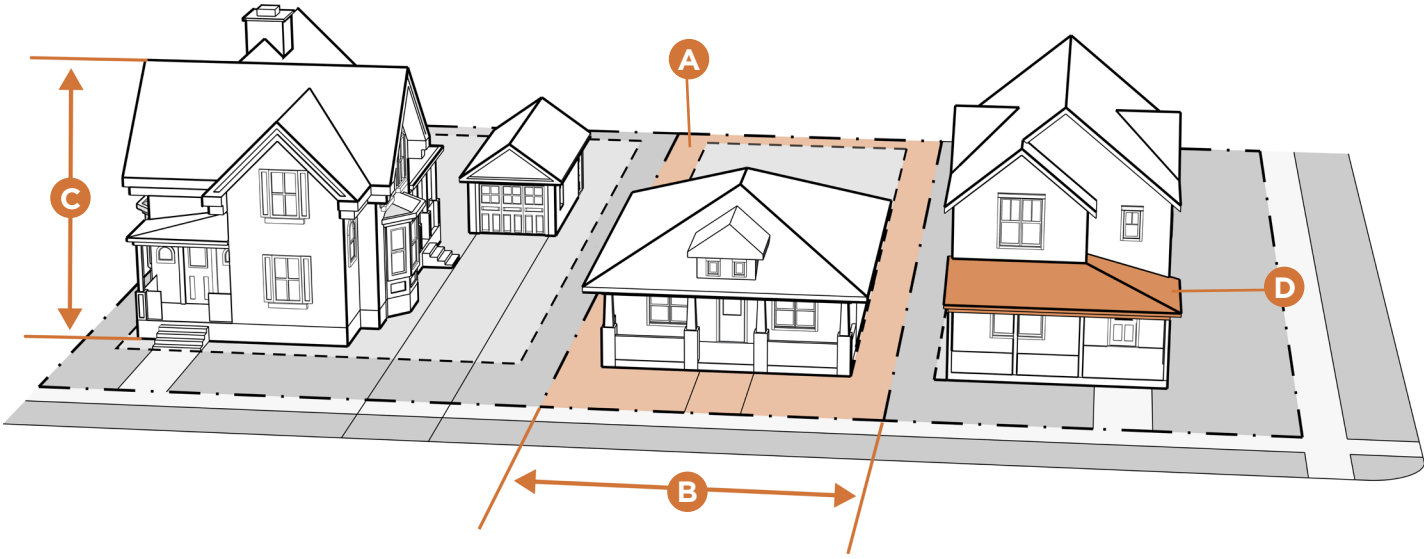




SECTION 3.1.6

# Detached House, Urban

## BUILDING STANDARDS




### LOT STANDARDS*

| | | |
|---|---|---|
| **Lot Size - Minimum** | 3000 ft² | A |
| **Lot Width - Minimum** | 40' min. | B |

*Lot standards may vary from dimensions stated here if part of a larger development and consistent with density requirements.

### FRONT YARD FENCES

| | |
|---|---|
| **Opacity** | 60% min. |
| **Height** | 2.5' min. - 3' max. |
| **Prohibited Materials** | Chain Link |

### ROOF DESIGN

| | | |
|---|---|---|
| **Roof Pitch - Minimum**** | 2:12 | |
| **Roof Pitch - Maximum** | 12:12 | |
| **Roof Pitch - Architectural Features** | 24:12*** | D |

**Only applies in the OT zone district.
***Covered porch may be flat whenever the roof of such a porch is also considered to be the floor of a second-story deck.

### OFF-STREET PARKING

| | |
|---|---|
| **Alley Access** | Behind dwelling |
| **No-Alley Access** | 12' max. driveway width |

### BUILDING MASS

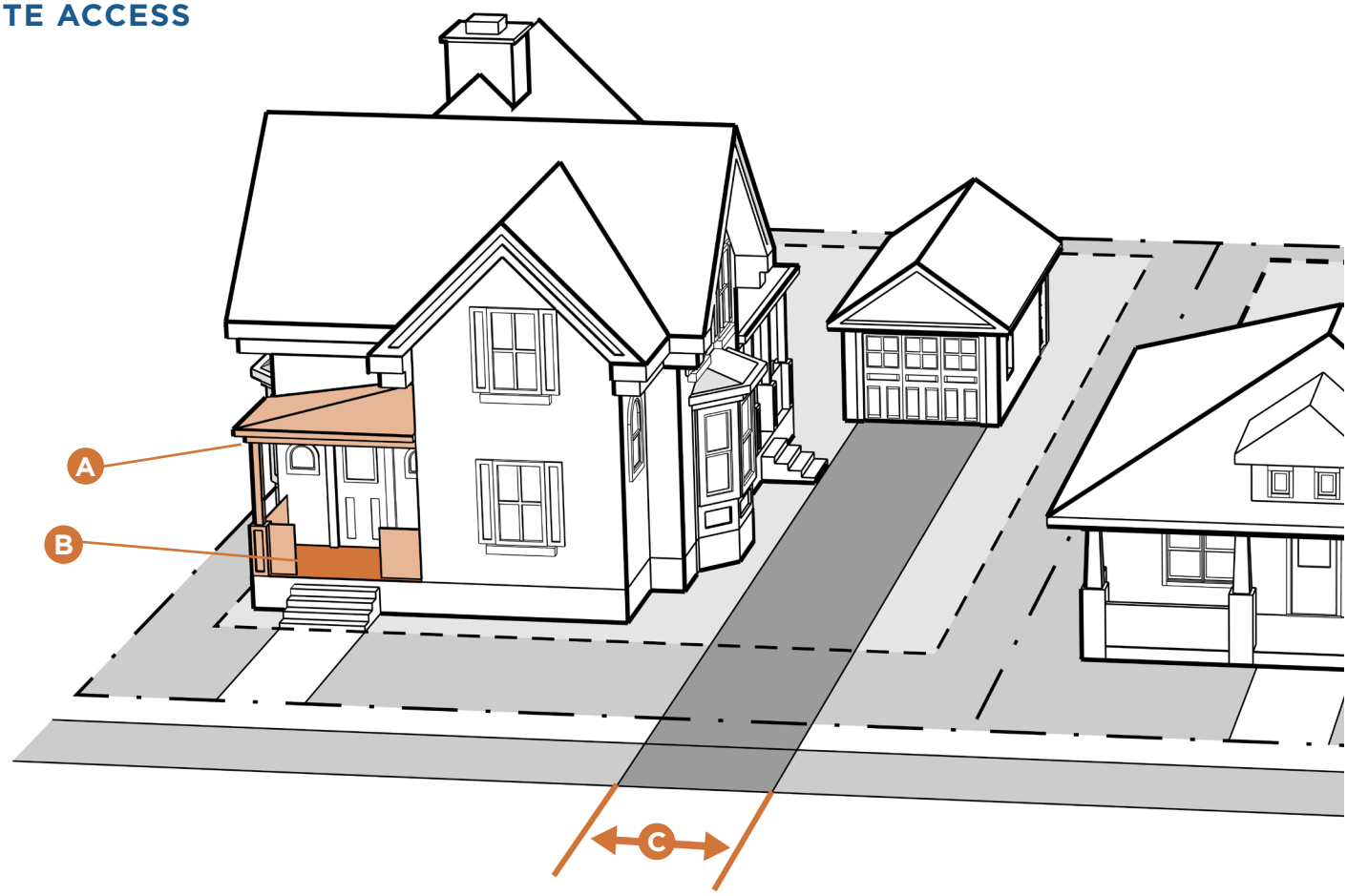
| | | |
|---|---|---|
| **Building Height - Maximum** | 35'**** | C |
| **Building Orientation** | Front faces street | |

A second floor shall not overhang the lower front or side exterior walls of a new or existing building.

****See Zone District standards for specific maximum height.

# Detached House, Urban

## SITE ACCESS




## ENTRANCES

| | |
|---|---|
| **Primary Entrance Orientation** | Towards front wall of building* |
| **Architectural Features** | Required A |
| **Porch Dimensions** | 6′ deep min. x 8′ length min. B |

*Unless required for handicap access.

## OFF-STREET PARKING

| | |
|---|---|
| **Alley Access** | Behind dwelling |
| **No-Alley Access** | 12′ max. driveway width C |

- Except in RL, the maximum driveway width is 18′.

SECTION 3.1.7

# Detached House, Suburban

## DESCRIPTION

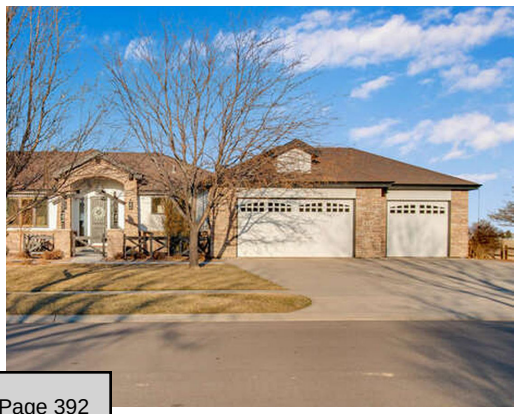
A suburban detached house is a small to medium-sized 1-2 story home on a single lot located in established neighborhoods. Most have one main entrance and often attached or detached garages. Suburban detached houses make up a large portion of Fort Collin's current single-unit residential areas.

## ZONE DISTRICTS

The following Zone Districts allow Detached House, Suburban building type:

- OT
- LMN
- MMN
- RL
- RF
- UE
- RUL
- MH
- CCN
- CCR
- CG
- CS
- CL
- HC
- E

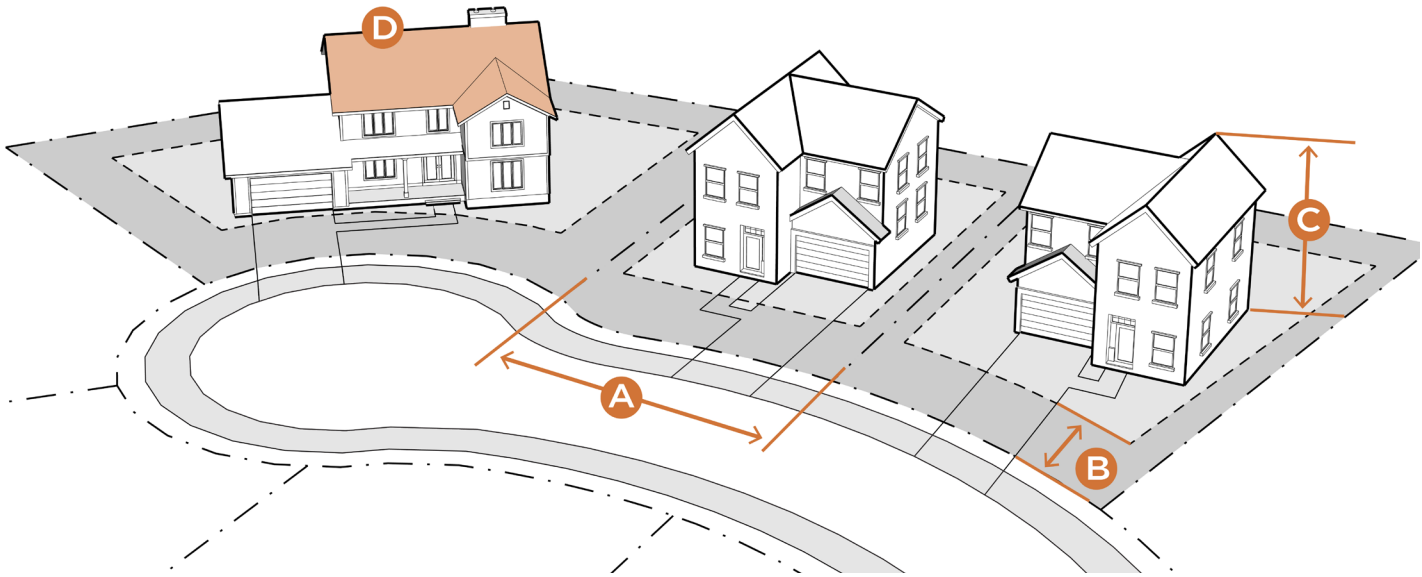
## BUILDING TYPE EXAMPLES



SECTION 3.1.7

# Detached House, Suburban

## BUILDING STANDARDS




### LOT STANDARDS

| | |
|---|---|
| **Lot Area** | 3000 ft² min.* |
| **Lot Width**** | 60' min. A |
| **Front Setback**** | 20' B |
| **Rear Setback**** | 15' |
| **Rear Setback, Alley-Accessed Garages**** | 6' |
| **Residential Use - Side Setback**** | Corner Lot - 15' min.<br>Interior Lot - 5' min. |

*Except in RL, the minimum lot area shall be the equivalent of three (3) times the total floor area of the building but not less than six thousand (6,000) square feet.
**Except in OT, the standards in this zone district apply.

### BUILDING HEIGHT

| | |
|---|---|
| **Maximum** | 28' Max.*** C |

***See Zone District standards for specific maximum height.

### ROOF DESIGN D

| | |
|---|---|
| **Roof Pitch - Minimum****** | 2:12 |
| **Roof Pitch - Maximum** | 12:12 |

******Only applies in the OT zone district.

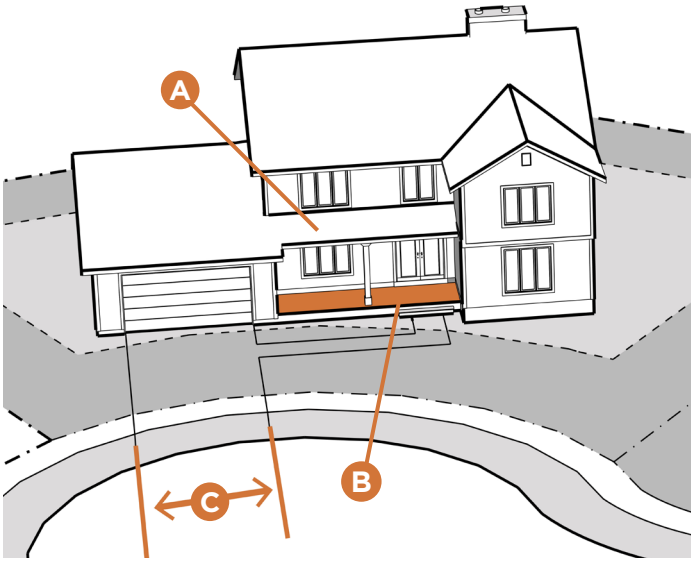
### MASSING

A second floor shall not overhang the lower front or side exterior walls of a new or existing building.

SECTION 3.1.7

# Detached House, Suburban

## SITE DESIGN




### ENTRANCES

| | |
|---|---|
| **Primary Entrance Orientation** | Towards front wall of building* |
| **Architectural Features** | Required by District A |
| **Porch Dimensions**** | 6′ deep min. x 8′ length min. B |

*Unless required for handicap access.
**When required by zone district.

### ACESSS & CIRCULATION

| | |
|---|---|
| **Off-Street Parking** | 12′ max. driveway width C |

- Except in RL, the maximum driveway width is 18′.

### GARAGE LOCATION

| | |
|---|---|
| **Street-Facing Garage Setback** | Recessed 4′ behind a porch or front facade |

SECTION 3.1.8

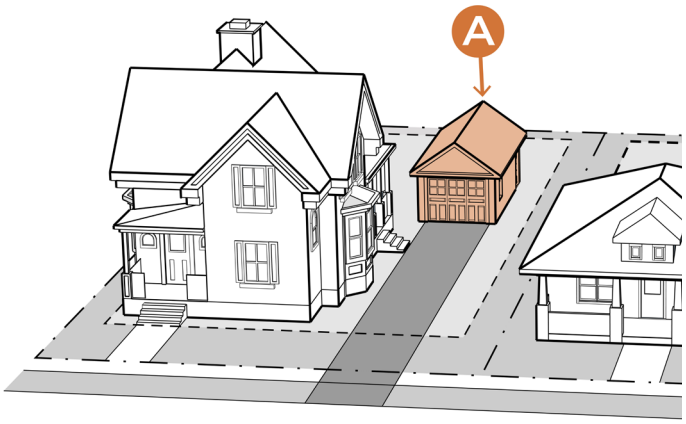
# Detached Accessory Structure

## DESCRIPTION

- Free-standing structure
- Does not include a dwelling unit
- Unattached to proposed or existing primary dwelling
- Does not share a common wall with primary dwelling
- New construction or built from existing detached accessory building
- Max. square footage
- Compliments primary dwelling (architecture, building materials)

## ZONE DISTRICTS

All Zone Districts that permit single-unit, two-unit uses.




## BUILDING STANDARDS

### ACCESSORY BUILDING FLOOR AREA

| | | |
|---|---|---|
| **OT zone district** | **Any parcel** | 600 ft² max. |
| **All other zone districts** | **Parcels < 20,000 sf** | 800 ft² max. |
| | **Parcels > 20,000 sf < 1 acre** | 1,200 ft² max. |
| | **Parcels > 1 acre** | 6% ft² max. |

### ACCESSORY BUILDING SETBACKS

| | |
|---|---|
| **Setback from Primary Dwelling** | 5' min. |
| **Side & Rear Setback** | Per Zone District standards |

### ACCESSORY BUILDING HEIGHT (Maximum)

| | |
|---|---|
| **Accessory Building** | 24' max. A |
| **Bulk Plane** | Per Zone District standards |

SECTION 3.1.9
BUILDING TYPE:

# Accessory Dwelling Unit (ADU)

## DESCRIPTION

- Full living amenities
- Accessory to a Duplex or Detached House
- New construction or built within an existing detached accessory building
- Min & Max. square footage
- Subordinate to and complements the primary dwelling (architecture, building materials)
- ADUs may came come in one of two varieties:
  - Detached
  - Attached

## ZONE DISTRICTS

Only Allowed where there is an existing:

- detached house;
- duplex; triplex; or
- non-residential use operating in a detached house.

- **OT**
- **CC**
- **CCN**
- **CCR**
- **CG**
- **CS**
- **CL**
- **LMN**
- **MMN**
- **HMN**
- **NC**
- **D**
- **HC**
- **E**
- **I**
- **RC**
- **LMN**

Only when part of a Residential Cluster:

- **RUL**
- **RF**

## BUILDING TYPE EXAMPLES

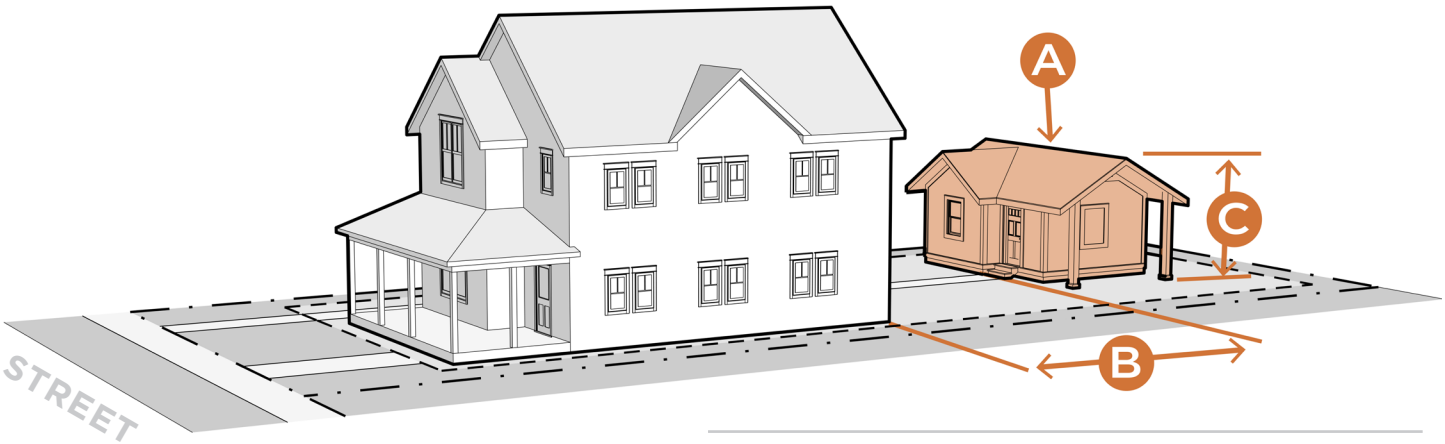
*nmer & Hand, Designed by Polyphon Architecture & Design*
*Bottom Photo: Studio Shed*

*Photo: Troy Thies for Ben Quie & Sons*

SECTION 3.1.9

BUILDING TYPE:

# Accessory Dwelling Unit, Detached




## BUILDING STANDARDS:

Accessory Dwelling Unit (ADU), detached (A)

- Free-standing structure
- Unattached to proposed or existing primary dwelling
- Does not share a common wall or roof with primary dwelling
- Behind front wall of primary dwelling
- May include garage, shed or other accessory space

| Detached ADU SEPARATION and SETBACKS | |
|---|---|
| **Separation from Primary Dwelling** | 5' min. (B) |
| **Setback from Front Wall of Primary Dwelling** | 10' min. |
| **Side & Rear Setback** | Per Zone District standards |

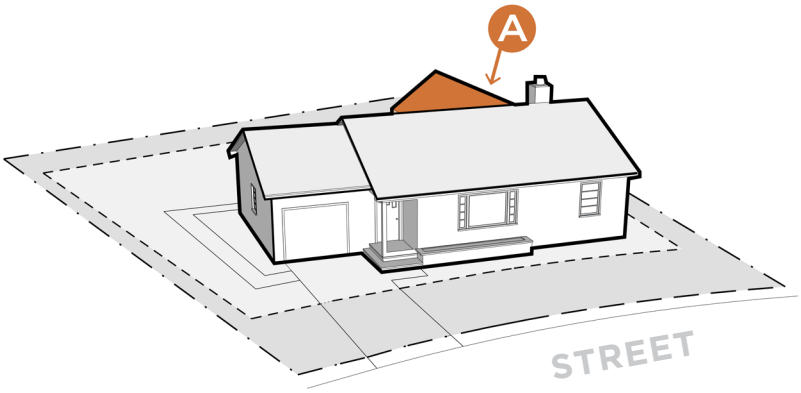
| Detached ADU HEIGHT (Maximum) | |
|---|---|
| **ADU Height** | 1.5 stories /28' max. or per Zone District standard (C) |

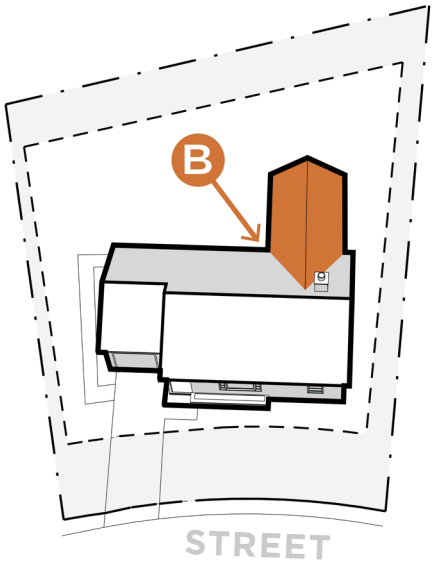
| Detached ADU FLOOR AREA | | | |
|---|---|---|---|
| **Detached ADU with or without non-habitable space (Rear Lot)** | New construction | Primary Building $\leq$ 1,335 ft$^2$ | 600 ft$^2$ max.* |
| | | Primary Building > 1,335 ft$^2$ | 1,000 ft$^2$ max. / or 45% of primary dwelling unit. (whichever is less)* |
| | Existing accessory structure** | | 800 ft$^2$ max.*** |

*Max. floor Area includes garage, shed or other accessory space. **Legal structure upon the adoption of the LUC. ***Does not include non-habitable space.

SECTION 3.1.9
BUILDING TYPE:

# Accessory Dwelling Unit, Attached

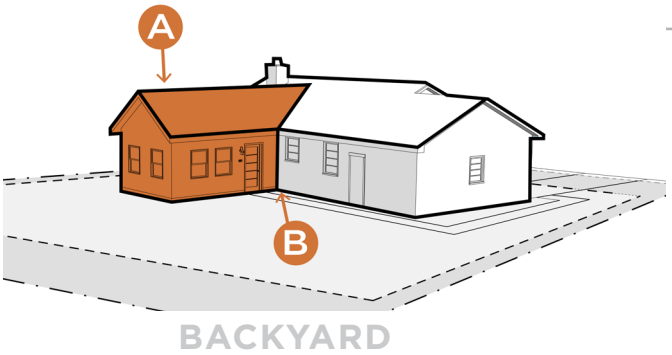



## BUILDING STANDARDS:

Accessory Dwelling Unit (ADU), attached

A Attached to the existing primary dwelling
B Shares at minimum one (1) common wall with primary dwelling




| Attached ADU SETBACKS | |
|---|---|
| **Side & Rear Setback** | Per Zone District standards |

| Attached ADU HEIGHT (Maximum) | |
|---|---|
| **ADU Height** | No taller than the Primary Dwelling |
| **Bulk Plane** | Per Zone District standards |

| ADU FLOOR AREA | | |
|---|---|---|
| **Attached ADU** | Located on a floor level at or above grade | 45% of primary dwelling unit |
| | located on floor level below grade | 100% of the floor level |

SECTION 3.1.10

# Residential Cluster

## DESCRIPTION

In a residential cluster lot sizes may be reduced in order to cluster the dwellings together on a portion of the property, with the remainder of the property permanently preserved as privately owned open space. A Residential Cluster may include the following other building types Detached House, Duplex, Cottage Court, Rowhouse, or ADU.

## ZONE DISTRICTS

The following Zone Districts allow Residential Cluster building type:

- **UE**
- **RF**
- **RUL**

## DESIGN STANDARDS

**(A) Street Connectivity and Design.** The layout and design of any new streets shall emphasize characteristics and views of the open-landscape. To the maximum extent feasible, streets shall be designed to minimize the amount of site disturbance caused by roadway and associated grading required for their construction by utilizing special street design characteristics such as divided lanes, landscape islands and landscape solutions to drainage instead of standard curb and gutter (so that storm water runoff is directed into open swales and ditches). Local and residential access roads shall be designed without curbs and gutters unless deemed necessary for health and safety by the City Engineer.

**(B) Fossli Creek Reservoir Resource Management Area.** In the Fossil Creek Reservoir Resource Management Area clustering shall be required for residential development.

**(C) Site Design for Residential Cluster Development.** In a cluster development, lot sizes and widths may be reduced in order to group the dwellings together. The precentage of the developement that includes residential uses and the precentage required to be preserved as privately owned open space can be found in the following table.

**Portion of Development Used for Residential Cluster**

| Zone District | Cluster Maximum | Open Space (Privately Owned) Minimum |
|---|---|---|
| UE | 50% | 50% |
| RUL | 20% | 80% |
| RF | 50% | 50% |

(1) The private open space of the proposed development shall remain under private ownership, as protected by restrictive covenants for the benefit of the City, and/ or by maintaining existing dwellings and any outbuildings, protected by restrictive covenants binding upon either:

(a) existing residential owners;
(b) the residential homeowners' association if it owns such propert; or
(c) a nonprofit organization acceptable to the City, if it owns such property.

(2) The development plan shall include such restrictive provisions protected by restrictive covenants for the benefit of the City, proposed uses, and maintenance provisions as necessary to ensure the continuation of the private open space uses intended. The city may also require that the developer commit in the development agreement to maintain the open space.

SECTION 3.1.10

# Residential Cluster

(3) Setbacks

**Setbacks for attached, detached and accessory buildings in a Residential Cluster**

| Building | Front | Interior Side | Street Side | Rear |
|---|---|---|---|---|
| Detached | 15′ min | 5′ min | 15′ min | 8′ min |
| Attached | 10′ min | 0′ min | 15′ min | 8′ min |
| Detached Accessory | Behind primary building | 5′ min | 15′ min | 8′ min |

(4) Outbuildings relating to agricultural use are allowed to remain and, if included, shall be applied toward the total allowed residential density in the development.

(5) Dwelling Units. The maximum number of dwellings are indicated in the following table.

**Units per Acres in a Residential Cluster**

| Zone District | Max. Dweiling Units | Acres |
|---|---|---|
| UE | 2 | 1 |
| RUL | 1 | 10 |
| RF | 1 | 1 |

**(D) The design of the cluster development shall be appropriate for the site, as demonstrated by meeting all of the following criteria:**

(1) The preservation of significant natural resources, wildlife habitat, natural areas and features such as drainage swales, rock outcroppings and slopes, native vegetation, open lands or agricultural property through maintenance of large, contiguous blocks of land and other techniques. Residual land shall be designed to achieve the maximum amount of contiguous open space possible, while avoiding the creation of small, isolated and unusable areas.

(2) The provision of additional amenities such as trails, common areas or access to public recreational areas and open space. Residual lands shall not include any street rights-of-way or parking areas.

(3) The protection of adjacent residential development through landscaping, screening, fencing, buffering or similar measures.

(4) The layout of lots to conform to terrain and minimize grading and filling, including the preservation of natural features such as drainage swales, rock outcroppings and slopes.

(5) The indication of any areas where Farm Animals will be allowed, including any mitigation features needed to buffer these areas from surrounding uses.

# ARTICLE 4

# USE STANDARDS

# INDEX

Division 4.1 PURPOSE

Division 4.2 TABLE OF PRIMARY USES

Division 4.3 ADDITIONAL USE STANDARDS

4.3.1 Residential uses
4.3.2 Institutional/Civic/Public uses
4.3.3 Commercial/Retail uses
4.3.4 Industrial uses
4.3.5 Accessory/Miscellaneous uses

# ARTICLE 4
# USE STANDARDS

## DIVISION 4.1 PURPOSE

This Article classifies the uses allowed by zone district in order to identify the activities that support the health, safety, and welfare of the people that live and work in all areas of Fort Collins. This Article also includes standards that may apply to a specific use.

## DIVISION 4.2 TABLE OF PRIMARY USES

All uses that are not (1) expressly allowed as permitted uses in this Section or (2) determined to be permitted by the Director or the Planning and Zoning Commission pursuant to this Code are prohibited.

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T | |
| **RESIDENTIAL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Single Unit Dwelling | ◪ | ◪ | ▨ | ◪ | ■ | | ◪ | ◪ | | ■ | ■ | | ◪ | ▨ | | | ◪ | | ■ | ■ | ▨ | | | | | | ■ | ▨ | | | | △ |
| Single Unit Attached Dwelling | ▨ | ▨ | ▨ | | | | ◪ | ◪ | | ▨ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ▨ | | ◪ | ◪ | | ◪ | ■/■ | ▨ | | | | △ |
| Two Unit Dwelling | ▨ | ◪ | ▨ | | | | ◪ | ◪ | | ▨ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ▨ | | ◪ | | | ◪ | ■/■ | ▨ | | | | |
| Multi-Unit Dwelling | | | | | | | ▨ | ▨ | ▨ | ▨ | ▨ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ▨ | ▨ | ■/■ | ◪ | ◪ | | ◪ | ▨ | ▨ | | | | |
| Mixed-Use Dwelling Units | | | | | | | ◪ | ▨ | ▨ | | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ■ | ◪ | ◪ | | ◪ | ◪ | ▨ | | | | |
| Accessory Dwelling Unit | ■ | | ■ | | ◪ | | ■ | ■ | ■ | ◪ | ◪ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | | |
| Short Term Primary Rentals | | ▣ | | | | | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | | ▣ | ▣ | ▣ | ▣ | | | |
| Short Term Non-Primary Rentals | | | | | | | | | | | | | ▣ | ▣ | ▣ | ▣ | ▣ | | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | | ▣ | ▣ | ▣ | ▣ | | | |
| Fraternity & Sorority Houses | | | | | | | | ▨ | ◪ | | ▨ | ▨ | | ▨ | | | | | ■ | ◪ | | | | | | | | | | | | |
| Extra Occupancy Houses | | | | | | ◪ | ◪ | ■ | ■ | | ■ | ■ | ■ | ■ | ■ | | ■ | ■ | ■ | ■ | | ■/■ | ■/■ | ■/■ | | ■/■ | ■/■ | ■ | ■ | | | △ |
| Manufactured Housing Community | | | | | | ◪ | ▨ | | | | | | | | | | | | | | | | | | | | | ▨ | | | | △ |
| Group Homes | | ◪ | ▨ | ▨ | ▨ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ▨ | ◪ | ◪ | ■ | ◪ | ▨ | ◪ | ▨ | ▨ | | ◪ | ◪ | ▨ | | | | △ |
| Shelter for victims of domestic violence | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | | | ■ | ■ | ■ | ■ | ■ | ■ | | ■/■ | ■/■ | ■ | | | | △ |

Regardless of the level of review indicated in the Residential Uses table above all affordable housing developments shall be reviewed through Basic Development Review (BDR).

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) △ Additional Use Standards

■ Minor Amendment ◪ Building Permit ▣ License

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T |
| **INSTITUTIONAL/CIVIC/PUBLIC USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cemeteries | ▨ | ◪ | | | | | ◪ | | | | | | ◪ | ◪ | | | | | | | | | | | | | | ▨ | ▨ | ◪ | |
| Community facilities | | | | ▨ | ▨ | ▨ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ▨ | | ◪ | ▨ | | ◪ | ◪ | ◪ | ◪ | ◪ | ▨ | ◪ | ◪ | ◪ | ◪ | ▨ | |
| Golf courses | ▨ | ▨ | | | | | ▨ | | | | | | | ◪ | | | | | | | | | | | | | | ▨ | ▨ | ▨ | |
| Homeless Shelters (Excluding Seasonal) | | | | | | | | | | | | ▨ | | | ▨ | | ▨ | | | | | ▨ | ▨ | ▨ | | ▨ | ▨ | ▨ | ▨ | | |
| Hospitals | | | | | | | | | | | | ▨ | ▨ | | ▨ | ▨ | ◪ | | | | ◪ | | | | | | | ◪ | ▨ | | |
| Jails, Detention & Penal Centers | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | ▨ | | |
| Neighborhood support/ recreation facilities | | | | | | ▨ | ◪ | | | | | | | | | | | | | | | | | | | | | | | | |
| Neighborhood Parks as Definfed by the Parks and Recreation Policy Plan | ◪ | ◪ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | ■ | ■ | ■ | ■ | ■ | ■/■ | ■/■ | ■/■ | ■/■ | ■/■ | ■/■ | ■ | ■ | ■ | |
| Parks, recreation and open lands, except parks defined by Parks & Recreation Policy Plan | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | |
| Public/Private schools (elem., interm. & H.S.) | | ▨ | ▨ | ▨ | ▨ | ◪ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | | | | | | | ▨ | ▨ | ▨ | ▨ | | ▨ | | ▨ | | | |
| Public/Private schools (voc. & tech.) | | | | | | | ▨ | ◪ | | | ▨ | ◪ | ◪ | ◪ | | | | | | | | | | | | | | | | | |
| Public/Private schools (coll., univ., voc., & tech.) | | | | | | | ▨ | ◪ | ◪ | | ▨ | ◪ | ◪ | ◪ | ▨ | ▨ | ◪ | ◪ | ◪ | ◪ | ◪ | ■/■ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | |
| Parks, recreation, & open lands (not neighbrhood park) | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | |
| Neighborhood parks | | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | | ■ | |
| Places of worship or assembly | | ▨ | ▨ | ◪ | ▨ | ◪ | ▨ | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ◪ | ▨ | ◪ | ◪ | ▨ | | ◪ | ◪ | ▨ | ◪ | | | △ |
| Major Public Facilities | | | | | | | | | | | | | | | ▨ | | ▨ | | ▨ | ▨ | | | | | | | | | ◪ | | |
| Minor Public facilities | ◪ | ◪ | ▨ | ◪ | ▨ | ◪ | ◪ | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | ◪ | ■/■ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | |
| Riding academies | ▨ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Seasonal Overflow Shelters | | | | ◪ | | ▨ | ◪ | ◪ | ■ | | ■ | ■ | ■ | ■ | ■ | | ■ | | ■ | ■ | ■ | ▨ | ▨ | ▨ | | ▨ | ▨ | ■ | | | |
| Transit Facilities (with Repair or Storage) | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | ◪ | | |
| Transit Facilities (without Repair or Storage) | | | | | | | | | | | | ◪ | | ◪ | | ◪ | | | ■ | ◪ | ◪ | ▨ | ▨ | ▨ | | ▨ | ▨ | ◪ | ◪ | | |
| Wildlife rescue and education centers | | ▨ | ▨ | ▨ | | | ▨ | | | | | | | ▨ | | | | | | | | | | | ▨ | | | | ▨ | ▨ | |

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) △ Additional Use Standards

■ Minor Amendment ◪ Building Permit ▣ License

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T | |
| **COMMERCIAL/RETAIL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Adult oriented uses | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | | | |
| Adult day/respite care center | | ▨ | | ▨ | | ◪ | ◪ | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ▨ | | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ▨ | | | |
| Animal Boarding | ◪ | ▨ | | | | | | | | | | | | | | | | | | ▨ | | | | | | | | | ▨ | | | |
| Artisan and photography studios and galleries | | | | | | | ▨ | ◪ | ◪ | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | | ◪ | | ■/■ | ◪ | ◪ | | ◪ | ◪ | ▨ | ◪ | | | ⚠ |
| Bars, taverns | | | | | | | | | | | | ◪ | ◪ | | ◪ | | ◪ | ▨ | ◪ | ◪ | | ■/■ | ◪ | ◪ | | ◪ | ◪ | ◪ | ▨ | | | |
| Night clubs | | | | | | | | | | | | ▨ | | | | | ◪ | ▨ | | | | ■/■ | ▨ | ▨ | | ▨ | ▨ | | | | | |
| Bed & breakfast establishments | | ▨ | | | | | ◪ | ◪ | ◪ | ▨ | ■ | ◪ | ◪ | ◪ | ◪ | | ◪ | | | ◪ | ▨ | | | | | ◪ | ◪ | ▨ | ▨ | | | |
| Child care centers | | ▨ | | ▨ | | ◪ | ◪ | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ▨ | | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ▨ | | | ⚠ |
| Clubs and Lodges | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | | ■ | ◪ | ▨ | ■/■ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | | |
| Convenience retail stores without fuel sales | | | | | | | ◪ | ◪ | ◪ | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | | | | | ◪ | ◪ | | | | | ⚠ |
| Convenience retail stores with fuel sales | | | | | | | ▨ | | | | | ▨ | ▨ | | ◪ | ▨ | ◪ | ◪ | ◪ | ◪ | | | | | | | ◪ | | ▨ | | | ⚠ |
| Convenience shopping centers | | | | | | | | | | | | | | | | | | | | | ▨ | | | | | | | ▨ | ▨ | | | |
| Convention and conference centers | | | | | | | | | | | | | | | | | | | | | ▨ | ■/■ | ▨ | ▨ | | | | ▨ | | | | |
| Day Shelter | | | | | | | | | | | | ▨ | ▨ | ▨ | ▨ | | ▨ | | | | | ▨ | | ▨ | | ◪ | | | ▨ | | | ⚠ |
| Dog day-care facility | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ◪ | | | ▨ | ▨ | | ▨ | ▨ | ◪ | ◪ | | | |
| Drive-In Facilities | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | ▨ | | | | | |
| Grocery stores | | | | | | | | | | | | ◪ | ◪ | ◪ | ▨ | ▨ | ◪ | ◪ | | ◪ | | ◪ | ◪ | ◪ | | ◪ | ◪ | | | | | ⚠ |
| Supermarkets | | | | | | | | | | | | ▨ | ▨ | | ▨ | ▨ | ◪ | ▨ | | | | | ▨ | ▨ | | ▨ | | | | | | |
| Enclosed mini-storage facility | | | | | | | ▨ | | | | | | | | ▨ | | ◪ | | ◪ | ◪ | | | | | | | | ▨ | ◪ | | | ⚠ |
| Entertainment facilities and theaters | | | | | | | | | | | | ▨ | ◪ | ▨ | ▨ | ▨ | ◪ | ▨ | ■ | ◪ | | ■/■ | ▨ | ◪ | | ▨ | ▨ | | | | | |
| Exhibit halls | | | | | | | | | | | | ▨ | ◪ | ◪ | ▨ | | ◪ | | ■ | ◪ | | ■ | ▨ | ◪ | | ▨ | ■/■ | | | | | |
| Food Catering or small food product preparation | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | ◪ | | | | | | | ◪ | ◪ | | | |

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) ⚠ Additional Use Standards

■ Minor Amendment ◪ Building Permit ▣ License

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T | |
| **COMMERCIAL/RETAIL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Food Truck Rally | | | | | | | | | | | | ▣ | ▣ | | ▣ | | | ▣ | | ▣ | ◪ | ▣ | ▣ | ▣ | | ▣ | ▣ | | | | | |
| Frozen Food Lockers | | | | | | | | | | | | | | | ◪ | | | | ■ | ◪ | | | | | | | | | ◪ | | | |
| Funeral homes | | | | | | | | | | | ▨ | ◪ | ◪ | ▨ | ◪ | | ◪ | | ◪ | ◪ | | | | | | | | ▨ | ◪ | | | ⚠ |
| Gasoline stations | | | | | | | | | | | | ◪ | | | ◪ | | ◪ | ◪ | ◪ | | | | ▨ | ▨ | | ▨ | ◪ | | ◪ | | | |
| Health and membership clubs | | | | | | | | | | | | ◪ | | ◪ | ◪ | ▨ | ◪ | ◪ | | ◪ | ▨ | ■/■ | ◪ | ◪ | | ◪ | ◪ | ▨ | ◪ | | | |
| Homeless Shelters | | | | | | | | | | | | ▨ | | | ▨ | | ▨ | | | | | ▨ | ▨ | ▨ | | ▨ | ▨ | ▨ | ▨ | | | |
| Indoor Kennel | | | | | | | | | | | | | ◪ | | ◪ | | ◪ | | ◪ | ◪ | ◪ | | | | | | | | ◪ | | | ⚠ |
| Limited indoor recreation establishments | | | | | | | ▨ | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ◪ | ▨ | ■/■ | ◪ | ◪ | | ◪ | ◪ | ▨ | ◪ | | | ⚠ |
| Unlimited Indoor Recreation Establishments | | | | | | | | | | | | ▨ | ▨ | ▨ | ▨ | ▨ | ◪ | | | | ▨ | | | | | | | | | | | |
| Lodging establishments | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ▨ | ▨ | ▨ | ▨ | | ◪ | ◪ | ▨ | | | | |
| Long-term care facility | | | | | | | | | | | | ▨ | ▨ | ▨ | | ▨ | | | | | ▨ | ▨ | ▨ | ▨ | | ▨ | ▨ | ▨ | ▨ | | | |
| Medical centers/clinics | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | ▨ | ◪ | ◪ | ■ | ■ | ◪ | | | | | | | ◪ | ◪ | | | |
| Medical marijuana centers | | | | | | | | | | | | ■ | ■ | ■ | ■ | | ■ | | | | | ■/■ | ■/■ | ■/■ | | ■/■ | ■/■ | | | | | |
| Micro-brewery/distillery/winery | | | | | | | | | | | | ◪ | ◪ | | ◪ | | ◪ | ▨ | ◪ | ◪ | ◪ | ■/■ | ▨ | ▨ | | ▨ | ▨ | ◪ | ▨ | | | ⚠ |
| Music Studio | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | | | | | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | | |
| Music Facility, Multi-Purpose | | | | | | | | | | | | ◪ | ◪ | ◪ | | | | | | | | ◪ | ◪ | ◪ | | ◪ | ◪ | | ◪ | | | |
| Offices, financial services & clinics | | | | | | | ▨ | ▨ | ◪ | | ■ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ■ | ■ | ◪ | ■/■ | ◪ | ◪ | | ■/■ | ■/■ | ◪ | ◪ | | | |
| Outdoor amphitheater | | | | | | | | | | | | ▨ | ▨ | ▨ | ▨ | | ▨ | ▨ | | | ▨ | ◪ | ◪ | ◪ | | ▨ | | | | | | |
| Plant Nurseries & Greenhouses | | ▨ | | | | | | | | | | | | | ◪ | | ◪ | | | ◪ | | | | | | | | ◪ | ◪ | | | |
| Plumbing, electrical, and carpenter shops | | | | | | | | | | | | | | | ◪ | | ◪ | | ■ | ■ | | | | | | | | | ◪ | | | |
| Print Shop | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | | |
| Open air farmers markets | | | | | | | | ◪ | ◪ | | | ◪ | ◪ | | ◪ | | | ◪ | | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | | | | | ⚠ |

▣ License ▨ Type 2 (Planning and Zoning Commission) ◪ Type 1 (Administrative Review) ■ Basic Development Review ■ Minor Amendment ◪ Building Permit ⚠ Additional Use Standards

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T | |
| **COMMERCIAL/RETAIL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Parking lots and garages (as principle use) | | | | | | | | | | | ◪ | ▨ | | | ▨ | | ◪ | | ■ | | | ▨ | ▨ | ▨ | | ▨ | ▨ | ◪ | ◪ | | | |
| Personal and business service shops | | | | | | | ◪ | ▨ | ◪ | | ■ | ◪ | ◪ | ◪ | ◪ | ▨ | ◪ | ◪ | ■ | ■ | | ■/■ | ■/■ | ◪ | | ◪ | ■/■ | ◪ | | | | △ |
| Recreational uses | | | | | | | | | | | | | | | ▨ | | ◪ | | | | | | | | | | | | ▨ | | | |
| Restaurant (limited mixed-use) | | | | | | | | ◪ | ▨ | | | | | | | | | | | | | | | | | | | | | | | |
| Restaurants (standard) | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | ▨ | ◪ | ◪ | ■ | ◪ | ▨ | ■/■ | ◪ | ◪ | | ◪ | ◪ | ▨ | ▨ | | | |
| Restaurants (fast food with drive-thru) | | | | | | | | | | | | | | | ▨ | ▨ | | | | | | | | | | | | | | | | |
| Restaurants (fast food without drive-thru) | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | ▨ | ◪ | ◪ | ■ | ◪ | | ■/■ | ◪ | ◪ | | ◪ | ◪ | ▨ | ▨ | | | |
| Restaurants, Drive-In | | | | | | | | | | | | | | | ▨ | | ◪ | ▨ | ◪ | | | | | | | | | ▨ | ▨ | | | △ |
| Retail marijuana stores | | | | | | | | | | | | ■ | ■ | ■ | ■ | | ■ | | | | | ■/■ | ■/■ | ■/■ | | ■/■ | ■/■ | | | | | |
| Retail establishments | | | | | | | | | | | | ◪ | ◪ | ▨ | ◪ | ◪ | ◪ | ◪ | ■ | ◪ | | ■/■ | ▨ | ▨ | | ◪ | ◪ | | | | | △ |
| Large Retail establishments | | | | | | | | | | | | ▨ | ▨ | | ▨ | ◪ | ▨ | | | | | ▨ | ▨ | ▨ | | | | | | | | △ |
| Retail stores (with vehicle servicing) | | | | | | | | | | | | ▨ | | | ◪ | | ◪ | | | | | | | | | | | | ◪ | | | |
| Retail stores/supply yards (with outdoor storage) | | | | | | | | | | | | | | | ▨ | | ◪ | | | | | | | | | | | | ▨ | | | |
| Small scale reception center | | ▨ | | | | | | | | | | ◪ | ◪ | ▨ | ◪ | ▨ | ◪ | | | ◪ | | ◪ | ◪ | ◪ | | ◪ | ◪ | | | | | |
| Harmony Cooridor Community Shopping Center | | | | | | | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | |
| Harmony Cooridor Lifestyle Shopping Center | | | | | | | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | |
| Harmony Cooridor Regional Shopping Center | | | | | | | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | |
| Harmony Cooridor Neighborhood Service Center | | | | | | | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | |
| I-25 Activity Centers | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | | | | | | | |
| Unlimited Indoor Recreation Establishments | | | | | | | | | | | | ▨ | ▨ | ▨ | ▨ | ▨ | ◪ | | | | | | | | | ▨ | | | ◪ | | | |
| Boat sales with storage | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | | | | ▨ | | | |
| Vehicle Sales | | | | | | | | | | | | | | | ▨ | | ◪ | | ■ | | | | | | | | ▨ | | ▨ | | | △ |

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) △ Additional Use Standards

■ Minor Amendment ◪ Building Permit ▣ License

Item 13.

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T | |
| **COMMERCIAL/RETAIL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Vehicle Major Repair | | | | | | | | | | | | | | | ▨ | | ◪ | | ■ | ▨ | | | | | | | ▨ | | ◪ | | | △ |
| Vehicle Minor Repair | | | | | | | | | | | | ▨ | | | ◪ | | ◪ | ◪ | ■ | ◪ | | | | | | ▨ | ◪ | | ◪ | | | △ |
| Farm implement & heavy equipment sales | | | | | | | | | | | | | | | | | | | ◪ | | | | | | | | | | ▨ | | | |
| Manufactured home/recreational vehicle/truck sales | | | | | | | | | | | | | | | | | | | ◪ | | | | | | | | | | ▨ | | | |
| Equipment, Truck, trailer rental | | | | | | | | | | | | ▨ | | | ◪ | | ◪ | | | | | | | | | | | | ◪ | | | |
| Equipment Rental est. (without outdoor storage) | | | | | | | | | | | | ◪ | | | ◪ | | ◪ | ◪ | | | | | | | | | | | ◪ | | | |
| Veterinary Hospital | | | | | | | | | | | | | | | | | ◪ | | ■ | ◪ | | | | | | | ■/■ | ▨ | ▨ | | | |
| Veterinary facilities/small animal clinics or hospitals | | | | | | | ◪ | ▨ | ◪ | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ◪ | | ▨ | ▨ | | ◪ | ◪ | ◪ | ◪ | | | △ |

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) △ Additional Use Standards

■ Minor Amendment ◪ Building Permit ■ License

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T | |
| **INDUSTRIAL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Airport/Airstrips | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | | | |
| Compost facilities | ◪ | ▨ | | | | | | | | | | | | | ▨ | | | | | | | | | | ◪ | | | | ◪ | ◪ | ◪ | |
| Dry Cleaning Plants | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | ▨ | | |
| Heavy Industrial | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ◪ | | |
| Light industrial | | | | | | | ▨ | | | | | | ◪ | | ◪ | | ◪ | | ◪ | ▨ | ◪ | | | | | | | | ◪ | ◪ | | | △ |
| Junk Yards | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | | |
| Medical marijuana cultivation | | | | | | | | | | | | | ■ | | | | ■ | | | ■ | | | | | | | | | | ■ | | |
| Medical Marijuana optional premises cultivation operations | | | | | | | | | | | | | ■ | | | | ■ | | | ■ | | | | ■/■ | | | | | | ■ | | |
| Medical Marijuana Research and Development | | | | | | | | | | | | | ■ | | | | ■ | | | ■ | | | | ■/■ | | | | | | ■ | | |
| Retail Marijuana cultivation facility | | | | | | | | | | | | | ■ | | | | ■ | | | ■ | | | | | | | | | | ■ | | |
| Retail marijuana product manufacturing facility | | | | | | | | | | | | | ■ | | | | ■ | | | ■ | | | | | | | | | | ■ | | |
| Retail marijuana testing facility | | | | | | | | | | | | | ■ | | | | ■ | | | ■ | | | | | | | | | | ■ | | |
| Oil and gas piplines | | | | | | | | | | | | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | | | △ |
| Oil and gas facilities | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | | | △ |
| Outdoor storage facilities | | | | | | | | | | | | | | | | | | | ◪ | | | | | | | | | | ◪ | | | △ |
| Recreation vehicle, boat, truck storage | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ◪ | | | |
| Recycling facilities | | | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | | ◪ | | | |
| Research laboratories | | | | | | | | | | | | ◪ | ◪ | | | | ◪ | | ◪ | ◪ | ◪ | | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | | △ |
| Resource extraction, process and sales | ▨ | ▨ | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | | | |
| Resource recovery | | | | | | | | | | | | | | | | | | | | | | | | | ◪ | | | | | ◪ | | |
| Solar energy systems, small- and medium-scale | ▨ | ▨ | ▨ | ▨ | ▨ | | ▨ | ▨ | ▨ | ▨ | ▨ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ▨ | | |
| Solar energy systems - large scale | | | | | | | | | | | | | | | | | | | | | | | | | | | | ◪ | ◪ | | | |
| Transportation terminals (truck, container storage) | | | | | | | | | | | | | | | | | ▨ | | ■ | | | | | | | | | | ▨ | | | |
| Warehouses | | | | | | | | | | | | | | | | | ◪ | | ■ | ◪ | | | | | | | | ◪ | ◪ | | | △ |
| Wholesale distribution facility | | | | | | | | | | | | | | | | | ◪ | | ■ | | | | | | | | | ◪ | ◪ | | | |
| Workshops and custom small industry | | | | | | | ▨ | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ◪ | | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | | △ |

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) △ Additional Use Standards

■/■ Minor Amendment ◪ Building Permit ▣ License

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C/NM | I/R | RC | CN | EC | E | I | POL | T |
| **ACCESSORY/MISC USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Accessory buildings | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■/■ | ■/■ | ■/■ | | ■/■ | ■/■ | ■ | ■ | ■ | |
| Accessory uses | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■/■ | ■/■ | ■/■ | ■/■ | ■/■ | ■/■ | ◪ | ◪ | ◪ | |
| Agricultural activities | ■ | | | | | | | | | | | | | | | | | | | | | ◪ | ◪ | ◪ | | ◪ | ◪ | | | ◪ | |
| Farm Animals | ■ | ◪ | ◪ | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Urban Agriculture | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | | | ▣ | ▣ | ▣ | ▣ | | ▣ | ▣ | ▣ | ▣ | ▣ | |
| Heliports and Helipads | | | | | | | | | | | | | | | | | | | | | ▨ | | | | | | | ▨ | ▨ | | |
| Outdoor vendor | | | | | | | | | | | | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■/■ | ■/■ | ■/■ | | ■/■ | ■/■ | ■ | ■ | | |
| Satellite dishes (>39" in diameter) | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ◪ | ■/■ | ■/■ | ■/■ | | ■/■ | ■/■ | ◪ | ◪ | | |
| Wireless communication facilities, collocated | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ■ | | ⚠ |
| Wireless communication facilities | | | | ▨ | | | | | | | | ◪ | ◪ | ◪ | ■ | ■ | ■ | ◪ | ◪ | ◪ | ■ | ▨ | ▨ | ▨ | | ▨ | ▨ | ■ | ■ | ◪ | |
| Off-site Construction Staging | ■ | ■ | ■ | ■ | ■ | | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | ■ | ■ | ■ | ■ | ■ | ■ |

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) ⚠ Additional Use Standards

■ Minor Amendment ◪ Building Permit ▣ License

# DIVISION 4.3 ADDITIONAL USE STANDARDS

## 4.3.1 RESIDENTIAL USES

(A) **Accessory Building** shall be subordinate to a primary building and may contain finished space, unfinished space and habitable space.

(1) Accessory buildings shall not be eligible for a new short term rental License on or after January 1, 2024. Existing short term rental licenses issued before January 1, 2024, may be renewed or a new license after this date may be issued per Section 15-646 of the Code of the City of Fort Collins.

(B) **Accessory Dwelling Unit** shall be subordinate to a primary dwelling unit**.** The land underneath the primary structure and the accessory dwelling unit is not divided into separate lots.

(1) Accessory dwelling units shall have a resident manager residing on the property in the ADU or primary building, when the owner does not reside on the property.

(a) The resident manager shall have one (1) primary residence and shall reside on the property for nine (9) months of the calendar year.

(b) If the designated resident manager no longer resides on the property, a new one shall be established by the property owner.

(c) If the resident manager shall be authorized by the property owner to manage the property and all dwelling units.

(d) Before the Certificate of Occupancy is issued for an ADU the property owner shall provide the name, address, and the resident manager's authorization to manage the property and dwelling units. Any ongoing verification of such information shall be provided by the owner upon request of the City.

(2) Accessory Dwellings Units that apply for a building permit on or after January 1, 2024, shall not be used for a short term rental. Existing short term rental licenses issued before January 1, 2024, may be renewed or a new license after this date may be issued per Section 15-646 of the Code of the City of Fort Collins.

(C) **Extra Occupancy Unit**

(1) One (1) occupant per three hundred fifty (350) square feet of habitable floor space, in addition to a minimum of four hundred (400) square feet of habitable floor space if owner-occupied.

(a) In the LMN Zone district no more than twenty-five (25) percent of the parcels on a block face may be approved for extra occupancy use.

(b) In the CS zone district such use shall not be allowed within two hundred (200) feet of North College Avenue.

(D) **Family Care Homes** consist of one or more of the following:

(1) **Family Foster Homes.** Family foster homes shall be permitted as an accessory use as defined in Article 7 provided that the maximum number of foster children in any given home shall not exceed four (4).

(2) **Day Care Homes.** Day care homes shall be permitted as an accessory use as defined in Article 7 provided that such homes are licensed by the State of Colorado and that the maximum number of children and the age

limitation of children to whom care is provided complies with the State of Colorado regulations for a family child care home, an infant/toddler home or an experienced family child care provider home.

(3) **Elderly Day Care Homes.** Elderly day care homes shall be permitted as an accessory use as defined in Article 7, provided that the maximum number of elderly persons receiving care, protection and supervision in any such home shall not exceed four (4) at any given time.

(E) **Fraternity/Sorority Houses shall** mean residences housing students attending an accredited institution of higher learning within the City.

(F) **Group Home** is allowed in the following zone districts:

| Zone | Maximum Number of Residents excluding supervisors, for Minimum lot size. | Additional lot area for each additional resident (square feet) | Maximum permissible residents, excluding supervisors | Minimum separation requirements between any other group home (feet) |
|---|---|---|---|---|
| UE | 3 | 2,000 | 8 | 1,500 |
| RL, OT-A, HC, E, RF, MH | 3 | 1,500 | 8 | 1,500 |
| LMN, OT-B, RDR | 6 | 750 | 15 | 1,000 |
| OT-C, D, CS, CCN, MMN, HMN, NC, CG, CC, CL, CCR | 6 | 500 | 20 | 700 |

(1) All Group Homes are required to be setback at least 200 feet from North College Avenue.

(2) The minimum separation distance required between group homes that are located in different zone districts shall be the one that requires the greatest distance.

(3) The decision maker may determine a higher maximum number of residents to be allowed to occupy the facility upon finding that the facility as so occupied will satisfy the following criteria:

(a) The adjacent street system is sufficient to accommodate the traffic impacts generated by the group care facility;

(b)

(c) the group care facility has made adequate, on-site accommodations for its parking needs;

(d)

(e) the architectural design of the group care facility is compatible with the character of the surrounding neighborhood;

(f)

(g) the architectural design of the group care facility is compatible with the character of the surrounding neighborhood;

(h)

(i) the size and scale of the group care facility is compatible with the character of the surrounding neighborhood; and

(j)

(k) the types of treatment activities or the rendering of services proposed to be conducted upon the premises are substantially consistent with the activities permitted in the zone district in which the facility is proposed to be located.

(4) Regardless of the level of review:

(a) The decision maker shall conduct such review for the purpose of approving, denying or approving with conditions the application for a group home use in such zone. If approved, the decision maker shall, with such approval, establish the type of group home permitted and the maximum number of residents allowed in such group home.

(l)

(m) A group home may be located without consideration to the minimum separation requirements as established in the table above if the group home is separated from other group homes within the area of the aforesaid minimum separation requirement by a substantial natural or man-made physical barrier, including, but not limited to, an arterial street, a state or federal highway, railroad tracks, river or commercial/business district. Such reduction in the separation requirement shall be allowed only after the decision maker has determined that the barrier and resulting separation distance are adequate to protect the City from any detrimental impacts resulting from an excessive concentration of group homes in any one (1) vicinity.

(n)

(o) No permanent certificate of occupancy will be issued by the City for a group home until the person applying for the group home has submitted a valid license, or other appropriate authorization, or copy thereof, from a governmental agency having jurisdiction.

(p)

(q) If active and continuous operations are not carried on in a group home which was approved pursuant to the provisions contained in this Section for a period of twelve (12) consecutive months, the group home use shall be considered to have been abandoned. The group home use can be reinstated only after obtaining a new approval from the decision maker as outlined in this Section.

(r)

(s) Shelters for victims of domestic violence shall be separated from any other group home or shelter by a minimum of one thousand five hundred (1,500) feet.

(t) Please see Section 6.1.5 for information regarding Reasonable Accommodations.

## (G) Home Occupations

(1) A home occupation shall be allowed as a permitted accessory use, provided that all of the following conditions are met:

(a) Such use shall be conducted entirely within a dwelling and carried on by the inhabitants of the dwelling with not more than one (1) additional employee or co-worker. The hours of operation during which clients, customers, employees or co-workers are allowed to come to the home in connection with the business activity are limited to between 8:00 a.m. and 6:00 p.m. Monday through Saturday.

(u)

(v) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof.

(w)

(x) The total area used for such purposes shall not exceed one-half (½) the floor area of the user's dwelling unit.

(y)

(z) There shall be no exterior advertising other than the residential sign allowed in Section 5.16(D)(5)(a) of this Code.

(aa)

(bb) There shall be only incidental sale of stocks, supplies or products conducted on the premises.

(cc)

(dd) There shall be no exterior storage on the premises of material or equipment used as a part of the home occupation.

(ee)

(ff) There shall be reasonable mitigation of noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.

(gg)

(hh) A home occupation shall provide additional off-street parking area adequate to accommodate all needs created by the home occupation.

(ii)

(jj) In particular, a home occupation may include, but is not limited to, the following, provided that all requirements contained herein are met:

(I) art studio;
(II) dressmaking or millinery work;
(III) professional office;
(IV) office for insurance or real estate sales;
(V) teaching;

(kk) A home occupation shall not be interpreted to include the following:

(I) animal hospital;
(II) long-term care facility;
(III) restaurant;
(IV) bed & breakfast;
(V) group home;
(VI) adult-oriented use;
(VII) vehicle repair, servicing, detailing or towing if vehicles are dispatched from the premises, or are brought to the premises, or are parked or stored on the premises or on an adjacent street.
(VIII) medical marijuana businesses ("MMBs"), as defined in Section 15-452 of the City Code.
(IX) retail marijuana establishment as defined in Section 15-603 of the City Code.
(X) short term primary rentals and short term non-primary rentals.

(2) A home occupation shall be permitted only after the owner or inhabitant of the dwelling in which such occupation is conducted has obtained a home occupation license from the City. The fee for such a license shall be the fee established in the Development Review Fee Schedule, and the term of such license shall be two (2) years. At the end of such term, the license may be issued again upon the submission and review of a new application and the payment of an additional fee. If the City is conducting an investigation of a violation of this Code with respect to the particular home occupation at the time such renewal application is made, the license will not be reissued until the investigation is completed and, if necessary, all violations corrected. The term of the previous license shall continue during the period of investigation. The Director may revoke any home occupation license issued by the City if the holder of such license is in violation of any of the provisions contained in paragraphs (a) through (h) of this Section, provided that the holder of the license shall be entitled to the administrative review of any such revocation under the provisions contained in Chapter 2, Article VI of the City Code.

(H) **Manufactured Housing**

**(1)** Manufactured Housing Communities shall be developed in accordance with the applicable general development standards contained in this Code and the regulations contained in Chapter 18 of the City Code.

(I) **Mixed Use Dwelling Unit**

(1) Facility Amenities limited to the use of residents in the building such as but not limited to a leasing office, gym, and pool are not considered a separate use.

(2) In the I zone district such use shall be constructed above nonresidential uses, provided that the aggregate floor area of all mixed-use dwellings does not exceed the aggregate floor area of all nonresidential uses in the building.

(J) **Multi-Unit Dwelling** has three or more habitable dwelling units contained within a permitted building type. The land underneath the primary structure is not divided into separate lots.

(K) **Single Unit Detached Dwelling** is a stand-alone residential dwelling unit, other than a manufactured home, providing complete, independent living facilities including permanent provisions for living, sleeping, eating, and cooking.

**(1)** In the HC, CCN, CCR, and CS Zone only allowed on lots less than six thousand (6,000) sf.

**(2)** In the CS zone district not allowed within two hundred (200) feet of North College Avenue.

(L) **Single Unit Attached Dwelling**

(1) In the CS zone district such use shall be setback at least 200 ft. from North College Avenue.

(M) **Shelter for victims of Domestic Violence**

**(1)** Shall be separated from a group home or shelter by a minimum of one thousand five hundred (1,500) feet.

(N) **Short Term Rentals**

(1) **Applicability.** These standards apply to short term primary rentals and short term non-primary rentals.

(2) **Purpose.** The purposes of these standards are to mitigate the impacts of short term rentals on the neighborhoods in which they are located, to maintain and enhance neighborhood livability, to ensure the health and safety of renters of short term rentals, and to ensure the compatibility of short term rentals with the allowed uses in the applicable zone districts.

(3) **Location.** Subject to subsection (6) below, the allowable locations of short term primary and non-primary rentals are determined by the zone districts and their respective list of permitted uses as described in the applicable zone districts.

(a) On or after January 1, 2024, short term primary and non-primary rentals are prohibited in both accessory buildings and accessory dwelling units. This does not apply to any licenses issued prior to this date or accessory buildings and accessory dwelling units that have applied for a building permit prior to this date, and such licenses may be renewed or a new license may be issued per Section 15-646 of the Code of the City of Fort Collins.

(4) **Off-street Parking.** See Section 5.9.1(K)(1)(m) for minimum off-street parking space requirements.

(5) **Licensing.** The licensing of short term rentals is governed by the Code of the City of Fort Collins Chapter 15, Article XVIII. No dwelling unit shall be used as a short term primary rental or short term non-primary rental unless a license is first obtained pursuant to Chapter 15, Article XVIII.

(a) Licenses issued to ADUs prior to the adoption of this code may continued to be renewed.

(6) **Nonconforming Use.** A dwelling unit utilized as a short term primary or non-primary rental that is located in a zone district where such use is prohibited, and such short term rental was a lawfully established use as defined in (c) below, is deemed to be a nonconforming use. Such nonconforming use shall correspond to the type (either primary or non-primary) of short term rental conducted prior to March 31, 2017.

(a) In addition to complying with the nonconforming use regulations in Land Use Code Division 6.16, the owner of the dwelling unit must obtain a license pursuant to the Code of the City of Fort Collins § 15-646 and continuously maintain such license to maintain nonconforming use status. Failure to apply for such license by October 31, 2017, shall be considered abandonment of the nonconforming use. Should such license be revoked, not be renewed, or lapse for any period of time, the nonconforming short term rental use shall be considered abandoned or otherwise terminated.
(ll)

(b) Should ownership of a dwelling unit licensed pursuant to § 15-646 be transferred, and such license was continuously valid until the transfer of ownership, the new owner must comply with the following in order to continue the nonconforming use: (1) apply for a license pursuant to § 15-646 within thirty (30) days of the transfer of ownership; (2) comply with the parking requirements contained in Section 5.9.1(K)(1)(m) of this Code; and (3) continuously maintain any license issued pursuant to § 15-646. Should any license issued to the new owner be revoked, not be renewed, or lapse for any period of time, the nonconforming short term rental use shall be considered abandoned or otherwise terminated.
(mm)

(c) To be deemed a lawful use, a dwelling unit must have been actually utilized as a short term primary or non-primary rental prior to March 31, 2017, and valid sales and use and lodging tax licenses for such dwelling unit must have been obtained prior to October 31, 2017, in accordance with Chapter 25, Art. IV, of the Code of the City of Fort Collins.
(nn)

(O) **Two Unit Dwelling is a** building that contains two primary dwelling units on one lot. The units must share a common wall or common floor/ceiling.

(1) In the CS zone district such use not be allowed within two hundred (200) feet of North College Avenue.

(P) **Secondary Uses**

(1) In the CC zone district all residential permitted uses, except mixed use dwellings in multistory mixed use buildings, shall be considered secondary uses and, for projects containing ten (10) or more acres, together shall occupy no more than thirty (30) percent of the total gross area of any development plan. If the project contains less than ten (10) acres, the development plan must demonstrate how it contributes to the overall mix of land uses within the surrounding area, but shall not be required to provide a mix of land uses within the development.

(2) In the NC zone district all permitted residential uses, except mixed use dwellings in multistory mixed use buildings, shall be considered secondary uses and, for projects containing five (5) or more acres, together shall occupy no more than thirty (30) percent of the total gross area of any development plan. If the project contains less than five (5) acres, the development plan must demonstrate how it contributes to the overall

mix of land uses within the surrounding area but shall not be required to provide a mix of land uses within the development.

### 4.3.2 INSTITUTIONAL/CIVIC/PUBLIC USES

(Q) **Community Facilities**

(1) Community facilities such as community buildings, government offices, recreation centers and libraries shall be placed in central locations as highly visible focal points. To the extent reasonably feasible, they shall be located close to transit stops.

(R) **Public and Private Schools for college, university, vocational and technical education**

(1) Limited in the LMN zone district to within five hundred (500) feet of East Vine Drive or railroad property abutting and parallel to East Vine Drive.

(S) **Seasonal Overflow Shelter**

(1) The following standards shall apply to all seasonal overflow shelters.

(2) The purpose of this Section is to allow for the siting and approval of seasonal overflow shelters while helping to ensure that such shelters are compatible with the adjacent neighborhoods.

(3) General Standards. Seasonal overflow shelters shall be allowed as a permitted use, provided that all of the following conditions are met:

(a) *Occupancy Limit*. No more than fifty (50) persons may be housed at any one (1) seasonal overflow shelter.
(oo)

(b) *Operations.* An organization with prior homeless shelter management experience must be designated as the operator responsible for managing the seasonal overflow shelter.
*(pp)*

(c) *Operating Agreement.* An operating agreement must be completed between the City, the operator and the owner of the real property upon which the seasonal overflow shelter is located, delineating the roles of the parties, and, without limitation, shall include provisions pertaining to parking, hours of operation, site cleanup, loitering, number of staff and designated contact persons for each party. The operating agreement shall be executed by all parties prior to the approval of a seasonal overflow shelter and must be executed preceding each operating season that the shelter is functioning.
*(qq)*

(d) *Transportation*. If the seasonal overflow shelter is more than two (2) miles from a homeless shelter, then transit to and from the seasonal overflow shelter and the homeless shelter (or other locations designated in the operating agreement) shall be provided by the operator of the seasonal overflow shelter.
(rr)

(e) *Neighborhood Meeting.* The City shall require a neighborhood meeting for each application for approval of a seasonal overflow shelter and preceding each operating season that the shelter is functioning.
(ss)

(f) *Limit.* There shall be no more than three (3) seasonal overflow shelters operating in the City at any given time.
(tt)

(g) *Compliance with Other Standards.* The property upon which the seasonal overflow shelter is located must continue to comply with the standards of this Code, at least to the extent of its original compliance (so as to preclude any greater deviation from the standards of this Code by reason of a seasonal overflow shelter being located thereon).

(T) **Wildlife Rescue and Education Centers**

(1) Limited in the LMN zone district to within five hundred five hundred (500) feet of East Vine Drive or railroad property abutting and parallel to East Vine Drive.

## 4.3.3 COMMERCIAL/RETAIL USES

(A) **Adult Day/Respite care centers**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(B) **Adult-Oriented Uses**

(1) Adult-oriented uses are permitted only in the zone districts shown in the Use Table of Division 4.2.

(2) Adult-oriented uses shall not be established, operated or maintained within one thousand (1,000) feet of the boundary of any residential zone district (whether within or beyond the City's jurisdictional boundary), any structure occupied for residential purposes, any public park or playground, any child care center, any outdoor recreation facility, any limited indoor recreation use, any place of worship or assembly, any school meeting all of the requirements of the compulsory education laws of the State and/ or any other adult-oriented use. An adult-oriented use lawfully operating as a conforming use shall not be rendered a nonconforming use by the subsequent location of a residential district or residential use, public park or playground, child care center, outdoor recreation facility, limited indoor recreation use, place of worship or assembly, or school within one thousand (1,000) feet of said adult-oriented use.

(3) Method of Measurement. All measurements required pursuant to this use shall be made from the nearest property line of the property from which spacing is required (pursuant to paragraph (B) of this Section) to the nearest entrance of the building in which the adult-oriented use is to occur, using a straight line, without regard to intervening structures or objects.

(4) Displays, Screenings. Advertisements, displays or other promotional materials displaying or depicting "specified anatomical areas" or "specific sexual activities" shall not be shown or exhibited so as to be visible or audible to the public from adjacent streets, sidewalks or walkways or from other areas outside the establishment; and all building openings, entries and windows for adult-oriented uses shall be located, covered or screened in such manner as to prevent the interior of such premises from being viewed from outside the establishment.

(5) No adult bookstore, adult novelty store or adult retail store that, as of June 14, 2002, had adult material in excess of twenty (20) percent of its stock-in-trade, or derived in excess of twenty (20) percent of its revenues from such material, or devoted in excess of twenty (20) percent of its interior business or interior advertising to such material, or maintained in excess of twenty (20) percent of its gross floor area or display space for the sale or rental of such material, shall be allowed to increase its adult material business beyond the percentages that existed on June 14, 2002.

(6) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(C) **Animal Boarding**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(D) **Bars and Taverns**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(E) **Bed and Breakfast Establishment**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(2) In the LMN, MMN, HMN, OT-B zone district such use shall be limited to six (6) beds not including on site staff.

(F) **Child Care Center**

(1) Outdoor Play Area Table:

| *Minimum Outdoor Play Area for a Child Care Center* | |
|---|---|
| 15 Children or less | 1,200 square feet |
| More than 15 Children | 75 square feet per child for 33% of the child capacity of the center |

(2) An outdoor play area as stated above shall not be required for drop-in child care centers.

(3) For the purposes of this subsection, the capacity of the center is calculated based upon indoor floor space reserved for school purposes of forty (40) square feet per child. Any such play area on the site of the child care center within or abutting any residential district shall be enclosed by a decorative solid wood fence, masonry wall or chain link fence with vegetation screening, densely planted. The height of such fence shall be a minimum of six (6) feet and shall comply with other fences regulations within this code. Where access to child care centers is provided by other than local streets, an off-street vehicular bay or driveway shall be provided for the purpose of loading and unloading children.

(4) If active and continuous operations are not carried on for a period of twenty-four (24) consecutive months in a child care center which was approved for operation within a residential dwelling, the child care center use shall be deemed to have been abandoned. Such child care center use may thereafter be reestablished only upon approval of a new application in accordance with all applicable provisions of this Code.

(5) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(G) **Convenience retail stores with fuel sales**

(1) In the LMN, CC, CCN, NC, I zone districts such use shall be spaced at least three thousand nine hundred sixty (3,960) feet (three-quarters [¾] of a mile) from any other such existing or permitted fueling station.

(2) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(H) **Convenience Shopping Center**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(2) In the I zoned district such use may include Drive-in restaurants.

(3) In the NC zone district such shall be three thousand nine hundred sixty (3,960) feet from any other any other such existing or permitted fueling station.

(I) **Day Shelter**

(1) In the D, CC, CCN, CCR, CG/CAC, CS, I zone districts such use shall not exceed ten thousand (10,000) square feet and shall be located within one thousand three hundred twenty (1,320) feet (one-quarter [¼] mile) of a Transfort route.

(J) **Dog Day-Care Facility Regulations**

(1) All services provided by a dog day-care facility shall be conducted within a completely enclosed, soundproof building.

(2) All dog day-care facilities shall be designed and constructed in a manner that reasonable mitigates emission of odor to persons owning, occupying or patronizing properties adjacent to such facilities.

(K) **Drive-in Restaurant**

(1) In the E, I zone districts such use is only permitted in a convenience shopping center.

(2) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(3) In the N-C zone district such use shall exclude drive-thru restaurant.

(L) **Enclosed Mini-storage Facility**

(1) In the CS zoned districts such use shall be at least 150 feet from South College Avenue.

(2) Not permitted in the South College Gateway Area.

(3) In the LMN zone district such use shall be located within five hundred (500) feet of East Vine Drive or of the railroad property abutting and parallel to East Vine Drive.

(M) **Fast Food Restaurant**

(1) In the CC, CCN, CCR, CS, NC, CL, E, and I zone districts, such use is prohibited as a drive-in or drive-through facilities.

(2) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(N) **Funeral Homes**

(1) In the OT-C such use shall be located in the street-fronting principal building.

(O) **Grocery Stores**

(1) In the D, CC, CCN, CCR, CS, NC zone districts shall occupy between five thousand [5,000] and forty-five thousand [45,000] square feet).

(P) **Indoor Kennel**

(1) In the HC zone district only permitted in community or regional shopping center.

(Q) **Limited indoor recreation establishments**

(1) In the LMN zone district such use shall be located within five hundred (500) feet of East Vine Drive or of the railroad property abutting and parallel to East Vine Drive.

(R) **Micro-brewery/distillery/winery**

(1) In the HC zone district only permitted within a community, lifestyle, regional, and convenience shopping center.

(2) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(S) **Neighborhood Centers**

(1) In the LMN zone district such use shall contain two (2) or more of the following uses:

(a) mixed-use dwelling units;
(uu) retail stores;
(vv) convenience retail stores;
(ww) personal and business service shops;
(xx) small animal veterinary facilities;
(yy) offices, financial services and clinics;
(zz) community facilities;
(aaa) neighborhood support/recreation facilities; schools;
(bbb) child care centers;
(ccc) limited indoor recreation establishments;
(ddd) open-air farmers markets;
(eee) places of worship or assembly;
(fff) dog day care;
(ggg) music studio;
(hhh) micro brewery/distillery/winery;
(iii) standard fast food restaurants (without drive-in or drive-through facilities);
(jjj) artisan and photography studios and galleries;
(kkk) convenience retail stores with fuel sales that are at least three-quarters (¾) mile from any other such use and from any gasoline station;
(lll) grocery store;
(mmm) health and membership club, provided that such use or uses are combined with at least one (1) other use.
(nnn)

(T) **Small Animal Veterinary Clinic and Hospital Regulations**

(1) All facilities of a small animal veterinary clinic or a small animal veterinary hospital, including all treatment rooms, cages, pens, kennels and exercise runs, shall be maintained within a completely enclosed, soundproof building.

(2) All such veterinary clinics and hospitals shall be designed and constructed in a manner that reasonably mitigates any emission of odor to persons owning, occupying or patronizing properties adjacent to such clinics or hospitals.

(3) All such veterinary clinics and hospitals shall be designed and constructed in a manner that reduces the sound coming from any such clinic or hospital to the level of sixty-five (65) decibels at any given abutting property line.

(4) No such veterinary clinic or hospital shall board any animal for any length of time except where such boarding is necessary to provide surgical or other medical care to the animals.

(U) **Open Air Farmers Markets**

(1) In the HC zone district only permitted in neighborhood, community and regional shopping centers only.

(V) **Outdoor Storage Facility**

(1) In the CL/RA zone district such use may include a towing yard, provided such use is setback at lease thirty five (35) from an arterial street.

(W) **Personal and Business Service Shop**

(1) In the HC zone district only permitted within a neighborhood, community, lifestyle and regional center.

(X) **Research Laboratories**

(1) In the South College Gateway Area Overlay such use is not permitted.

(Y) **Small Scale Reception center**

(1) In the UE zone district such use shall comply with the following performance standards

(a) **Lot Size**. Minimum lot size shall be seven (7) acres.
(ooo)

(b) **Building Size**. The total floor area of any new building shall not exceed seven thousand five hundred (7,500) square feet and the total aggregate floor area of new and existing buildings shall not exceed fifteen thousand (15,000) square feet.
(ppp)

(c) **Building Location and Separation from Residential Areas**. All buildings shall be located a minimum of three hundred (300) feet from the nearest dwelling on any abutting property, except that in cases where there are no dwellings on such abutting property, all buildings shall be located a minimum of two hundred fifty (250) feet from the nearest property line of such abutting property.
(qqq)

(d) **Outdoor Spaces, Location and Separation From Residential Areas**. All outdoor spaces such as lawns, plazas, gazebos and/or terraces used for social gatherings or ceremonies associated with the reception center shall be located within one hundred (100) feet of the primary building and shall be located a minimum of three hundred (300) feet from the nearest dwelling on any abutting property, except that in cases where there are no dwellings on such abutting property, all outdoor spaces, as described above, shall be located a minimum of two hundred fifty (250) feet from the nearest property line of such abutting property.
(rrr)

(e) **Nonresidential Abutment**. At least one-sixth (1/6) of the reception center's property boundary must be contiguous to property that is zoned in one (1) or more of the following nonresidential zone districts within the City:

(I) D;
(II) CC;
(III) CCN;
(IV) CCR;
(V) CG;
(VI) CS;
(VII) NC
(VIII) CL;
(IX) HC;
(X) E;
(XI) I.

(sss)

(f) **Access.** Vehicular access to the reception center shall be only directly from an arterial street so as to not add traffic to existing local neighborhood streets.

(ttt)

(g) **Buffering**. If the reception center abuts a single-family dwelling or property zoned for such activity, buffering shall be established between the two (2) land uses sufficient to screen the building, parking, outdoor lighting and associated outdoor activity from view. A combination of setbacks, landscaping, building placement, fences or walls and elevation changes and/or berming shall be utilized to achieve appropriate buffering.

(uuu)

(h) **Hours of Operation**. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m. Sunday through Thursday and 8:00 a.m. to 12:00 a.m. on Friday and Saturday.

(vvv)

(i) **Noise**. No noise will be permitted in violation of Chapter 20, Article II of the City Code, and the following limitations will also apply:

(www)

(I) Music that is not amplified (such as stringed quartets or acoustic guitars) will be allowed out of doors, but shall end no later than 8:00 p.m. Sunday through Thursday, and 9:00 p.m. on Friday and Saturday.

(xxx)

(II) Except during wedding ceremonies, sound-amplifying equipment used out of doors shall be limited to speakers with a maximum power rating of fifty (50) watts permanently installed as part of the design of outdoor spaces such as lawns, plazas, gazebos and/or terraces.

(yyy)

(j) **On-Site Caretaker**. There shall be a manager or owner on site during all hours of operation.

(zzz)

(k) **Parking Lot Lighting**. Parking lot lighting, if used at all, shall conform to the requirements contained in Article 5.12, and shall be further restricted such that the fixture does not exceed a height of fourteen (14) feet above ground level.

(Z) **Standard Restaurant**

(2) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(AA) **Recreational Uses**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(BB) **Retail Establishment**

(1) In the CG zone district such use shall be 25,000 sq. ft. or under in size.

(2) In the HC zone district only permitted within a neighborhood, community, lifestyle and regional center.

(CC) **Retail Establishment, Large**

(1) In the CG zone district such use shall be greater than 25,000 sq. ft.

(DD) **Retail and Supply Yard establishment with outdoor storage**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(EE) **Vehicle major repair, servicing and maintenance establishments**

(1) Not permitted in the South College Gateway Area Overlay.

(FF) **Vehicle minor repair, servicing and maintenance establishments**

(1) In all permitted zone districts such use shall be conducted indoors.

(2) Not permitted in the South College Gateway Area Overlay.

(GG) **Vehicle Sales and Leasing Establishments for Cars and light trucks**

(1) In the CS District, shall be limited to ten (10) percent of the total linear frontage of both sides of North College Avenue between Vine Drive and the northern City limits or the intersection of North College Avenue and State Highway 1, whichever results in the shortest linear distance. These uses shall be located at least one hundred fifty (150) feet from South College Avenue.

(2) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(3) In the I zone district such use may include boats, manufactured housing, farm implements and heavy excavation equipment.

(4) In the CG, CL/RA zone districts such use may include outdoor storage.

(5) In the CS zone district such use shall be limited to ten (10) percent of the total linear frontage of both sides of North College Avenue between Vine Drive and the northern City limits or the intersection of North College Avenue and State Highway 1, whichever results in the shortest linear distance.

(6) In the CS zone district such use shall be setback 150 ft. from South College Avenue.

(HH) **Veterinary Hospital**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

## 4.3.4 INDUSTRIAL USES

### (A) Light Industrial

(1) In the LMN zone district such use is located within five hundred [500] feet of East Vine Drive.

(2) In the CG zone district such use shall not have outdoor storage.

(3) In the South College Gateway Overlay such use is not permitted.

### (B) Resource Extraction

(1) In the RC zone district such use shall be prohibited in the natural area protection buffer.

### (C) Warehouse

(1) In the CS zone district such use shall be setback at least 200 ft. from North College Ave and 150 ft. from South College Avenue.

(2) In the South College Gateway Area Overlay such use is prohibited.

### (D) Wholesale Distribution Facility

(1) In the CS zone district such use shall be setback at least 200 ft. from North College Ave and 150 ft. from South College Avenue.

### (E) Workshops and Custom Small Industry

(1) In the LMN zone district such use is located within five hundred [500] feet of East Vine Drive.

### (F) Oil And Gas Facilities And Pipelines

#### (1) Purpose And Applicability

(a) **Purpose.** This Division is intended to protect the public health, safety, and welfare, and the environment and wildlife resources by regulating oil and gas development to anticipate, avoid, minimize and mitigate adverse impacts to existing, planned, and future land uses.

(b) **Applicability.** This Division applies to siting and reclamation of all oil and gas facilities and oil and gas pipelines within City boundaries over which the City has regulatory authority pursuant to law, except for oil and gas facilities and oil and gas pipelines subject to a valid operator agreement between the City and the operator effective prior to April 14, 2023, in which case the operator agreement shall govern the applicable oil and gas facilities and oil and gas pipelines. All persons must obtain approval from the City in accordance with the standards in this Division and all applicable Land Use Code requirements prior to constructing and operating any new oil and gas facility or oil and gas pipeline or enlarging or expanding any oil and gas facility or oil and gas pipeline lawfully existing prior to April 14, 2023.

Any terms used in this Division that are not defined within the Land Use Code shall be defined by the ECMC as set forth in the Code of Colorado Regulations. The terms applicant and operator are used interchangeably at times in this Division.

Where, in any specific case, the requirements of any other provision within the Land Use Code or Code of the City of Fort Collins or any applicable federal or state laws or regulations of any state or federal agency are in conflict with this Division, the more restrictive or stringent requirement shall be imposed.

### (2) Existing Oil And Gas Facilities And Pipelines

**Application to Existing Oil and Gas Facilities and Pipelines.** Oil and gas facilities and oil and gas pipelines that were lawfully established prior to April 14, 2023, referred herein as lawful nonconforming oil and gas facilities and pipelines, are considered nonconforming uses that may continue to operate pursuant to either a valid operator agreement governing such oil and gas facilities or oil and gas pipelines between the City and the operator in effect prior to April 14, 2023, or absent such an operator agreement, pursuant to Land Use Code Division 6.16 as modified in this Section. The following provisions apply to lawful nonconforming oil and gas facilities and pipelines not subject to an operator agreement:

(a) Section 6.16.3 regarding abandonment of use.

(b) Section 6.16.4 regarding reconstruction does not apply to lawful nonconforming oil and gas facilities and pipelines. Reconstruction of such an oil and gas facility or pipeline or facility or pipeline taken by governmental acquisition or damaged by fire or other accidental cause or natural catastrophe is not allowed.

(c) Section 6.16.5 regarding enlargement of buildings and expansion of facilities, equipment or structures does not apply to lawful nonconforming oil and gas facilities and pipelines. Enlargement and expansion of any such facility or pipeline requires such facility or pipeline to be brought into conformance with the Land Use Code.

(I) Enlargement or expansion includes, but is not limited to, any permanent physical change to a lawful nonconforming oil and gas facility or pipeline not required by law that increases operating capacity, harmful air emissions, traffic, noise, risk of spills, or will adversely impact public health, safety, welfare, the environment or wildlife resources. Use of a drilling rig or hydraulic fracturing equipment to deepen or recomplete an existing well into a new geologic formation is considered expansion.

(II) Maintenance activities, the replacement of existing equipment with substantially similar equipment in like and kind, installation of emission control equipment, and the addition of equipment to fulfill mandated regulatory requirements are not considered enlargement or expansion.

### (3) Oil and Gas Project Development Plan Review Procedures

In order for a new oil and gas facility to be constructed and operated, or a lawful nonconforming oil and gas facility to be enlarged or expanded, the applicant must receive approval of a project development plan, final plan, and building permit pursuant to the Land Use Code. In order for enlargement or expansion of a lawful nonconforming oil and gas facility to occur, unless an operator agreement as described in above Section 4.3.4(F)(2) provides

otherwise, such facility must be brought into conformance with the Land Use Code and receive approval of a project development plan, final plan, and building permit pursuant to the Land Use Code prior to enlargement or expansion and continued operation.

With regards to oil and gas pipelines, flowlines are subject to review as part of the project development plan for any new oil and gas facility to which the flowlines are associated or through a major amendment if additional flowlines are added subsequent to project development plan approval. Crude oil transfer lines, gathering lines and transmission lines are subject to project development plan review and subsequent changes through a major amendment. In order for enlargement or expansion of a lawful nonconforming oil and gas pipeline to occur, unless an operator agreement as described in above Section 4.3.4(F)(2) provides otherwise, such pipeline must be brought into conformance with the Land Use Code and receive approval of a project development plan, final plan, and building and other required permits pursuant to the Land Use Code prior to enlargement or expansion and continued operation.

Specific development standards regarding oil and gas facilities are set forth in Section 4.3.4(F)(4), and specific development standards regarding oil and gas pipelines are set forth in Section 4.3.4(F)(5). The Project Development Plan Review Procedures set forth in Section 6.6.2 are modified as follows:

(a) **Step 1 (Conceptual Review):** Mandatory. In addition to the Concept Plan Submittal requirements pursuant to Section 6.3.1(A)(3), the applicant for a new oil and gas facility or oil and gas pipeline shall provide an alternative location analysis and preliminary site analysis as described below. The Director may waive or modify any information required for the alternative location and preliminary site analysis if, given the facts and circumstances of a proposed oil and gas facility or pipeline, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary to evaluate the proposed project. Prior to the required neighborhood meeting referenced in (b) below, the City will review all proposed locations for the oil and gas facility or oil and gas pipeline to determine which locations, if any, meet Land Use Code requirements and will prepare a report summarizing its findings with respect to the proposed locations. If the City requests a site visit of any of the locations under consideration, the operator is responsible for securing permission or coordinating with the landowner(s) to conduct the site visit. Prior to selecting the location for the proposed oil and gas facility or oil and gas pipeline, the operator shall consult with the City regarding the proposed locations and the City's report regarding such locations.

(I) **Alternative Location Analysis.** The alternative location analysis must include, at a minimum, the following:

(i) For oil and gas facilities:

(A) A map depicting the following elements within three (3) miles of the proposed surface location. (This requirement is limited to one (1) mile for a proposed single vertical or directional well):

(1) All mineral rights held or controlled by the applicant; and

(2) The location of all features listed in the "Preliminary Site Analysis."

(B) The alternative location analysis shall evaluate a minimum of three potential locations that can reasonably access the mineral resources within the proposed drilling and spacing unit(s), including the following information for each site:

(1) General narrative description of each location;

(2) Any location restrictions that the site does not satisfy;

(3) Any existing surface use agreements or other documentation regarding legal property rights;

(4) Off-site impacts that may be associated with each site;

(5) Proposed truck traffic routes and access roads for each location; and

(6) Any information pertinent to the applicable review criteria that will assist the Director in evaluating the locations.

(ii) For oil and gas pipelines, the alternative location analysis shall evaluate a minimum of three potential alignments for the pipeline, including the following information for each alignment:

(A) General narrative description of each alignment;

(B) Any location restrictions that the alignment does not satisfy;

(C) Any existing surface use agreements or other documentation regarding legal property rights;

(D) Off-site impacts that may be associated with each alignment; and

(E) Any information pertinent to the applicable review criteria that will assist the Director in evaluating the locations.

(II) **Preliminary Site Analysis.** The Preliminary Site Analysis shall include maps with the following information:

(i) Provide an ecological characterization study if the development site contains or is within two thousand (2,000) feet of a natural habitat or feature as defined in Section 5.6.1.

(ii) All drilling and spacing units proposed by the applicant within one (1) mile of the City's boundaries; and

(iii) All features defined below that are wholly or partially within one (1) mile of the proposed oil and gas facility:

(A) Any existing or future building approved as occupiable space, as defined in the City's Building Code;

(B) City parks or City property intended to be used for City parks;

(C) City maintained trails and trailheads or City property intended to be used for City trails and trailheads;

(D) Outdoor venues, playgrounds, permanent sports fields, amphitheaters, or other similar places of outdoor assembly;

(E) City natural areas;

(F) Existing and approved oil and gas facilities and pipelines;

(G) Areas within the FEMA 100-Year Floodplain boundary;

(H) The centerline of all USGS perennial and intermittent streams and the map will indicate which surface water features are downgradient;

(I) Active reservoirs and public and private water supply wells of public record;

(J) Natural habitats and features as defined in Land Use Code Section 5.6.1 within one (1) mile of the proposed oil and gas facility;

(K) High priority habitat as defined by the ECMC; and

(L) Disproportionately impacted communities, as defined by the ECMC.

(b) **Step 2 (Neighborhood Meeting):** Mandatory. After a proposed location has been selected for the oil and gas facility or oil and gas pipeline, a neighborhood meeting must be held. Written notice of the neighborhood meeting must be mailed to the owners of record and occupants of all real property within one (1) mile (exclusive of public rights-of-way, public facilities, parks or public open space) of the property line of the parcel of land upon which the development is planned.

(c) **Step 3 (Development Application Submittal):** All items or documents required for project development plans as described in the development application submittal master list for oil and gas facilities and oil and gas pipelines shall be submitted. The Director may waive or modify the foregoing submittal requirements if, given the facts and circumstances of the specific application, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary for the full and complete review of the application.

The complete project development plan application must be submitted and accepted by the City as complete prior to the applicant submitting any required Form 2 or 2A to the ECMC. Should the applicant submit any required Form 2 or 2A to the ECMC prior to submitting its complete project development plan application to the City, the applicant must withdraw the Form 2 or 2A and refrain from resubmitting until a complete project development plan application has been submitted and accepted by the City as complete.

(4) **Oil and Gas Facility Development Standards**

The following requirements apply to oil and gas facilities in addition to other applicable Land Use Code requirements.

(a) **Location Restrictions for New Oil and Gas Facilities or Enlarged or Expanded Existing Oil and Gas Facilities.**

(1) Allowed Zone Districts. Oil and gas facilities may only be located on property located within:

(i) The Industrial (I) zone district;

(ii) A zone district to which oil and gas facility is added as an allowed use for a particular parcel pursuant to Division 6.9, Addition of Permitted Uses; or

(iii) A Planned Unit Development (PUD) overlay in which oil and gas facilities are an allowed use.

A development application for an oil and gas facility may not be submitted until oil and gas facility is an allowed use for the proposed location.

(2) Setbacks. Setbacks for new oil and gas facilities and enlarged or expanded existing oil and gas facilities cannot be modified pursuant to Division 6.8, Modification of Standards. Setbacks are measured as the shortest distance from the edge of the working pad surface.

(i) No working pad surface shall be located within two thousand (2,000) feet from the following:

(A) The nearest wall of any existing or platted building approved or to be approved as occupiable space as defined under the City's Building Code;

(B) The property boundary line of any property containing a City park or City property intended to be used for a City park;

(C) The easement or parcel boundary of City maintained recreation trails and trailheads or City property intended to be used for City maintained trails and trailheads;

(D) The edge of outdoor venues, playgrounds, permanent sports fields, amphitheaters, or other similar places of outdoor assembly; or

(E) The property boundary line of any property containing a City natural area.

(ii) No working pad surface shall be located within one thousand (1,000) feet from the following:

(A) Public water supply surface intakes or public water supply wells;

(B) Ditches that transport water used by, or to augment, a public water supply system; or

(C) Conservation easements.

(3) Buffer zones surrounding natural habitats and features. Oil and gas facilities shall protect natural habitats and features specified in Section 3.4.1 through buffer zones. Buffer zones set forth in the *Buffer Zone Table for Fort Collins Natural Habitats and Features* in Section 5.6.1(E) are measured from the shortest distance from the working pad surface to the top of bank, and are modified as follows:

(i) All features under the Stream Corridors category: 1,000 feet

(ii) Wetlands greater than 1/3 acre: 1,000 feet

(iii) Lakes or reservoirs: 1,000 feet

(iv) Naturalized storm drainage channels/detention ponds: 1,000 feet

(v) Naturalized irrigation ponds: 1,000 feet

(vi) Buffer zones for natural habitats and features not listed above will conform to the buffer distances specified in Section 5.6.1(E) or 1,000 feet, whichever is greater.

(b) **Prohibited Oil and Gas Facilities.** The following facilities are prohibited within the City:

(I) Injection wells for disposal of oil and gas exploration and production wastes;

(II) Gas storage wells;

(III) Disposal pits;

(IV) Commercial disposal facilities;

(V) Centralized exploration and production waste management facilities;

(VI) Subsurface disposal facilities; and

(VII) Glycol dehydrators and desiccant gas processing dehydrators.

(VIII) Onsite oil storage greater than thirty (30) feet in height.

(c) **Landscaping.** Land Use Code Section 5.10.1 applies in addition to the following requirements:

(I) The requirements of Section 5.10.1, Landscaping and Tree Protection, apply within designated setbacks as defined in Section 4.3.4(4)(A)(2) above to meet the Landscaping and Tree Protection general standard set forth in Land Use Code Section 5.10.1.

(II) No landscaping may be placed within a twenty-five (25) foot buffer around any tank or other structure containing flammable or combustible materials.

(d) **Environmental Protection.** Land Use Code Section 5.6.1, Natural Habitats and Features, applies in addition to the requirement for an Ecological Characterization Study if the development site contains or is within two thousand (2,000) feet of a natural habitat or feature.

(e) **Artificial Lift.** Artificial lift may not be accomplished through the use of traditional pump jacks and an alternative artificial lift system must be used that is both less visible and has fewer auditory impacts than a traditional pump jack. Alternatives such as gas lift, linear rod pumps, or hydraulic pumping unit must be used instead of traditional pumpjacks and are to be as low profile as practicable with a maximum height of thirty (30) feet.

(f) **Fencing Plan.** The requirements in this Subsection (f) apply to oil and gas facilities in substitution of the requirements set forth in Land Use Code Section 4.3.5(C), Fences and Walls. A fencing plan must be submitted as part of the application for a project development plan and such plan must demonstrate how the oil and gas facility will comply with the following requirements:

(I) All pumps, wellheads and production facilities must be fenced to prevent unauthorized access and fencing must:

(i) Completely surround such facilities;

(ii) Be no less than six (6) feet in height;

(iii) Be noncombustible and allow for adequate ventilation;

(iv) May not consist of solid masonry walls; and

(v) Must be visually compatible with surrounding land uses.

(II) Each fence enclosure must be equipped with at least one gate. Each gate must meet the following requirements:

(i) Gates shall be provided with a combination catch and locking attachment device for a padlock and shall be kept locked except when being used to access the oil and gas location; and

(ii) Gates must provide adequate access for emergency responders and the operator must provide Poudre Fire Authority with a "Knox Padlock" or "Knox Box with a key" to allow emergency access to the oil and gas location.

(5) **Oil and Gas Pipelines**

**Oil and Gas Pipelines.** To the maximum extent feasible, oil and gas pipelines must be utilized for the transport of oil, gas, and produced water within and from any oil and gas location except that temporary tanks may be utilized during drilling, flowback, workover, completion, hydraulic fracturing and maintenance operations. All oil and gas pipelines needed to transport oil, gas, and produced water within and from any oil and gas location must be constructed prior to the production phase of such oil and gas facility.

Oil and gas pipelines must meet the following requirements in order to be approved:

(a) Oil and gas pipelines shall be located underground except to the extent above ground connections to surface oil and gas facilities are necessary.

(b) Oil and gas pipelines shall be sited a minimum of fifty (50) feet away from residential and non-residential buildings. This distance shall be measured from the nearest edge of the oil and gas pipeline. Increased setbacks of up to one hundred and fifty (150) feet may be required for public safety on a case-by-case basis in consideration of the size, pressure, and type of oil and gas pipeline being proposed.

(c) Oil and gas pipelines that pass within one hundred and fifty (150) feet of residential or non-residential building or the high-water mark of any surface water body shall incorporate leak detection, secondary containment, or other mitigation, as appropriate.

(d) To the maximum extent feasible, oil and gas pipelines shall be aligned with established roads in order to minimize surface impacts and reduce natural habitat fragmentation and disturbance.

(e) To the maximum extent feasible, operators shall share existing oil and gas pipeline easements and consolidate new corridors for oil and gas pipeline easements to minimize surface impacts.

(f) The legal description of the location of all new oil and gas pipelines must be recorded on the respective property with the Larimer County Clerk and Recorder within thirty (30) days of completion of construction.

(g) Coordinates of all oil and gas pipelines shall be provided in a format suitable for input into the City's GIS system depicting the locations and type of above and below ground facilities.

(h) Operators shall use boring technology when crossing streams, rivers, irrigation ditches or wetlands with a pipeline to minimize negative impacts to the channel, bank, and riparian areas, except that open cuts may be used across irrigation ditches if the affected ditch company approves the technique.

(i) Special conditions of approval for all gathering lines and transmission lines:

(I) Operator must make available to the City upon request all records submitted to PHMSA or the PUC including those related to inspections, pressure testing, pipeline accidents and other safety events.

(II) Operator shall comply with Fort Collins right-of-way permit and easement processes for all gathering lines installed in Fort Collins owned property or rights-of-way.

(6) **Plugging and Abandonment of Wells and Pipelines and Decommissioning of Oil and Gas Facilities**

(a) The plugging and abandonment of a well, abandonment of an oil and gas pipeline, and the decommissioning of any oil and gas facility are subject to basic development review. City review and approval of an application to plug and abandon a well, abandon an oil and gas pipeline or decommission and oil and gas facility is intended to be in addition to any required ECMC review and approval. The following documents and information shall be provided as part of the basic development review application:

(I) Coordinates of the well proposed to be plugged and abandoned or pipeline to be abandoned.

(II) A removal plan for flowlines and wastewater pipelines associated with any well proposed to be plugged and abandoned to the extent such lines will not serve a well that has not been plugged and abandoned.

(III) A sampling and monitoring plan associated with any well proposed to be plugged and abandoned. Site investigation, sampling, and monitoring shall be conducted to demonstrate that the well has been properly abandoned and that soil, air and water quality have not been adversely impacted by oil and gas facilities or other sources of contamination. Such sampling and monitoring shall be conducted by a qualified environmental engineering or consulting firm with experience in oil and gas investigations. Director approval that the sampling and monitoring plan contains the information required pursuant to this Subsection (3) is required prior to sampling occurring and such plan shall include, but is not limited to, the following:

(i) Site survey, historical research, and/or physical locating techniques to determine exact location and extent of oil and gas facilities.

(ii) Documentation of plugging activities, abandonment and any subsequent inspections.

(iii) Soil sampling, including soil gas testing.

(iv) Groundwater sampling, if deemed necessary.

(v) Installation of permanent groundwater wells for future site investigations, if deemed necessary.

(vi) A minimum of five (5) years of annual soil gas and groundwater monitoring at the well location.

(vii) Upon completion of the site investigation and sampling, not including the ongoing monitoring, the consultant must provide a written report verifying that the soil and groundwater samples meet applicable Environmental Protection Agency and State residential regulations and that a reclaimed site would not pose a greater health or safety risk for future residents or users of the site. Otherwise, the decision maker may require that the following actions be completed by a qualified professional before development may occur, including but not limited to:

(A) Remediation of environmental contamination to background levels.

(B) Well repair or re-plugging of a previously abandoned well.

(IV) A final reclamation plan for the associated oil and gas location. The final reclamation plan must demonstrate how the following reclamation requirements will be satisfied:

(i) All oil and gas related improvements and equipment must be removed from the oil and gas location, including flowlines, gathering lines, and oil and gas pipelines of any kind unless such improvements or equipment are needed to serve a well that has not been plugged and abandoned.

(ii) Upon written request, the Director may approve in writing the abandonment in place of any oil and gas pipeline. The Director may approve abandonment in place only if removal would cause greater adverse impacts to public health, safety, welfare, or the environment than allowing the oil and gas pipeline to remain. If an oil and gas pipeline is abandoned in place, a tracer will be placed in any nonmetal line. Any oil and gas pipeline approved to be abandoned in place must comply with all ECMC rules and the location of the abandoned oil and gas pipeline must be recorded with the Larimer County Clerk and Recorder on the corresponding property.

(iii) The oil and gas location must be reclaimed and revegetated to the satisfaction of the City and in consultation with the landowner, the oil and gas location and all access roads associated with the oil and gas location proposed to be reclaimed within three (3) years after seeding, or as directed by the landowner in a surface use agreement.

(b) Prior to commencing plugging and abandonment of a well, the applicant must provide the City with evidence of ECMC approval of the request to plug and abandon.

(c) After plugging and abandonment is completed, the operator must:

(I) Provide the City with evidence of ECMC approval of the completed plugging and abandonment.

(II) Provide evidence that the location of the plugged and abandoned well has been recorded with the Larimer County Clerk and Recorder on the corresponding property.

(III) Permanently mark by a brass plaque set in concrete, similar to a permanent benchmark, to monument the plugged and abandoned well's existence and location. Such plaque shall contain the information required by the ECMC to properly identify the well.

(d) **Reclamation.** Within six (6) months after plugging and abandoning a well, abandoning an oil and gas pipeline, or decommissioning an oil and gas facility, reclamation of the associated oil and gas location must be completed pursuant to the approved final reclamation plan unless the Director grants additional time to complete reclamation in consideration of the complexity of the reclamation and conditions that may delay reclamation such as the season and weather. The operator must notify the City upon commencement of reclamation and upon completion.

## 4.3.5 ACCESSORY/MISCELLANEOUS USES

### (A) Accessory Buildings, Structures and Uses

(1) Accessory buildings, structures and uses (when the facts, circumstances and context of such uses reasonably so indicate) may include but are not limited to the following:

(a) Home Occupations;
(b) Horse and household pets;
(c) Signs;
(d) Off-street parking areas;
(e) Off-street loading areas;
(f) Fences;
(g) Private green houses;
(h) Private swimming pools, recreations facilities and clubhouses;
(i) Storage of merchandise in business, commercial and industrial districts;
(j) Cultivation, storage and sale of crops, vegetables, plants and flowers produced on the premises;
(k) Family-care homes;
(l) Solar energy systems
(m) Satellite dish antennas less than thirty-nine (39) inches in diameter;
(n) Hoop houses;

(o) Garage sales, wherein property which not originally purchased for the purpose of resale is sold, provided that such sales are limited to no more than five (5) weekend periods (as defined in Section 15-316 of the City Code) in one (1) calendar year;

(p) Community based shelters services.

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(2) In the UE zone district accessory buildings 2,500 sq. ft. or greater shall be reviewed by the Planning and Zoning Commission.

(B) **Composting**

(1) Composting facilities shall be located at least six hundred sixty (660) feet from any land located in the RL, LMN, or MMN zone districts and/or any residential use (except a residential use occupied by the owner, operator or any employee of such composting facility) as such zone districts or residential uses exist at the time of the establishment of such composting facility.

(2) Composting facilities shall contain and treat on-site, all water run-off that comes into contact with the feedstocks or compost, in such manner that the run-off will not contaminate surface or ground water.

(3) Composting facilities shall not be located in any floodway.

(4) No composting facility shall commence operation until a nuisance condition control plan, specifying all measures to be taken to control nuisance conditions (such as odor, noise, scattered solid waste, dust or vectors) has been approved by the Director. The Director's approval shall be based on a finding that the nuisance condition control plan adequately and reasonably identifies potential nuisance conditions and that compliance with the plan will fully address, significantly mitigate, or substantially reduce any adverse conditions to a level reasonably calculated to protect the health and safety of the public.

(C) **Fences and Walls**

(1) Fences and walls are allowed in all zone districts as provided in this section.

(2) If used along collector or arterial streets, such features shall be made visually interesting and shall avoid creating a "tunnel" effect. Compliance with this standard may be accomplished by integrating architectural elements such as brick or stone columns, incorporating articulation or openings into the design, varying the alignment or setback of the fence, softening the appearance of fence lines with plantings, or similar techniques. In addition to the foregoing, and to the extent reasonably feasible, fences and sections of fences that exceed one hundred (100) feet in length shall vary the alignment or setback of at least one-third (⅓) of the length of the fence or fence section (as applicable) by a minimum of five (5) feet.

(3) **Materials:** Chain-link fencing with or without slats shall not be used as a fencing material for screening purposes. Except as permitted below, no barbed wire or other sharp-pointed fence and no electrically charged fence shall be installed or used in any zone districts.

(a) In the Urban Estate (UE), Rural Land (RUL) and Foothills Residential (RF) Districts, barbed wire and portable electrically charged fencing may be used for the purpose of livestock and pasture management. Electrically charged fencing must be used within permanent fencing. Electrically charged fencing that is located along any public right-of-way shall contain signage that identifies it as being electrically charged. Such signage shall occur every three hundred (300) feet and be a minimum of

thirty-six (36) square inches in area. All electrically charged fencing shall be limited to low impedance commercially available electric fence energizers using an interrupted flow of current at intervals of about one (1) second on and two (2) seconds off and shall be limited to two thousand six hundred (2,600) volts at a five-hundred-ohm load at seventeen (17) millamperes current. All electric fences and appliances, equipment and materials used shall be listed or labeled by a qualified testing agency and shall be installed in accordance with manufacturers' specifications and in compliance with the National Electrical Code, 1981 Edition NFPA 701981.

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(cccc) In the Employment (E) District and the Industrial (I) District, the Director may grant a revocable use permit that must be renewed every three (3) years for installation of security arms and barbed wire strands atop protective fences or walls, provided that the following conditions are met: the lowest strand of barbed wire must be maintained at least ten (10) feet above the adjoining ground level outside the fence; exterior area security lighting controlled by an automatic light level switch must be installed and maintained in good operating condition; and such lighting must be directed into the site and not outward toward the perimeter.

(4) No more than four (4) feet high between the front building line and front property line;

(5) No more than four (4) feet high if located in the front yard, or within any required side yard setback area in the front yard, except if required for demonstrated unique security purposes;

(6) No more than six (6) feet high if located within any required rear yard setback area or within any side yard setback area in a rear yard;

(7) No more than forty-two (42) inches in height when located within the visual clearance triangle described in Section 5.16.1(K), and, if over thirty-two (32) inches in height within such triangle, fences shall be constructed of split rail with a minimum dimension of twelve (12) inches between horizontal members;

(8) No closer than two (2) feet to a public sidewalk;

(9) No closer than three (3) feet to a lot line along an alley where an alley-accessed garage door is set back at least twenty (20) feet from the lot line, and no closer than eight (8) feet to a lot line along an alley where an alley-accessed garage door is set back less than twenty (20) feet from the lot line, except that alley fences on lots in the RL and OT districts may be located closer to the lot line along an alley when the City Engineer approves such a location.

(D) **Urban Agriculture**

(1) The following standards apply to all urban agriculture land uses, except those urban agriculture land uses that are approved as a part of a site-specific development plan.

(2) The intent of these urban agriculture regulations is to allow for a range of urban agricultural activities at a level and intensity that is compatible with the City's neighborhoods.

(3) Standards

(a) *License required*. Urban agriculture land uses shall be permitted only after the owner or applicant for the proposed use has obtained an urban agriculture license from the City. The fee for such a license shall be the fee established in the Development Review Fee Schedule. If active operations have not been carried on for a period of twenty-four (24) consecutive months, the license shall be deemed to have been abandoned regardless of intent to resume active operations. The Director may revoke any urban

agriculture license issued by the City if the holder of such license is in violation of any of the provisions contained in subsection(b) below, provided that the holder of the license shall be entitled to the administrative review of any such revocation under the provisions contained in Article 6.

(dddd)

(eeee) General Standards. Urban agriculture shall be allowed as a permitted use, provided that all of the following conditions are met:

(I) Mechanized Equipment. All mechanized equipment used in the urban agriculture land use must be in compliance with Chapter 20, Article II of the City Code regarding noise levels.

(II) Parking. Urban agriculture land uses shall provide additional off-street vehicular and bicycle parking areas adequate to accommodate parking demands created by the use.

(III) Chemicals and Fertilizers. Synthetic pesticides or herbicides may be applied only in accordance with state and federal regulations. All chemicals shall be stored in an enclosed, locked structure when the site is unattended. No synthetic pesticides or herbicides may be applied within a Natural Habitat Buffer Zone.

(IV) Trash/Compost. Trash and compost receptacles shall be screened from adjacent properties by utilizing landscaping, fencing or storage within structures and all trash shall be removed from the site weekly. Compost piles and containers shall be set back at least ten (10) feet from any property line when urban agriculture abuts a residential land use.

(V) Maintenance. All urban agriculture land uses shall be maintained in an orderly manner, including necessary watering, pruning, pest control and removal of dead or diseased plant materials, and shall be maintained in compliance with the provisions of Chapter 20 of the City Code.

(VI) Water Conservation and Conveyance. To the extent reasonably feasible, the use of sprinkler irrigation between the hours of 10:00 a.m. and 6:00 p.m. shall be minimized. Drip irrigation or watering by hand may be done at any time. The site must be designed and maintained so that any water runoff is conveyed off-site into a City right-of-way or drainage system without adversely affecting downstream property.

(VII) Identification/Contact Information. A clearly visible sign shall be posted near the public right-of-way adjacent to all urban agriculture land uses, which sign shall contain the name and contact information of the manager or coordinator of the agricultural land use. If a synthetic pesticide or herbicide is used in connection with such use, the sign shall also include the name of the chemical and the frequency of application. The contact information for the manager or coordinator shall be kept on file with the City. All urban agriculture signs must comport with Article 5 of this Code.

(VIII) If produce from an urban agriculture land use is proposed to be distributed within the City, the applicant must provide a list of proposed Food Membership Distribution Sites in the application.

(IX) Floodplains. If urban agriculture is proposed within a floodplain, then a Floodplain Use Permit is required in accordance with Chapter 14 of the City Code.

(X) Hoop Houses. If an urban agriculture land use contains a hoop house, then the hoop house shall be set back a minimum of five (5) feet from any property line and shall also be located in such a

manner that the hoop house does not generate potential adverse impacts on adjacent uses, such as shading or glare.

(XI) Additional Impact Mitigation. The Director may impose measures, such as landscaping, fencing or setbacks, deemed by the Director to reasonably mitigate potential visual, noise or odor impacts on adjoining property. The Director's imposition of measures shall be found reasonable where the Director determines that any noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line of the parcel where the urban agriculture land use is conducted will likely be reduced to a level that will not adversely impact public health and safety. Where an urban agriculture land use abuts a residential use, there shall be a minimum setback of five (5) feet between the operation and the property line.

(XII) Notice. At the time of an initial application for an urban agriculture land use within a residential zone (OT, UE, RF, RL, LMN, MMN, HMN, MH, RC and POL) or if the urban agriculture land use exceeds one-half (0.5) acre in size, the Director shall determine whether the proposed urban agriculture land use presents a significant impact on the affected neighborhood, and, if so, the Director shall schedule a neighborhood meeting and provide mailed and posted notice for such meeting. Such notice and neighborhood meeting shall be conducted in accordance with Article 6 of this Code.

### (E) Off-Site Construction Staging

(1) Applicability. Use of any parcel for off-site construction staging shall be permitted only in accordance with the provisions of an off-site construction staging license issued pursuant to this Section 4.3.5(E).

(2) Purpose. The purpose of requiring an off-site construction staging licensed under this Section 4.3.5(E) is to address the compatibility of off-site construction staging with the zone districts in which they are located, mitigate the impact off-site construction staging on adjacent parcels, the neighborhoods and environment, and ensure the health and safety of off-site construction staging.

(3) Location. Subject to issuance of and compliance with an off-site construction staging license under subsection (4) below, off-site construction staging shall be permitted in specified zone districts as listed in Division 4.2, Table of Primary Uses.

(4) Off-site construction staging license.

(a) An application for an off-site construction staging license shall be accompanied by a site and grading plan that shows the following for the site on which the off-site construction staging is to occur:

(I) Existing grade contours of the site and of adjoining properties;
(II) Locations of different activities to be located on the site;
(III) List of materials and equipment to be stored on the site, including the means and methods to safely store any hazardous material or dangerous equipment;
(IV) Any proposed grading necessary to stabilize the site;
(V) Proposed erosion control measures and storm drainage control measures to prevent wind and water erosion, drainage impacts and tracking mud onto streets;
(VI) Flood ways and flood plains;
(VII) Natural habitat and features;
(VIII) Fences;

(IX) Restrooms;
(X) Existing trees;
(XI) Existing easements and rights-of-way;
(XII) Existing underground utilities;
(XIII) Other information necessary to describe the site;
(XIV) Traffic control plan reflecting means of ingress and egress to be used;
(XV) Mitigation plan to address any adverse impacts to the site, or adjacent parcels, caused by the off-site construction staging during and after the staging; and
(XVI) Restoration and final site condition plan.

(ffff)

(b) An off-site construction staging license shall be issued, with or without conditions, if the Director finds that the off-site construction staging:

(I) is not detrimental to the public good; and

(II) will not cause substantial adverse impacts to the parcel on which it is located or adjacent parcels or the environment, with or without mitigation; and

(III) is located within a quarter (.25) of a mile of the construction or development site to be served by the off-site construction staging.

(gggg)

(c) An off-site construction staging license issued hereunder shall expire eighteen (18) months after the date of issuance unless an extension is granted.

(I) A six (6) month extension may be granted by the Director upon a finding that the conditions specified in Section 4.3.5(E)(4)(b), including any conditions to mitigate adverse impacts, have been and continue to be satisfied.

(II) The Director may further extend the license up to an additional twelve (12) months beyond the first six (6) month extension, for a maximum total of not more than thirty-six (36) months, if a neighborhood meeting for which the neighborhood is notified in compliance with Section 6.3.6(D) is conducted and the Director determines: the extension is not detrimental to the public good; and that the license conditions specified in Section 4.3.5(E)(4)(b), including any conditions to mitigate adverse impacts, have been and continue to be satisfied.

(hhhh)

(d) After expiration of an off-site construction staging license, at least four (4) consecutive months shall lapse before a new license is issued for the same parcel.

(iiii)

(e) The Director may modify or revoke any off-site construction staging license issued by the City for any of the following:

(I) After issuance of the license, the site or activities thereon are found to be out of compliance with the approved application or license, including any conditions to mitigate adverse impacts; or

(II) An adverse impact not previously anticipated at the time the license or license extension was issued is identified and such adverse impact cannot be adequately mitigated and/or is detrimental to the public good.

(f) The Director shall inform the license holder in writing of the decision to modify or revoke the license and the reasons for same.

(jjjj)

(l) The license holder may appeal any decision denying, modifying or revoking an off-site construction staging license to the Land Use Review Commission pursuant to Article 6 .

(5) Restoration of Site. Within fifteen (15) days after expiration of the license, the license holder must have completed restoration of the site consistent with the approved restoration or final site condition plan included in the application.

(F) Outdoor Vendor

(1) Outdoor vendors shall be prohibited on undeveloped lots.

(2) Outdoor vendors shall be considered as accessory uses in the zone districts in which they are permitted, provided they are on lots that contain a principal building wherein active operations are being conducted. Outdoor vendors that qualify as accessory uses shall not be subject to change-of-use regulations which would otherwise require the properties on which they are located to be brought into compliance with the standards of this Code.

(3) Outdoor vendors located on lots wherein active operations in the principal building have ceased shall be considered principal uses and shall be subject to change-of-use regulations requiring that the properties upon which they are located be brought into compliance with the applicable standards of this Code.

(4) Signage for outdoor vendors shall be limited to signs placed directly onto the vehicle or cart used in connection with the business.

(5) Outdoor vendors shall comply with all outdoor vendor regulations and standards contained in Chapter 15 of the City Code.

(6) An outdoor vendor shall be situated on a lot in such a manner that no aspect of its operation shall impede vehicular, pedestrian or bicycle circulation.

(7) The owner of a private parcel or lot, or owner of the principal business thereon, upon which an outdoor vendor, or outdoor vendors, vend from mobile food trucks, pushcarts, or any other vehicles, as such terms are defined in Section 15-381 of the City Code, shall not allow such outdoor vendor, or outdoor vendors, to operate on such private parcel or lot for more than three (3) consecutive calendar days, or for more than three (3) total calendar days within any calendar week, defined for purposes of this Section as Sunday through Saturday, unless stationary vending is an approved use thereon.

(8) The owner of a private parcel or lot upon which stationary vending will occur shall comply with the following additional requirements:

(a) Obtain an approved minor amendment to allow stationary vending on the private parcel or lot as an accessory use.

(kkkk)

(I) A property owner may apply for a minor amendment to allow stationary vending only for private parcels or lots within non-neighborhood zone districts. Non-neighborhood zone districts solely for purposes of eligible stationary vendor locations shall be defined as: D, CC, CCN, CCR, CG, NC, CL, HC, E, and I.

(II) Stationary vending shall not be permitted on parcels or lots within any neighborhood zone district. Neighborhood zone districts solely for purposes of non-eligible stationary vendor locations shall be defined as: RUL, UE, RF, RL, LMN, MMN, OT-A, OT-B, OT-C, HMN.

(III) Stationary vending shall not be allowed to occur for more than twelve (12) hours per calendar day on the private parcel or lot for which a minor amendment has been granted to allow such use; and

(IV) After the completion of each period of vending operations, a stationary vendor shall not be allowed to leave outdoors overnight (3:00 a.m. to 7:00 a.m.) on any private parcel or lot where stationary vending is allowed any food truck, push cart, or vehicle, as such terms are defined in Section 15-381 of the City Code, from which the vendor vends.

## (G) Solar Energy Systems

The following standards shall apply to all solar energy systems.

(1) Purpose. The purposes of these solar energy system supplementary regulations are to promote reduced dependence on nonrenewable energy sources, to design solar energy systems in a manner that minimizes impacts on adjacent properties and to promote systems that are visually compatible with the character of the areas in which they are located and that are not detrimental to public health, safety and welfare.

(2) General Design Standards:

(a) To the maximum extent feasible, ancillary solar equipment shall be located inside the building or screened from public view.

(llll)

(b) The applicant shall demonstrate that the height, location, setback or base elevation of a solar energy system minimizes potential glare and visual impacts of the system on adjacent properties.

(mmmm)

(c) Support structures for ground-mounted solar facilities shall, to the extent reasonably feasible, use materials, colors and textures that complement the site context.

(d) All solar energy system appurtenances, including, but not limited to, plumbing, water tanks and support equipment, shall be of a color that is complementary to the site location, and shall be screened to the extent reasonably feasible without compromising the effectiveness of the solar collectors. Solar panels/collectors are exempt from the screening requirements of this Code.

(nnnn)

(e) Building-mounted solar energy systems are exempt from the height requirements of this Code, except that they must comply with the height limitations of this Section 4.3.5(G), including the following:

(oooo)

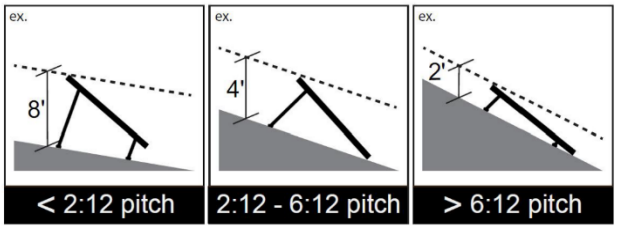
Solar Energy Table

| *Nonresidential and residential buildings (excluding single-dwelling unit or duplex dwellings)* |
|---|

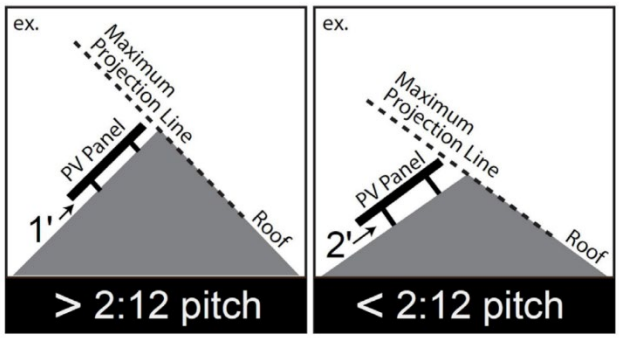
| | |
|---|---|
| < 2:12 pitch | 8 feet, as measured on a vertical axis to the roof below, to which it is installed (see Figure 16.3 below) |
| 2:12 to 6:12 pitch | 4 feet, as measured on a vertical axis to the roofline below, to which it is installed. |
| > 6:12 pitch | 2 feet, as measured on a vertical axis to the roofline below, to which it is installed. |
| ***Single dwelling unit and duplex dwellings (principal and accessory buildings)*** | |
| No taller than 1 foot, as measured on a vertical axis to the roof below, to which it is installed, unless roof pitch is 2:12 or less, in such case 2 feet is permitted. No portion of a solar energy system shall project above the maximum projection line depicted within Figures 16.3 and 16.4 below. | |
| ***All buildings*** | |
| Building-mounted solar energy systems shall not extend horizontally beyond any roof overhang. | |
| ***Building-mounted solar energy systems*** | |
| Solar panels installed on the sides of buildings as awnings or attached to buildings as shade elements are permitted so long as the provisions of this and other applicable requirements are met. | |

Maximum Height for Roof-mounted Systems

(Principal Building [Excluding Single-Unit and Two-Unit Dwellings]




Maximum Height for Roof-Mounted Systems (Single Unit and Two-Unit Dwellings)




(1) Standards for Small, Medium and Large-scale Solar Energy Systems. Solar energy systems shall conform to the applicable size-based regulations as set out in this subsection:

(a) Small-Scale Solar Energy Systems.

(I) Covering less than one-half (0.5) acre.

(II) Maximum Height. All ground-mounted small-scale solar energy systems shall comply with the accessory building height limits within the zone district, except for light poles with integrated solar panels, which are subject to the standards of Article 5.

(III) Setbacks. Ground-mounted, small-scale solar energy systems shall not be located within the front, side or rear building setbacks, or the front yard area. If necessary for the system's effectiveness, ground-mounted solar energy collectors may be located within the minimum setbacks for the zone district, provided that the solar energy collector is located no less than fifteen (15) feet from rights-of-way and five (5) feet from all other property lines.

(IV) Parking. No minimum parking requirements shall apply. Parking spaces located beneath covered parking solar energy systems are exempt from maximum parking limits.

(pppp)

(b) Medium-Scale Solar Energy Systems.

(I) Covering between one-half (0.5) acre and five (5) acres.

(II) Maximum Height. All ground-mounted medium-scale solar energy systems shall comply with the accessory building height limits within the zone district, except for light poles with integrated solar panels, which are subject to the standards of this Code.

(III) Setbacks. Ground-mounted, medium-scale solar energy systems shall not be located within the front, side or rear building setbacks, or the front yard area.

(IV) Fencing/Access. Ground-mounted medium-scale solar energy systems shall be enclosed with a perimeter fence with a minimum height of five (5) feet and a maximum height of seven (7) feet. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. Warning signage shall be placed at the entrance and perimeter of the facility.

(V) Visual Appearance. Buildings and accessory structures shall, to the extent reasonably feasible, use materials, colors and textures that blend the facility into the existing environment.

(VI) Landscaping. Landscaping and/or screening materials shall be provided to assist in screening the facility from public rights-of-way and neighboring residences.

(VII) Lighting. Lighting shall be limited to the minimum necessary for security and shall incorporate shielded full cut-off light fixtures.

(VIII) Electrical Interconnections. All electrical interconnection and distribution lines within the project boundary shall be underground, except for power lines that extend beyond the project site or are within a substation.

(qqqq)

(c) Large-Scale Solar Energy Systems.

(I) Covering more than five (5) acres.

(II) Maximum Height. All ground-mounted large-scale solar energy systems shall comply with the accessory building height limits within the zone district, except for light poles integrating solar panels, which are subject to the standards of Article 5.

(III) Setbacks. Large-scale solar energy systems shall be set back from all property lines a minimum of thirty (30) feet, and shall be located at least one hundred (100) feet from all residentially zoned land. Additional setbacks may be required to mitigate visual and functional impacts.

(IV) Fencing/Access. Ground-mounted large-scale solar energy systems shall be enclosed with a perimeter fence with a minimum height of five (5) feet and a maximum height of seven (7) feet. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. Warning signage shall be placed at the entrance and perimeter of the facility.

(V) Visual Appearance. Buildings and accessory structures shall, to the extent reasonably feasible, use materials, colors and textures that blend the facility into the existing environment.

(VI) Landscaping. Landscaping and/or screening materials shall be provided to assist in screening the facility from public rights-of-way and neighboring residences.

(VII) Lighting. Lighting shall be limited to the minimum extent necessary for security and shall incorporate shielded full cut-off light fixtures.

(VIII) Electrical Interconnections. All electrical interconnection and distribution lines within the project boundary shall be underground, except for power lines that extend beyond the project site or are within a substation.

(2) Maintenance. Any solar energy system that has not been in working condition for a period of one (1) year shall be subject to Section 115 (Unsafe Structures and Equipment) of the International Building Code, which may require the panels and associated equipment to be removed, or the unsafe condition otherwise mitigated if it is determined to be unsafe. If so determined by the Building Official, the panels and associated equipment shall be promptly removed from the property to a place of safe and legal disposal, after which the site and/or building, as applicable, must be returned to its preexisting condition.

(3) Use Restrictions in Established Residential Areas. Notwithstanding the use review criteria contained set out in Article 4, if either a small-scale solar energy system or a medium-scale solar energy system is located on an existing platted lot and within an established residential neighborhood, then such system must be processed as a permitted use subject to review by the Planning and Zoning Commission.

(4) Allocation of Energy. Energy derived from solar collectors may be allocated to the lot where the system is located or may be distributed to other locations.

(H) **Wireless Communication**

(1) **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:

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

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(2) **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, however, be permitted to be attached to or mounted on any residential building containing four (4) or fewer dwelling units.

(3) **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.

(4) **Standards.**

(a) *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 telecommunication 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 (¼) mile).

(b) *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.

(c) *WCFs in Residential Zone Districts.* Non-collocated WCFs permitted in the following zone districts: UE, RL, LMN, MMN, and HMN, as specified in Article 4 - Use Standards must be located on a non-residential parcel and installation must be mitigated by use of concealment design techniques and compatibility standards.

(d) *Collocated or attached WCFs* .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.

(e) *Landscaping.* WCFs and related transmission equipment may need to be landscaped with landscaping materials that exceed the levels established in Division 5.10, 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.

(f) *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.

(g) *Berming.* Berms shall be considered as an acceptable screening device. Berms shall feature slopes that allow mowing, irrigation and maintenance.

(h) *Irrigation*. Landscaping and berming shall be equipped with automatic irrigation systems meeting the water conservation standards of the City.

(i) *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.

(j) *Lighting.* The light source for security lighting shall comply with the requirements of Division 5.12. Light fixtures, whether freestanding or tower-mounted, shall not exceed twenty-two (22) feet in height.

(k) *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.

(l) *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.

(m) *Access Roadways.* Access roads must be capable of supporting all of the emergency response equipment of the Poudre Fire Authority.

(n) *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.

(o) *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.

(p) *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.

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

(r) *Compatibility Required.*

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

(i) New or existing WCFs do not adversely impact the visual character* of the community within the area of adjacency; and

(ii) The design of WCFs are compatible and contextually appropriate with the built or natural environment surrounding a proposed wireless communication site.

(II) 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.

(III) 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.

(IV) 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 |
|---|---|

| | |
|---|---|
| *Height and Mass of WCFs* | 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.<br><br>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.<br><br>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. |
| *Materials for WCFs* | Create visual and contextual connection between WCFs colors and materials with those found in the surrounding area.<br><br>New or modified WCFs shall utilize, to the extent feasible, the following elements found within the area of adjacency to inform their concealment techniques:<br><br>a) Architectural style<br>b) Building materiality<br>c) Color<br>d) Tree species<br>e) Structures that are related to the primary use of the site |
| *Technology for Facilities* | 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.<br><br>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. |

(5) 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.

(6) **Review Procedures and Requirements.**

(a) 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 this Code.

(b) Application Requirements. All applications for WCFs shall include:

(I) Application form as provided by the Director.

(II) 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.

(III) 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.

(IV) 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.

(V) Submittal fees.

(VI) 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.

(VII) Narrative detailing the rationale for the proposed location.

(VIII) 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.

(c) 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.

(I) 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.

(II) 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.

(d) 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 (2)-(4) above.

(7) **Timeframes for Review.**

(a) Application types. All WCFs shall be reviewed according to the following timeframes (the review of Eligible Facility Requests is addressed in (8)(c) below):

(I) Review of a completed application to collocate a facility other than a small cell facility on an existing tower or base station: 90 days.

(II) Review of an application to deploy a WCF other than a small cell facility on a new structure: 150 days.

(III) 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.

(b) 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.

(I) 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;

(II) 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

(III) 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 (I) and (II) 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.

(c) Specific Review Procedures for Eligible Facility Requests.

(I) 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:

(i) result in a Substantial Change to the physical dimensions of the site; and

(ii) 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.

(II) 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.

(III) Tolling the timeframe for EFR review.

(i) 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.

(ii) 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.

(IV) 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.

# ARTICLE 4

# USE STANDARDS

# INDEX

Division 4.1 PURPOSE

Division 4.2 TABLE OF PRIMARY USES

Division 4.3 ADDITIONAL USE STANDARDS

4.3.1 Residential uses
4.3.2 Institutional/Civic/Public uses
4.3.3 Commercial/Retail uses
4.3.4 Industrial uses
4.3.5 Accessory/Miscellaneous uses

# ARTICLE 4
# USE STANDARDS

## DIVISION 4.1 PURPOSE

This Article classifies the uses allowed by zone district in order to identify the activities that support the health, safety, and welfare of the people that live and work in all areas of Fort Collins. This Article also includes standards that may apply to a specific use.

## DIVISION 4.2 TABLE OF PRIMARY USES

All uses that are not (1) expressly allowed as permitted uses in this Section or (2) determined to be permitted by the Director or the Planning and Zoning Commission pursuant to this Code are prohibited.

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T | |
| **RESIDENTIAL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Single Unit Dwelling | ◪ | ◪ | ▨ | ◪ | ■ | | ◪ | ◪ | | ■ | ■ | | ◪ | ▨ | | | ◪ | | ■ | ■ | ▨ | | | | | | ■ | ▨ | | | | △ |
| Single Unit Attached Dwelling | ▨ | ▨ | ▨ | | | | ◪ | ◪ | | ▨ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ▨ | | ◪ | ◪ | | ◪ | ■/■ | ▨ | | | | △ |
| Two Unit Dwelling | ▨ | ◪ | ▨ | | | | ◪ | ◪ | | ▨ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ▨ | | ◪ | | | ◪ | ■/■ | ▨ | | | | |
| Multi-Unit Dwelling | | | | | | | ▨ | ▨ | ▨ | ▨ | ▨ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ▨ | ▨ | ■/■ | ◪ | ◪ | | ◪ | ▨ | ▨ | | | | |
| Mixed-Use Dwelling Units | | | | | | | ◪ | ▨ | ▨ | | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ■ | ◪ | ◪ | | ◪ | ◪ | ▨ | | | | |
| Accessory Dwelling Unit | ■ | | ■ | | ◪ | | ■ | ■ | ■ | ◪ | ◪ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | | |
| Short Term Primary Rentals | | ▣ | | | | | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | | ▣ | ▣ | ▣ | ▣ | | | |
| Short Term Non-Primary Rentals | | | | | | | | | | | | | ▣ | ▣ | ▣ | ▣ | ▣ | | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | | ▣ | ▣ | ▣ | ▣ | | | |
| Fraternity & Sorority Houses | | | | | | | | ▨ | ◪ | | ▨ | ▨ | | ▨ | | | | | ■ | ◪ | | | | | | | | | | | | |
| Extra Occupancy Houses | | | | | | ◪ | ◪ | ■ | ■ | | ■ | ■ | ■ | ■ | ■ | | ■ | ■ | ■ | ■ | | ■/■ | ■/■ | ■/■ | | ■/■ | ■/■ | ■ | ■ | | | △ |
| Manufactured Housing Community | | | | | | ◪ | ▨ | | | | | | | | | | | | | | | | | | | | | ▨ | | | | △ |
| Group Homes | | ◪ | ▨ | ▨ | ▨ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ▨ | ◪ | ◪ | ■ | ◪ | ▨ | ◪ | ▨ | ▨ | | ◪ | ◪ | ▨ | | | | △ |
| Shelter for victims of domestic violence | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | | | ■ | ■ | ■ | ■ | ■ | ■ | | ■/■ | ■/■ | ■ | | | | △ |

Regardless of the level of review indicated in the Residential Uses table above all affordable housing developments shall be reviewed through Basic Development Review (BDR).

| | | | |
|---|---|---|---|
| ■ Basic Development Review | ◪ Type 1 (Administrative Review) | ▨ Type 2 (Planning and Zoning Commission) | △ Additional Use Standards |
| ■ Minor Amendment | ◪ Building Permit | ▣ License | |

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T |
| ***INSTITUTIONAL/CIVIC/PUBLIC USES*** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cemeteries | ▨ | ◪ | | | | | ◪ | | | | | | ◪ | ◪ | | | | | | | | | | | | | | ▨ | ▨ | ◪ | |
| Community facilities | | | | ▨ | ▨ | ▨ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ▨ | | ◪ | ▨ | | ◪ | ◪ | ◪ | ◪ | ◪ | ▨ | ◪ | ◪ | ◪ | ◪ | ▨ | |
| Golf courses | ▨ | ▨ | | | | | ▨ | | | | | | | ◪ | | | | | | | | | | | | | | ▨ | ▨ | ▨ | |
| Homeless Shelters (Excluding Seasonal) | | | | | | | | | | | | ▨ | | | ▨ | | ▨ | | | | | ▨ | ▨ | ▨ | | ▨ | ▨ | ▨ | ▨ | | |
| Hospitals | | | | | | | | | | | | ▨ | ▨ | | ▨ | ▨ | ◪ | | | | ◪ | | | | | | | ◪ | ▨ | | |
| Jails, Detention & Penal Centers | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | ▨ | | |
| Neighborhood support/ recreation facilities | | | | | | ▨ | ◪ | | | | | | | | | | | | | | | | | | | | | | | | |
| Neighborhood Parks as Definfed by the Parks and Recreation Policy Plan | ◪ | ◪ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | ■ | ■ | ■ | ■ | ■ | ■/■ | ■/■ | ■/■ | ■/■ | ■/■ | ■/■ | ■ | ■ | ■ | |
| Parks, recreation and open lands, except parks defined by Parks & Recreation Policy Plan | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | |
| Public/Private schools (elem., interm. & H.S.) | | ▨ | ▨ | ▨ | ▨ | ◪ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | | | | | | | ▨ | ▨ | ▨ | ▨ | | ▨ | | ▨ | | | |
| Public/Private schools (voc. & tech.) | | | | | | | ▨ | ◪ | | | ▨ | ◪ | ◪ | ◪ | | | | | | | ◪ | | | | | | | | | | |
| Public/Private schools (coll., univ., voc., & tech.) | | | | | | | ▨ | ◪ | ◪ | | ▨ | ◪ | ◪ | ◪ | ▨ | ▨ | ◪ | ◪ | ◪ | ◪ | ◪ | ■/■ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | |
| Parks, recreation, & open lands (not neighbrhood park) | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | |
| Neighborhood parks | | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | | ■ | |
| Places of worship or assembly | | ▨ | ▨ | ◪ | ▨ | ◪ | ▨ | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ◪ | ▨ | ◪ | ◪ | ▨ | | ◪ | ◪ | ▨ | ◪ | | | △ |
| Major Public Facilities | | | | | | | | | | | | | | | ▨ | | ▨ | | ▨ | ▨ | | | | | | | | | ◪ | | |
| Minor Public facilities | ◪ | ◪ | ▨ | ◪ | ▨ | ◪ | ◪ | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | ◪ | ■/■ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | |
| Riding academies | ▨ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Seasonal Overflow Shelters | | | | ◪ | | ▨ | ◪ | ◪ | ■ | | ■ | ■ | ■ | ■ | ■ | | ■ | | ■ | ■ | ■ | ▨ | ▨ | ▨ | | ▨ | ▨ | ■ | | | |
| Transit Facilities (with Repair or Storage) | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | ◪ | | |
| Transit Facilities (without Repair or Storage) | | | | | | | | | | | | ◪ | | ◪ | | ◪ | | | ■ | ◪ | ◪ | ▨ | ▨ | ▨ | | ▨ | ▨ | ◪ | ◪ | | |
| Wildlife rescue and education centers | | ▨ | ▨ | ▨ | | | ▨ | | | | | | | ▨ | | | | | | | | | | | ▨ | | | | ▨ | ▨ | |

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) △ Additional Use Standards

■ Minor Amendment ◪ Building Permit ▣ License

Item 13.

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T | |
| **COMMERCIAL/RETAIL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Adult oriented uses | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | | | |
| Adult day/respite care center | | ▨ | | ▨ | | ◪ | ◪ | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ▨ | | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ▨ | | | |
| Animal Boarding | ◪ | ▨ | | | | | | | | | | | | | | | | | | ▨ | | | | | | | | | ▨ | | | |
| Artisan and photography studios and galleries | | | | | | | ▨ | ◪ | ◪ | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | | ◪ | | ■/■ | ◪ | ◪ | | ◪ | ◪ | ▨ | ◪ | | | ⚠ |
| Bars, taverns | | | | | | | | | | | | ◪ | ◪ | | ◪ | | ◪ | ▨ | ◪ | ◪ | | ■/■ | ◪ | ◪ | | ◪ | ◪ | ◪ | ▨ | | | |
| Night clubs | | | | | | | | | | | | ▨ | | | | | ◪ | ▨ | | | | ■/■ | ▨ | ▨ | | ▨ | ▨ | | | | | |
| Bed & breakfast establishments | | ▨ | | | | | ◪ | ◪ | ◪ | ▨ | ■ | ◪ | ◪ | ◪ | ◪ | | ◪ | | | ◪ | ▨ | | | | | ◪ | ◪ | ▨ | ▨ | | | |
| Child care centers | | ▨ | | ▨ | | ◪ | ◪ | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ▨ | | ◪ | ◪ | ■ | ■ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ▨ | | | ⚠ |
| Clubs and Lodges | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | | ■ | ◪ | ▨ | ■/■ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | | |
| Convenience retail stores without fuel sales | | | | | | | ◪ | ◪ | ◪ | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | | | | | ◪ | ◪ | | | | | ⚠ |
| Convenience retail stores with fuel sales | | | | | | | ▨ | | | | | ▨ | ▨ | | ◪ | ▨ | ◪ | ◪ | ◪ | ◪ | | | | | | | ◪ | | ▨ | | | ⚠ |
| Convenience shopping centers | | | | | | | | | | | | | | | | | | | | | ▨ | | | | | | | | ▨ | ▨ | | |
| Convention and conference centers | | | | | | | | | | | | | | | | | | | | | ▨ | ■/■ | ▨ | ▨ | | | | ▨ | | | | |
| Day Shelter | | | | | | | | | | | | ▨ | ▨ | ▨ | ▨ | | ▨ | | | | | ▨ | | ▨ | | ◪ | | | ▨ | | | ⚠ |
| Dog day-care facility | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ◪ | | | ▨ | ▨ | | ▨ | ▨ | ◪ | ◪ | | | |
| Drive-In Facilities | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | ▨ | | | | | |
| Grocery stores | | | | | | | | | | | | ◪ | ◪ | ◪ | ▨ | ▨ | ◪ | ◪ | | ◪ | | ◪ | ◪ | ◪ | | ◪ | ◪ | | | | | ⚠ |
| Supermarkets | | | | | | | | | | | | ▨ | ▨ | | ▨ | ▨ | ◪ | ▨ | | | | | ▨ | ▨ | | ▨ | | | | | | |
| Enclosed mini-storage facility | | | | | | | ▨ | | | | | | | | ▨ | | ◪ | | ◪ | ◪ | | | | | | | | ▨ | ◪ | | | ⚠ |
| Entertainment facilities and theaters | | | | | | | | | | | | ▨ | ◪ | ▨ | ▨ | ▨ | ◪ | ▨ | ■ | ◪ | | ■/■ | ▨ | ◪ | | ▨ | ▨ | | | | | |
| Exhibit halls | | | | | | | | | | | | ▨ | ◪ | ◪ | ▨ | | ◪ | | ■ | ◪ | | ■ | ▨ | ◪ | | ▨ | ■/■ | | | | | |
| Food Catering or small food product preparation | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | ◪ | | | | | | | ◪ | ◪ | | | |

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) ⚠ Additional Use Standards

■/■ Minor Amendment ◪ Building Permit ▣ License

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T | |
| **COMMERCIAL/RETAIL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Food Truck Rally | | | | | | | | | | | | ▣ | ▣ | | ▣ | | | ▣ | | ▣ | ◪ | ▣ | ▣ | ▣ | | ▣ | ▣ | | | | | |
| Frozen Food Lockers | | | | | | | | | | | | | | | ◪ | | | | ■ | ◪ | | | | | | | | | ◪ | | | |
| Funeral homes | | | | | | | | | | | ▨ | ◪ | ◪ | ▨ | ◪ | | ◪ | | ◪ | ◪ | | | | | | | | ▨ | ◪ | | | △ |
| Gasoline stations | | | | | | | | | | | | ◪ | | | ◪ | | ◪ | ◪ | ◪ | | | | ▨ | ▨ | | ▨ | ◪ | | ◪ | | | |
| Health and membership clubs | | | | | | | | | | | | ◪ | | ◪ | ◪ | ▨ | ◪ | ◪ | | ◪ | ▨ | ■/■ | ◪ | ◪ | | ◪ | ◪ | ▨ | ◪ | | | |
| Homeless Shelters | | | | | | | | | | | | ▨ | | | ▨ | | ▨ | | | | | ▨ | ▨ | ▨ | | ▨ | ▨ | ▨ | ▨ | | | |
| Indoor Kennel | | | | | | | | | | | | | ◪ | | ◪ | | ◪ | | ◪ | ◪ | ◪ | | | | | | | | ◪ | | | △ |
| Limited indoor recreation establishments | | | | | | | ▨ | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ◪ | ▨ | ■/■ | ◪ | ◪ | | ◪ | ◪ | ▨ | ◪ | | | △ |
| Unlimited Indoor Recreation Establishments | | | | | | | | | | | | ▨ | ▨ | ▨ | ▨ | ▨ | ◪ | | | | ▨ | | | | | | | | | | | |
| Lodging establishments | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ▨ | ▨ | ▨ | ▨ | | ◪ | ◪ | ▨ | | | | |
| Long-term care facility | | | | | | | | | | | | ▨ | ▨ | ▨ | | ▨ | | | | | ▨ | ▨ | ▨ | ▨ | | ▨ | ▨ | ▨ | ▨ | | | |
| Medical centers/clinics | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | ▨ | ◪ | ◪ | ■ | ■ | ◪ | | | | | | | ◪ | ◪ | | | |
| Medical marijuana centers | | | | | | | | | | | | ■ | ■ | ■ | ■ | | ■ | | | | | ■/■ | ■/■ | ■/■ | | ■/■ | ■/■ | | | | | |
| Micro-brewery/distillery/winery | | | | | | | | | | | | ◪ | ◪ | | ◪ | | ◪ | ▨ | ◪ | ◪ | ◪ | ■/■ | ▨ | ▨ | | ▨ | ▨ | ◪ | ▨ | | | △ |
| Music Studio | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | | | | | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | | |
| Music Facility, Multi-Purpose | | | | | | | | | | | | ◪ | ◪ | ◪ | | | | | | | | ◪ | ◪ | ◪ | | ◪ | ◪ | | ◪ | | | |
| Offices, financial services & clinics | | | | | | | ▨ | ▨ | ◪ | | ■ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ■ | ■ | ◪ | ■/■ | ◪ | ◪ | | ■/■ | ■/■ | ◪ | ◪ | | | |
| Outdoor amphitheater | | | | | | | | | | | | ▨ | ▨ | ▨ | ▨ | | ▨ | ▨ | | | ▨ | ◪ | ◪ | ◪ | | ▨ | | | | | | |
| Plant Nurseries & Greenhouses | | ▨ | | | | | | | | | | | | | ◪ | | ◪ | | | ◪ | | | | | | | | ◪ | ◪ | | | |
| Plumbing, electrical, and carpenter shops | | | | | | | | | | | | | | | ◪ | | ◪ | | ■ | ■ | | | | | | | | | ◪ | | | |
| Print Shop | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | | |
| Open air farmers markets | | | | | | | | ◪ | ◪ | | | ◪ | ◪ | | ◪ | | | ◪ | | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | | | | | △ |

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) △ Additional Use Standards

■ Minor Amendment ◪ Building Permit ▣ License

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T | |
| **COMMERCIAL/RETAIL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Parking lots and garages (as principle use) | | | | | | | | | | | ◪ | ▨ | | | ▨ | | ◪ | | ■ | | | ▨ | ▨ | ▨ | | ▨ | ▨ | ◪ | ◪ | | | |
| Personal and business service shops | | | | | | | ◪ | ▨ | ◪ | | ■ | ◪ | ◪ | ◪ | ◪ | ▨ | ◪ | ◪ | ■ | ■ | | ■/■ | ■/■ | ◪ | | ◪ | ■/■ | ◪ | | | | △ |
| Recreational uses | | | | | | | | | | | | | | | ▨ | | ◪ | | | | | | | | | | | | ▨ | | | |
| Restaurant (limited mixed-use) | | | | | | | | ◪ | ▨ | | | | | | | | | | | | | | | | | | | | | | | |
| Restaurants (standard) | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | ▨ | ◪ | ◪ | ■ | ◪ | ▨ | ■/■ | ◪ | ◪ | | ◪ | ◪ | ▨ | ▨ | | | |
| Restaurants (fast food with drive-thru) | | | | | | | | | | | | | | | ▨ | ▨ | | | | | | | | | | | | | | | | |
| Restaurants (fast food without drive-thru) | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | ▨ | ◪ | ◪ | ■ | ◪ | | ■/■ | ◪ | ◪ | | ◪ | ◪ | ▨ | ▨ | | | |
| Restaurants, Drive-In | | | | | | | | | | | | | | | ▨ | | ◪ | ▨ | ◪ | | | | | | | | | ▨ | ▨ | | | △ |
| Retail marijuana stores | | | | | | | | | | | | ■ | ■ | ■ | ■ | | ■ | | | | | ■/■ | ■/■ | ■/■ | | ■/■ | ■/■ | | | | | |
| Retail establishments | | | | | | | | | | | | ◪ | ◪ | ▨ | ◪ | ◪ | ◪ | ◪ | ■ | ◪ | | ■/■ | ▨ | ▨ | | ◪ | ◪ | | | | | △ |
| Large Retail establishments | | | | | | | | | | | | ▨ | ▨ | | ▨ | ◪ | ▨ | | | | | ▨ | ▨ | ▨ | | | | | | | | △ |
| Retail stores (with vehicle servicing) | | | | | | | | | | | | ▨ | | | ◪ | | ◪ | | | | | | | | | | | | ◪ | | | |
| Retail stores/supply yards (with outdoor storage) | | | | | | | | | | | | | | | ▨ | | ◪ | | | | | | | | | | | | ▨ | | | |
| Small scale reception center | | ▨ | | | | | | | | | | ◪ | ◪ | ▨ | ◪ | ▨ | ◪ | | | ◪ | | ◪ | ◪ | ◪ | | ◪ | ◪ | | | | | |
| Harmony Cooridor Community Shopping Center | | | | | | | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | |
| Harmony Cooridor Lifestyle Shopping Center | | | | | | | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | |
| Harmony Cooridor Regional Shopping Center | | | | | | | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | |
| Harmony Cooridor Neighborhood Service Center | | | | | | | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | |
| I-25 Activity Centers | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | | | | | | | |
| Unlimited Indoor Recreation Establishments | | | | | | | | | | | | ▨ | ▨ | ▨ | ▨ | ▨ | ◪ | | | | | | | | | ▨ | | | ◪ | | | |
| Boat sales with storage | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | | | | ◪ | | | |
| Vehicle Sales | | | | | | | | | | | | | | | ▨ | | ◪ | | ■ | | | | | | | | ▨ | | ▨ | | | △ |

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) △ Additional Use Standards

■ Minor Amendment ◪ Building Permit ▣ License

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T | |
| **COMMERCIAL/RETAIL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Vehicle Major Repair | | | | | | | | | | | | | | | ▨ | | ◪ | | ■ | ▨ | | | | | | | ▨ | | ◪ | | | △ |
| Vehicle Minor Repair | | | | | | | | | | | | ▨ | | | ◪ | | ◪ | ◪ | ■ | ◪ | | | | | | ▨ | ◪ | | ◪ | | | △ |
| Farm implement & heavy equipment sales | | | | | | | | | | | | | | | | | | | ◪ | | | | | | | | | | ▨ | | | |
| Manufactured home/recreational vehicle/truck sales | | | | | | | | | | | | | | | | | | | ◪ | | | | | | | | | | ▨ | | | |
| Equipment, Truck, trailer rental | | | | | | | | | | | | ▨ | | | ◪ | | ◪ | | | | | | | | | | | | ◪ | | | |
| Equipment Rental est. (without outdoor storage) | | | | | | | | | | | | ◪ | | | ◪ | | ◪ | ◪ | | | | | | | | | | | ◪ | | | |
| Veterinary Hospital | | | | | | | | | | | | | | | | | ◪ | | ■ | ◪ | | | | | | | ■/■ | ▨ | ▨ | | | |
| Veterinary facilities/small animal clinics or hospitals | | | | | | | ◪ | ▨ | ◪ | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ◪ | | ▨ | ▨ | | ◪ | ◪ | ◪ | ◪ | | | △ |

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) △ Additional Use Standards

■ Minor Amendment ◪ Building Permit ■ License

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C /NM | I/R | RC | CN | EC | E | I | POL | T | |
| ***INDUSTRIAL USES*** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Airport/Airstrips | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | | | |
| Compost facilities | ◪ | ▨ | | | | | | | | | | | | | ▨ | | | | | | | | | | ◪ | | | ◪ | ◪ | ◪ | | |
| Dry Cleaning Plants | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | ▨ | | | |
| Heavy Industrial | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ◪ | | | |
| Light industrial | | | | | | | ▨ | | | | | | ◪ | | ◪ | | ◪ | | ◪ | ▨ | ◪ | | | | | | | ◪ | ◪ | | | △ |
| Junk Yards | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | | | |
| Medical marijuana cultivation | | | | | | | | | | | | | ■ | | | | ■ | | | ■ | | | | | | | | | ■ | | | |
| Medical Marijuana optional premises cultivation operations | | | | | | | | | | | | | ■ | | | | ■ | | | ■ | | | | ■/■ | | | | | ■ | | | |
| Medical Marijuana Research and Development | | | | | | | | | | | | | ■ | | | | ■ | | | ■ | | | | ■/■ | | | | | ■ | | | |
| Retail Marijuana cultivation facility | | | | | | | | | | | | | ■ | | | | ■ | | | ■ | | | | | | | | | ■ | | | |
| Retail marijuana product manufacturing facility | | | | | | | | | | | | | ■ | | | | ■ | | | ■ | | | | | | | | | ■ | | | |
| Retail marijuana testing facility | | | | | | | | | | | | | ■ | | | | ■ | | | ■ | | | | | | | | | ■ | | | |
| Oil and gas piplines | | | | | | | | | | | | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | ▨ | | | △ |
| Oil and gas facilities | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | | | △ |
| Outdoor storage facilities | | | | | | | | | | | | | | | | | | | ◪ | | | | | | | | | | ◪ | | | △ |
| Recreation vehicle, boat, truck storage | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ◪ | | | |
| Recycling facilities | | | | | | | | | | | | | | | | | ▨ | | | | | | | | | | | | ◪ | | | |
| Research laboratories | | | | | | | | | | | | ◪ | ◪ | | | | ◪ | | ◪ | ◪ | ◪ | | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | | △ |
| Resource extraction, process and sales | ▨ | ▨ | | | | | | | | | | | | | | | | | | | | | | | | | | | ▨ | | | |
| Resource recovery | | | | | | | | | | | | | | | | | | | | | | | | | ◪ | | | | | ◪ | | |
| Solar energy systems, small- and medium-scale | ▨ | ▨ | ▨ | ▨ | ▨ | | ▨ | ▨ | ▨ | ▨ | ▨ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ▨ | | |
| Solar energy systems - large scale | | | | | | | | | | | | | | | | | | | | | | | | | | | | ◪ | ◪ | | | |
| Transportation terminals (truck, container storage) | | | | | | | | | | | | | | | | | ▨ | | ■ | | | | | | | | | | ▨ | | | |
| Warehouses | | | | | | | | | | | | | | | | | ◪ | | ■ | ◪ | | | | | | | | ◪ | ◪ | | | △ |
| Wholesale distribution facility | | | | | | | | | | | | | | | | | ◪ | | ■ | | | | | | | | | ◪ | ◪ | | | |
| Workshops and custom small industry | | | | | | | ▨ | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ◪ | | ◪ | ◪ | | ◪ | ◪ | ◪ | ◪ | | | △ |

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) △ Additional Use Standards

■ Minor Amendment ◪ Building Permit ▣ License

| | RESIDENTIAL DISTRICTS | | | | | | MIXED-USE DISTRICTS | | | | | COMMERCIAL DISTRICTS | | | | | | | | | | DOWNTOWN DISTRICTS | | | | | | EMPLOYMENT, INDUSTRIAL, OTHER | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RUL | UE | RF | RL | OT-A | MH | LMN | MMN | HMN | OT-B | OT-C | CC | CCN | CCR | CG | CG-CAC | CS | NC | CL (RA) | CL (OA) | HC | H. CORE | CA/C/NM | I/R | RC | CN | EC | E | I | POL | T |
| ***ACCESSORY/MISC USES*** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Accessory buildings | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■/■ | ■/■ | ■/■ | | ■/■ | ■/■ | ■ | ■ | ■ | |
| Accessory uses | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ◪ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■/■ | ■/■ | ■/■ | ■/■ | ■/■ | ■/■ | ◪ | ◪ | ◪ | |
| Agricultural activities | ■ | | | | | | | | | | | | | | | | | | | | | ◪ | ◪ | ◪ | | ◪ | ◪ | | | ◪ | |
| Farm Animals | ■ | ◪ | ◪ | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Urban Agriculture | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | ▣ | | | ▣ | ▣ | ▣ | ▣ | | ▣ | ▣ | ▣ | ▣ | ▣ | |
| Heliports and Helipads | | | | | | | | | | | | | | | | | | | | | ▨ | | | | | | | ▨ | ▨ | | |
| Outdoor vendor | | | | | | | | | | | | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■/■ | ■/■ | ■/■ | | ■/■ | ■/■ | ■ | ■ | | |
| Satellite dishes (>39" in diameter) | | | | | | | | | | | | ◪ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ◪ | ■/■ | ■/■ | ■/■ | | ■/■ | ■/■ | ◪ | ◪ | | |
| Wireless communication facilities, collocated | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ◪ | ◪ | ◪ | | ◪ | ◪ | ■ | ■ | ■ | | ⚠ |
| Wireless communication facilities | | | | ▨ | | | | | | | | ◪ | ◪ | ◪ | ■ | ■ | ■ | ◪ | ◪ | ◪ | ■ | ▨ | ▨ | ▨ | | ▨ | ▨ | ■ | ■ | ◪ | |
| Off-site Construction Staging | ■ | ■ | ■ | ■ | ■ | | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | ■ | ■ | ■ | ■ | ■ | ■ | |

■ Basic Development Review ◪ Type 1 (Administrative Review) ▨ Type 2 (Planning and Zoning Commission) ⚠ Additional Use Standards

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# DIVISION 4.3 ADDITIONAL USE STANDARDS

## 4.3.1 RESIDENTIAL USES

(A) **Accessory Building** shall be subordinate to a primary building and may contain finished space, unfinished space and habitable space.

(1) Accessory buildings shall not be eligible for a new short term rental License on or after January 1, 2024. Existing short term rental licenses issued before January 1, 2024, may be renewed or a new license after this date may be issued per Section 15-646 of the Code of the City of Fort Collins.

(B) **Accessory Dwelling Unit** shall be subordinate to a primary dwelling unit. The land underneath the primary structure and the accessory dwelling unit is not divided into separate lots.

(1) Accessory dwelling units shall have a resident manager residing on the property in the ADU or primary building, when the owner does not reside on the property.

(a) The resident manager shall have one (1) primary residence and shall reside on the property for nine (9) months of the calendar year.

(b) If the designated resident manager no longer resides on the property, a new one shall be established by the property owner.

(c) If the resident manager shall be authorized by the property owner to manage the property and all dwelling units.

(d) Before the Certificate of Occupancy is issued for an ADU the property owner shall provide the name, address, and the resident manager's authorization to manage the property and dwelling units. Any ongoing verification of such information shall be provided by the owner upon request of the City.

(2) Accessory Dwellings Units that apply for a building permit on or after January 1, 2024, shall not be used for a short term rental. Existing short term rental licenses issued before January 1, 2024, may be renewed or a new license after this date may be issued per Section 15-646 of the Code of the City of Fort Collins.

(C) **Extra Occupancy Unit**

(1) One (1) occupant per three hundred fifty (350) square feet of habitable floor space, in addition to a minimum of four hundred (400) square feet of habitable floor space if owner-occupied.

(a) In the LMN Zone district no more than twenty-five (25) percent of the parcels on a block face may be approved for extra occupancy use.

(b) In the CS zone district such use shall not be allowed within two hundred (200) feet of North College Avenue.

(D) **Family Care Homes** consist of one or more of the following:

(1) **Family Foster Homes.** Family foster homes shall be permitted as an accessory use as defined in Article 7 provided that the maximum number of foster children in any given home shall not exceed four (4).

(2) **Day Care Homes.** Day care homes shall be permitted as an accessory use as defined in Article 7 provided that such homes are licensed by the State of Colorado and that the maximum number of children and the age

limitation of children to whom care is provided complies with the State of Colorado regulations for a family child care home, an infant/toddler home or an experienced family child care provider home.

(3) **Elderly Day Care Homes.** Elderly day care homes shall be permitted as an accessory use as defined in Article 7, provided that the maximum number of elderly persons receiving care, protection and supervision in any such home shall not exceed four (4) at any given time.

(E) **Fraternity/Sorority Houses shall** mean residences housing students attending an accredited institution of higher learning within the City.

(F) **Group Home** is allowed in the following zone districts:

| Zone | Maximum Number of Residents excluding supervisors, for Minimum lot size. | Additional lot area for each additional resident (square feet) | Maximum permissible residents, excluding supervisors | Minimum separation requirements between any other group home (feet) |
|---|---|---|---|---|
| UE | 3 | 2,000 | 8 | 1,500 |
| RL, OT-A, HC, E, RF, MH | 3 | 1,500 | 8 | 1,500 |
| LMN, OT-B, RDR | 6 | 750 | 15 | 1,000 |
| OT-C, D, CS, CCN, MMN, HMN, NC, CG, CC, CL, CCR | 6 | 500 | 20 | 700 |

(1) All Group Homes are required to be setback at least 200 feet from North College Avenue.

(2) The minimum separation distance required between group homes that are located in different zone districts shall be the one that requires the greatest distance.

(3) The decision maker may determine a higher maximum number of residents to be allowed to occupy the facility upon finding that the facility as so occupied will satisfy the following criteria:

(a) The adjacent street system is sufficient to accommodate the traffic impacts generated by the group care facility;

(b) the group care facility has made adequate, on-site accommodations for its parking needs;

(c) the architectural design of the group care facility is compatible with the character of the surrounding neighborhood;

(d) the architectural design of the group care facility is compatible with the character of the surrounding neighborhood;

(e) the size and scale of the group care facility is compatible with the character of the surrounding neighborhood; and

(f) the types of treatment activities or the rendering of services proposed to be conducted upon the premises are substantially consistent with the activities permitted in the zone district in which the facility is proposed to be located.

(4) Regardless of the level of review:

(a) The decision maker shall conduct such review for the purpose of approving, denying or approving with conditions the application for a group home use in such zone. If approved, the decision maker shall, with such approval, establish the type of group home permitted and the maximum number of residents allowed in such group home.

(b) A group home may be located without consideration to the minimum separation requirements as established in the table above if the group home is separated from other group homes within the area of the aforesaid minimum separation requirement by a substantial natural or man-made physical barrier, including, but not limited to, an arterial street, a state or federal highway, railroad tracks, river or commercial/business district. Such reduction in the separation requirement shall be allowed only after the decision maker has determined that the barrier and resulting separation distance are adequate to protect the City from any detrimental impacts resulting from an excessive concentration of group homes in any one (1) vicinity.

(c) No permanent certificate of occupancy will be issued by the City for a group home until the person applying for the group home has submitted a valid license, or other appropriate authorization, or copy thereof, from a governmental agency having jurisdiction.

(d) If active and continuous operations are not carried on in a group home which was approved pursuant to the provisions contained in this Section for a period of twelve (12) consecutive months, the group home use shall be considered to have been abandoned. The group home use can be reinstated only after obtaining a new approval from the decision maker as outlined in this Section.

(e) Shelters for victims of domestic violence shall be separated from any other group home or shelter by a minimum of one thousand five hundred (1,500) feet.

(f) Please see Section 6.1.5 for information regarding Reasonable Accommodations.

(G) Home Occupations

(1) A home occupation shall be allowed as a permitted accessory use, provided that all of the following conditions are met:

(a) Such use shall be conducted entirely within a dwelling and carried on by the inhabitants of the dwelling with not more than one (1) additional employee or co-worker. The hours of operation during which clients, customers, employees or co-workers are allowed to come to the home in connection with the business activity are limited to between 8:00 a.m. and 6:00 p.m. Monday through Saturday.

(b) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof.

(c) The total area used for such purposes shall not exceed one-half (½) the floor area of the user's dwelling unit.

(d) There shall be no exterior advertising other than the residential sign allowed in Section 5.16(D)(5)(a) of this Code.

(e) There shall be only incidental sale of stocks, supplies or products conducted on the premises.

(f) There shall be no exterior storage on the premises of material or equipment used as a part of the home occupation.

(g) There shall be reasonable mitigation of noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.

(h) A home occupation shall provide additional off-street parking area adequate to accommodate all needs created by the home occupation.

(i) In particular, a home occupation may include, but is not limited to, the following, provided that all requirements contained herein are met:

(I) art studio;
(II) dressmaking or millinery work;
(III) professional office;
(IV) office for insurance or real estate sales;
(V) teaching;

(j) A home occupation shall not be interpreted to include the following:

(I) animal hospital;
(II) long-term care facility;
(III) restaurant;
(IV) bed & breakfast;
(V) group home;
(VI) adult-oriented use;
(VII) vehicle repair, servicing, detailing or towing if vehicles are dispatched from the premises, or are brought to the premises, or are parked or stored on the premises or on an adjacent street.
(VIII) medical marijuana businesses ("MMBs"), as defined in Section 15-452 of the City Code.
(IX) retail marijuana establishment as defined in Section 15-603 of the City Code.
(X) short term primary rentals and short term non-primary rentals.

(2) A home occupation shall be permitted only after the owner or inhabitant of the dwelling in which such occupation is conducted has obtained a home occupation license from the City. The fee for such a license shall be the fee established in the Development Review Fee Schedule, and the term of such license shall be two (2) years. At the end of such term, the license may be issued again upon the submission and review of a new application and the payment of an additional fee. If the City is conducting an investigation of a violation of this Code with respect to the particular home occupation at the time such renewal application is made, the license will not be reissued until the investigation is completed and, if necessary, all violations corrected. The term of the previous license shall continue during the period of investigation. The Director may revoke any home occupation license issued by the City if the holder of such license is in violation of any of the provisions contained in paragraphs (a) through (h) of this Section, provided that the holder of the license shall be

entitled to the administrative review of any such revocation under the provisions contained in Chapter 2, Article VI of the City Code.

(H) **Manufactured Housing**

(1) Manufactured Housing Communities shall be developed in accordance with the applicable general development standards contained in this Code and the regulations contained in Chapter 18 of the City Code.

(I) **Mixed Use Dwelling Unit**

(1) Facility Amenities limited to the use of residents in the building such as but not limited to a leasing office, gym, and pool are not considered a separate use.

(2) In the I zone district such use shall be constructed above nonresidential uses, provided that the aggregate floor area of all mixed-use dwellings does not exceed the aggregate floor area of all nonresidential uses in the building.

(J) **Multi-Unit Dwelling** has three or more habitable dwelling units contained within a permitted building type. The land underneath the primary structure is not divided into separate lots.

(K) **Single Unit Detached Dwelling** is a stand-alone residential dwelling unit, other than a manufactured home, providing complete, independent living facilities including permanent provisions for living, sleeping, eating, and cooking.

(1) In the HC, CCN, CCR, and CS Zone only allowed on lots less than six thousand (6,000) sf.

(2) In the CS zone district not allowed within two hundred (200) feet of North College Avenue.

(L) **Single Unit Attached Dwelling**

(1) In the CS zone district such use shall be setback at least 200 ft. from North College Avenue.

(M) **Shelter for victims of Domestic Violence**

(1) Shall be separated from a group home or shelter by a minimum of one thousand five hundred (1,500) feet.

(N) **Short Term Rentals**

(1) **Applicability.** These standards apply to short term primary rentals and short term non-primary rentals.

(2) **Purpose.** The purposes of these standards are to mitigate the impacts of short term rentals on the neighborhoods in which they are located, to maintain and enhance neighborhood livability, to ensure the health and safety of renters of short term rentals, and to ensure the compatibility of short term rentals with the allowed uses in the applicable zone districts.

(3) **Location.** Subject to subsection (6) below, the allowable locations of short term primary and non-primary rentals are determined by the zone districts and their respective list of permitted uses as described in the applicable zone districts.

(a) On or after January 1, 2024, short term primary and non-primary rentals are prohibited in both accessory buildings and accessory dwelling units. This does not apply to any licenses issued prior to this date or accessory buildings and accessory dwelling units that have applied for a building permit prior to this

date, and such licenses may be renewed or a new license may be issued per Section 15-646 of the Code of the City of Fort Collins.

(4) **Off-street Parking.** See Section 5.9.1(K)(1)(m) for minimum off-street parking space requirements.

(5) **Licensing.** The licensing of short term rentals is governed by the Code of the City of Fort Collins Chapter 15, Article XVIII. No dwelling unit shall be used as a short term primary rental or short term non-primary rental unless a license is first obtained pursuant to Chapter 15, Article XVIII.

(a) Licenses issued to ADUs prior to the adoption of this code may continued to be renewed.

(6) **Nonconforming Use.** A dwelling unit utilized as a short term primary or non-primary rental that is located in a zone district where such use is prohibited, and such short term rental was a lawfully established use as defined in (c) below, is deemed to be a nonconforming use. Such nonconforming use shall correspond to the type (either primary or non-primary) of short term rental conducted prior to March 31, 2017.

(a) In addition to complying with the nonconforming use regulations in Land Use Code Division 6.16, the owner of the dwelling unit must obtain a license pursuant to the Code of the City of Fort Collins § 15-646 and continuously maintain such license to maintain nonconforming use status. Failure to apply for such license by October 31, 2017, shall be considered abandonment of the nonconforming use. Should such license be revoked, not be renewed, or lapse for any period of time, the nonconforming short term rental use shall be considered abandoned or otherwise terminated.

(b) Should ownership of a dwelling unit licensed pursuant to § 15-646 be transferred, and such license was continuously valid until the transfer of ownership, the new owner must comply with the following in order to continue the nonconforming use: (1) apply for a license pursuant to § 15-646 within thirty (30) days of the transfer of ownership; (2) comply with the parking requirements contained in Section 5.9.1(K)(1)(m) of this Code; and (3) continuously maintain any license issued pursuant to § 15-646. Should any license issued to the new owner be revoked, not be renewed, or lapse for any period of time, the nonconforming short term rental use shall be considered abandoned or otherwise terminated.

(c) To be deemed a lawful use, a dwelling unit must have been actually utilized as a short term primary or non-primary rental prior to March 31, 2017, and valid sales and use and lodging tax licenses for such dwelling unit must have been obtained prior to October 31, 2017, in accordance with Chapter 25, Art. IV, of the Code of the City of Fort Collins.

(O) **Two Unit Dwelling is a** building that contains two primary dwelling units on one lot. The units must share a common wall or common floor/ceiling.

(1) In the CS zone district such use not be allowed within two hundred (200) feet of North College Avenue.

(P) **Secondary Uses**

(1) In the CC zone district all residential permitted uses, except mixed use dwellings in multistory mixed use buildings, shall be considered secondary uses and, for projects containing ten (10) or more acres, together shall occupy no more than thirty (30) percent of the total gross area of any development plan. If the project contains less than ten (10) acres, the development plan must demonstrate how it contributes to the overall mix of land uses within the surrounding area, but shall not be required to provide a mix of land uses within the development.

(2) In the NC zone district all permitted residential uses, except mixed use dwellings in multistory mixed use buildings, shall be considered secondary uses and, for projects containing five (5) or more acres, together shall occupy no more than thirty (30) percent of the total gross area of any development plan. If the project contains less than five (5) acres, the development plan must demonstrate how it contributes to the overall mix of land uses within the surrounding area but shall not be required to provide a mix of land uses within the development.

## 4.3.2 INSTITUTIONAL/CIVIC/PUBLIC USES

### (A) Community Facilities

(1) Community facilities such as community buildings, government offices, recreation centers and libraries shall be placed in central locations as highly visible focal points. To the extent reasonably feasible, they shall be located close to transit stops.

### (B) Public and Private Schools for college, university, vocational and technical education

(1) Limited in the LMN zone district to within five hundred (500) feet of East Vine Drive or railroad property abutting and parallel to East Vine Drive.

### (C) Seasonal Overflow Shelter

(1) The following standards shall apply to all seasonal overflow shelters.

(2) The purpose of this Section is to allow for the siting and approval of seasonal overflow shelters while helping to ensure that such shelters are compatible with the adjacent neighborhoods.

(3) General Standards. Seasonal overflow shelters shall be allowed as a permitted use, provided that all of the following conditions are met:

(a) *Occupancy Limit*. No more than fifty (50) persons may be housed at any one (1) seasonal overflow shelter.

(b) *Operations.* An organization with prior homeless shelter management experience must be designated as the operator responsible for managing the seasonal overflow shelter.

(c) *Operating Agreement.* An operating agreement must be completed between the City, the operator and the owner of the real property upon which the seasonal overflow shelter is located, delineating the roles of the parties, and, without limitation, shall include provisions pertaining to parking, hours of operation, site cleanup, loitering, number of staff and designated contact persons for each party. The operating agreement shall be executed by all parties prior to the approval of a seasonal overflow shelter and must be executed preceding each operating season that the shelter is functioning.

(d) *Transportation*. If the seasonal overflow shelter is more than two (2) miles from a homeless shelter, then transit to and from the seasonal overflow shelter and the homeless shelter (or other locations designated in the operating agreement) shall be provided by the operator of the seasonal overflow shelter.

(e) *Neighborhood Meeting.* The City shall require a neighborhood meeting for each application for approval of a seasonal overflow shelter and preceding each operating season that the shelter is functioning.

(f) *Limit.* There shall be no more than three (3) seasonal overflow shelters operating in the City at any given time.

(g) *Compliance with Other Standards.* The property upon which the seasonal overflow shelter is located must continue to comply with the standards of this Code, at least to the extent of its original compliance (so as to preclude any greater deviation from the standards of this Code by reason of a seasonal overflow shelter being located thereon).

(D) **Wildlife Rescue and Education Centers**

(1) Limited in the LMN zone district to within five hundred five hundred (500) feet of East Vine Drive or railroad property abutting and parallel to East Vine Drive.

## 4.3.3 COMMERCIAL/RETAIL USES

(A) **Adult Day/Respite care centers**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(B) **Adult-Oriented Uses**

(1) Adult-oriented uses are permitted only in the zone districts shown in the Use Table of Division 4.2.

(2) Adult-oriented uses shall not be established, operated or maintained within one thousand (1,000) feet of the boundary of any residential zone district (whether within or beyond the City's jurisdictional boundary), any structure occupied for residential purposes, any public park or playground, any child care center, any outdoor recreation facility, any limited indoor recreation use, any place of worship or assembly, any school meeting all of the requirements of the compulsory education laws of the State and/ or any other adult-oriented use. An adult-oriented use lawfully operating as a conforming use shall not be rendered a nonconforming use by the subsequent location of a residential district or residential use, public park or playground, child care center, outdoor recreation facility, limited indoor recreation use, place of worship or assembly, or school within one thousand (1,000) feet of said adult-oriented use.

(3) Method of Measurement. All measurements required pursuant to this use shall be made from the nearest property line of the property from which spacing is required (pursuant to paragraph (B) of this Section) to the nearest entrance of the building in which the adult-oriented use is to occur, using a straight line, without regard to intervening structures or objects.

(4) Displays, Screenings. Advertisements, displays or other promotional materials displaying or depicting "specified anatomical areas" or "specific sexual activities" shall not be shown or exhibited so as to be visible or audible to the public from adjacent streets, sidewalks or walkways or from other areas outside the establishment; and all building openings, entries and windows for adult-oriented uses shall be located, covered or screened in such manner as to prevent the interior of such premises from being viewed from outside the establishment.

(5) No adult bookstore, adult novelty store or adult retail store that, as of June 14, 2002, had adult material in excess of twenty (20) percent of its stock-in-trade, or derived in excess of twenty (20) percent of its revenues from such material, or devoted in excess of twenty (20) percent of its interior business or interior advertising to such material, or maintained in excess of twenty (20) percent of its gross floor area or display

space for the sale or rental of such material, shall be allowed to increase its adult material business beyond the percentages that existed on June 14, 2002.

(6) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(C) **Animal Boarding**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(D) **Bars and Taverns**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(E) **Bed and Breakfast Establishment**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(2) In the LMN, MMN, HMN, OT-B zone district such use shall be limited to six (6) beds not including on site staff.

(F) **Child Care Center**

(1) Outdoor Play Area Table:

| *Minimum Outdoor Play Area for a Child Care Center* | |
|---|---|
| 15 Children or less | 1,200 square feet |
| More than 15 Children | 75 square feet per child for 33% of the child capacity of the center |

(2) An outdoor play area as stated above shall not be required for drop-in child care centers.

(3) For the purposes of this subsection, the capacity of the center is calculated based upon indoor floor space reserved for school purposes of forty (40) square feet per child. Any such play area on the site of the child care center within or abutting any residential district shall be enclosed by a decorative solid wood fence, masonry wall or chain link fence with vegetation screening, densely planted. The height of such fence shall be a minimum of six (6) feet and shall comply with other fences regulations within this code. Where access to child care centers is provided by other than local streets, an off-street vehicular bay or driveway shall be provided for the purpose of loading and unloading children.

(4) If active and continuous operations are not carried on for a period of twenty-four (24) consecutive months in a child care center which was approved for operation within a residential dwelling, the child care center use shall be deemed to have been abandoned. Such child care center use may thereafter be reestablished only upon approval of a new application in accordance with all applicable provisions of this Code.

(5) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(G) **Convenience retail stores with fuel sales**

(1) In the LMN, CC, CCN, NC, I zone districts such use shall be spaced at least three thousand nine hundred sixty (3,960) feet (three-quarters [¾] of a mile) from any other such existing or permitted fueling station.

(2) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(H) Convenience Shopping Center

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(2) In the I zoned district such use may include Drive-in restaurants.

(3) In the NC zone district such shall be three thousand nine hundred sixty (3,960) feet from any other any other such existing or permitted fueling station.

(I) Day Shelter

(1) In the D, CC, CCN, CCR, CG/CAC, CS, I zone districts such use shall not exceed ten thousand (10,000) square feet and shall be located within one thousand three hundred twenty (1,320) feet (one-quarter [¼] mile) of a Transfort route.

(J) Dog Day-Care Facility Regulations

(1) All services provided by a dog day-care facility shall be conducted within a completely enclosed, soundproof building.

(2) All dog day-care facilities shall be designed and constructed in a manner that reasonable mitigates emission of odor to persons owning, occupying or patronizing properties adjacent to such facilities.

(K) Drive-in Restaurant

(1) In the E, I zone districts such use is only permitted in a convenience shopping center.

(2) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(3) In the N-C zone district such use shall exclude drive-thru restaurant.

(L) Enclosed Mini-storage Facility

(1) In the CS zoned districts such use shall be at least 150 feet from South College Avenue.

(2) Not permitted in the South College Gateway Area.

(3) In the LMN zone district such use shall be located within five hundred (500) feet of East Vine Drive or of the railroad property abutting and parallel to East Vine Drive.

(M) Fast Food Restaurant

(1) In the CC, CCN, CCR, CS, NC, CL, E, and I zone districts, such use is prohibited as a drive-in or drive-through facilities.

(2) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(N) Funeral Homes

(1) In the OT-C such use shall be located in the street-fronting principal building.

(O) Grocery Stores

(1) In the D, CC, CCN, CCR, CS, NC zone districts shall occupy between five thousand [5,000] and forty-five thousand [45,000] square feet).

(P) Indoor Kennel

(1) In the HC zone district only permitted in community or regional shopping center.

(Q) Limited indoor recreation establishments

(1) In the LMN zone district such use shall be located within five hundred (500) feet of East Vine Drive or of the railroad property abutting and parallel to East Vine Drive.

(R) Micro-brewery/distillery/winery

(1) In the HC zone district only permitted within a community, lifestyle, regional, and convenience shopping center.

(2) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(S) Neighborhood Centers

(1) In the LMN zone district such use shall contain two (2) or more of the following uses:

(a) mixed-use dwelling units;
(b) retail stores;
(c) convenience retail stores;
(d) personal and business service shops;
(e) small animal veterinary facilities;
(f) offices, financial services and clinics;
(g) community facilities;
(h) neighborhood support/recreation facilities; schools;
(i) child care centers;
(j) limited indoor recreation establishments;
(k) open-air farmers markets;
(l) places of worship or assembly;
(m) dog day care;
(n) music studio;
(o) micro brewery/distillery/winery;
(p) standard fast food restaurants (without drive-in or drive-through facilities);
(q) artisan and photography studios and galleries;
(r) convenience retail stores with fuel sales that are at least three-quarters (¾) mile from any other such use and from any gasoline station;
(s) grocery store;
(t) health and membership club, provided that such use or uses are combined with at least one (1) other use.

(T) Small Animal Veterinary Clinic and Hospital Regulations

(1) All facilities of a small animal veterinary clinic or a small animal veterinary hospital, including all treatment rooms, cages, pens, kennels and exercise runs, shall be maintained within a completely enclosed, soundproof building.

(2) All such veterinary clinics and hospitals shall be designed and constructed in a manner that reasonably mitigates any emission of odor to persons owning, occupying or patronizing properties adjacent to such clinics or hospitals.

(3) All such veterinary clinics and hospitals shall be designed and constructed in a manner that reduces the sound coming from any such clinic or hospital to the level of sixty-five (65) decibels at any given abutting property line.

(4) No such veterinary clinic or hospital shall board any animal for any length of time except where such boarding is necessary to provide surgical or other medical care to the animals.

(U) Open Air Farmers Markets

(1) In the HC zone district only permitted in neighborhood, community and regional shopping centers only.

(V) Outdoor Storage Facility

(1) In the CL/RA zone district such use may include a towing yard, provided such use is setback at lease thirty five (35) from an arterial street.

(W)Personal and Business Service Shop

(1) In the HC zone district only permitted within a neighborhood, community, lifestyle and regional center.

(X) Research Laboratories

(1) In the South College Gateway Area Overlay such use is not permitted.

(Y) Small Scale Reception center

(1) In the UE zone district such use shall comply with the following performance standards

(a) Lot Size. Minimum lot size shall be seven (7) acres.

(b) Building Size. The total floor area of any new building shall not exceed seven thousand five hundred (7,500) square feet and the total aggregate floor area of new and existing buildings shall not exceed fifteen thousand (15,000) square feet.

(c) Building Location and Separation from Residential Areas. All buildings shall be located a minimum of three hundred (300) feet from the nearest dwelling on any abutting property, except that in cases where there are no dwellings on such abutting property, all buildings shall be located a minimum of two hundred fifty (250) feet from the nearest property line of such abutting property.

(d) Outdoor Spaces, Location and Separation From Residential Areas. All outdoor spaces such as lawns, plazas, gazebos and/or terraces used for social gatherings or ceremonies associated with the reception center shall be located within one hundred (100) feet of the primary building and shall be located a minimum of three hundred (300) feet from the nearest dwelling on any abutting property, except that in cases where there are no dwellings on such abutting property, all outdoor spaces, as described

above, shall be located a minimum of two hundred fifty (250) feet from the nearest property line of such abutting property.

(e) **Nonresidential Abutment**. At least one-sixth (1/6) of the reception center's property boundary must be contiguous to property that is zoned in one (1) or more of the following nonresidential zone districts within the City:

(I) D;
(II) CC;
(III) CCN;
(IV) CCR;
(V) CG;
(VI) CS;
(VII) NC
(VIII) CL;
(IX) HC;
(X) E;
(XI) I.

(f) **Access.** Vehicular access to the reception center shall be only directly from an arterial street so as to not add traffic to existing local neighborhood streets.

(g) **Buffering**. If the reception center abuts a single-family dwelling or property zoned for such activity, buffering shall be established between the two (2) land uses sufficient to screen the building, parking, outdoor lighting and associated outdoor activity from view. A combination of setbacks, landscaping, building placement, fences or walls and elevation changes and/or berming shall be utilized to achieve appropriate buffering.

(h) **Hours of Operation**. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m. Sunday through Thursday and 8:00 a.m. to 12:00 a.m. on Friday and Saturday.

(i) **Noise**. No noise will be permitted in violation of Chapter 20, Article II of the City Code, and the following limitations will also apply:

(I) Music that is not amplified (such as stringed quartets or acoustic guitars) will be allowed out of doors, but shall end no later than 8:00 p.m. Sunday through Thursday, and 9:00 p.m. on Friday and Saturday.

(II) Except during wedding ceremonies, sound-amplifying equipment used out of doors shall be limited to speakers with a maximum power rating of fifty (50) watts permanently installed as part of the design of outdoor spaces such as lawns, plazas, gazebos and/or terraces.

(j) **On-Site Caretaker**. There shall be a manager or owner on site during all hours of operation.

(k) **Parking Lot Lighting**. Parking lot lighting, if used at all, shall conform to the requirements contained in Article 5.12, and shall be further restricted such that the fixture does not exceed a height of fourteen (14) feet above ground level.

(Z) **Standard Restaurant**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(AA) **Recreational Uses**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(BB) **Retail Establishment**

(1) In the CG zone district such use shall be 25,000 sq. ft. or under in size.

(2) In the HC zone district only permitted within a neighborhood, community, lifestyle and regional center.

(CC) **Retail Establishment, Large**

(1) In the CG zone district such use shall be greater than 25,000 sq. ft.

(DD) **Retail and Supply Yard establishment with outdoor storage**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(EE) **Vehicle major repair, servicing and maintenance establishments**

(1) Not permitted in the South College Gateway Area Overlay.

(FF) **Vehicle minor repair, servicing and maintenance establishments**

(1) In all permitted zone districts such use shall be conducted indoors.

(2) Not permitted in the South College Gateway Area Overlay.

(GG) **Vehicle Sales and Leasing Establishments for Cars and light trucks**

(1) In the CS District, shall be limited to ten (10) percent of the total linear frontage of both sides of North College Avenue between Vine Drive and the northern City limits or the intersection of North College Avenue and State Highway 1, whichever results in the shortest linear distance. These uses shall be located at least one hundred fifty (150) feet from South College Avenue.

(2) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

(3) In the I zone district such use may include boats, manufactured housing, farm implements and heavy excavation equipment.

(4) In the CG, CL/RA zone districts such use may include outdoor storage.

(5) In the CS zone district such use shall be limited to ten (10) percent of the total linear frontage of both sides of North College Avenue between Vine Drive and the northern City limits or the intersection of North College Avenue and State Highway 1, whichever results in the shortest linear distance.

(6) In the CS zone district such use shall be setback 150 ft. from South College Avenue.

(HH) **Veterinary Hospital**

(1) In the I zone district such use shall not exceed 25,000 sq. ft. of floor area.

## 4.3.4 INDUSTRIAL USES

(A) **Light Industrial**

(1) In the LMN zone district such use is located within five hundred [500] feet of East Vine Drive.

(2) In the CG zone district such use shall not have outdoor storage.

(3) In the South College Gateway Overlay such use is not permitted.

(B) **Resource Extraction**

(1) In the RC zone district such use shall be prohibited in the natural area protection buffer.

(C) **Warehouse**

(1) In the CS zone district such use shall be setback at least 200 ft. from North College Ave and 150 ft. from South College Avenue.

(2) In the South College Gateway Area Overlay such use is prohibited.

(D) **Wholesale Distribution Facility**

(1) In the CS zone district such use shall be setback at least 200 ft. from North College Ave and 150 ft. from South College Avenue.

(E) **Workshops and Custom Small Industry**

(1) In the LMN zone district such use is located within five hundred [500] feet of East Vine Drive.

(F) **Oil And Gas Facilities And Pipelines**

(1) **Purpose And Applicability**

(a) **Purpose.** This Division is intended to protect the public health, safety, and welfare, and the environment and wildlife resources by regulating oil and gas development to anticipate, avoid, minimize and mitigate adverse impacts to existing, planned, and future land uses.

(b) **Applicability.** This Division applies to siting and reclamation of all oil and gas facilities and oil and gas pipelines within City boundaries over which the City has regulatory authority pursuant to law, except for oil and gas facilities and oil and gas pipelines subject to a valid operator agreement between the City and the operator effective prior to April 14, 2023, in which case the operator agreement shall govern the applicable oil and gas facilities and oil and gas pipelines. All persons must obtain approval from the City in accordance with the standards in this Division and all applicable Land Use Code requirements prior to constructing and operating any new oil and gas facility or oil and gas pipeline or enlarging or expanding any oil and gas facility or oil and gas pipeline lawfully existing prior to April 14, 2023.

Any terms used in this Division that are not defined within the Land Use Code shall be defined by the ECMC as set forth in the Code of Colorado Regulations. The terms applicant and operator are used interchangeably at times in this Division.

Where, in any specific case, the requirements of any other provision within the Land Use Code or Code of the City of Fort Collins or any applicable federal or state laws or regulations of any state or federal agency are in conflict with this Division, the more restrictive or stringent requirement shall be imposed.

### (2) Existing Oil And Gas Facilities And Pipelines

**Application to Existing Oil and Gas Facilities and Pipelines.** Oil and gas facilities and oil and gas pipelines that were lawfully established prior to April 14, 2023, referred herein as lawful nonconforming oil and gas facilities and pipelines, are considered nonconforming uses that may continue to operate pursuant to either a valid operator agreement governing such oil and gas facilities or oil and gas pipelines between the City and the operator in effect prior to April 14, 2023, or absent such an operator agreement, pursuant to Land Use Code Division 6.16 as modified in this Section. The following provisions apply to lawful nonconforming oil and gas facilities and pipelines not subject to an operator agreement:

(a) Section 6.16.3 regarding abandonment of use.

(b) Section 6.16.4 regarding reconstruction does not apply to lawful nonconforming oil and gas facilities and pipelines. Reconstruction of such an oil and gas facility or pipeline or facility or pipeline taken by governmental acquisition or damaged by fire or other accidental cause or natural catastrophe is not allowed.

(c) Section 6.16.5 regarding enlargement of buildings and expansion of facilities, equipment or structures does not apply to lawful nonconforming oil and gas facilities and pipelines. Enlargement and expansion of any such facility or pipeline requires such facility or pipeline to be brought into conformance with the Land Use Code.

(I) Enlargement or expansion includes, but is not limited to, any permanent physical change to a lawful nonconforming oil and gas facility or pipeline not required by law that increases operating capacity, harmful air emissions, traffic, noise, risk of spills, or will adversely impact public health, safety, welfare, the environment or wildlife resources. Use of a drilling rig or hydraulic fracturing equipment to deepen or recomplete an existing well into a new geologic formation is considered expansion.

(II) Maintenance activities, the replacement of existing equipment with substantially similar equipment in like and kind, installation of emission control equipment, and the addition of equipment to fulfill mandated regulatory requirements are not considered enlargement or expansion.

### (3) Oil and Gas Project Development Plan Review Procedures

In order for a new oil and gas facility to be constructed and operated, or a lawful nonconforming oil and gas facility to be enlarged or expanded, the applicant must receive approval of a project development plan, final plan, and building permit pursuant to the Land Use Code. In order for enlargement or expansion of a lawful nonconforming oil and gas facility to occur, unless an operator agreement as described in above Section 4.3.4(F)(2) provides

otherwise, such facility must be brought into conformance with the Land Use Code and receive approval of a project development plan, final plan, and building permit pursuant to the Land Use Code prior to enlargement or expansion and continued operation.

With regards to oil and gas pipelines, flowlines are subject to review as part of the project development plan for any new oil and gas facility to which the flowlines are associated or through a major amendment if additional flowlines are added subsequent to project development plan approval. Crude oil transfer lines, gathering lines and transmission lines are subject to project development plan review and subsequent changes through a major amendment. In order for enlargement or expansion of a lawful nonconforming oil and gas pipeline to occur, unless an operator agreement as described in above Section 4.3.4(F)(2) provides otherwise, such pipeline must be brought into conformance with the Land Use Code and receive approval of a project development plan, final plan, and building and other required permits pursuant to the Land Use Code prior to enlargement or expansion and continued operation.

Specific development standards regarding oil and gas facilities are set forth in Section 4.3.4(F)(4), and specific development standards regarding oil and gas pipelines are set forth in Section 4.3.4(F)(5). The Project Development Plan Review Procedures set forth in Section 6.6.2 are modified as follows:

(a) **Step 1 (Conceptual Review):** Mandatory. In addition to the Concept Plan Submittal requirements pursuant to Section 6.3.1(A)(3), the applicant for a new oil and gas facility or oil and gas pipeline shall provide an alternative location analysis and preliminary site analysis as described below. The Director may waive or modify any information required for the alternative location and preliminary site analysis if, given the facts and circumstances of a proposed oil and gas facility or pipeline, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary to evaluate the proposed project. Prior to the required neighborhood meeting referenced in (b) below, the City will review all proposed locations for the oil and gas facility or oil and gas pipeline to determine which locations, if any, meet Land Use Code requirements and will prepare a report summarizing its findings with respect to the proposed locations. If the City requests a site visit of any of the locations under consideration, the operator is responsible for securing permission or coordinating with the landowner(s) to conduct the site visit. Prior to selecting the location for the proposed oil and gas facility or oil and gas pipeline, the operator shall consult with the City regarding the proposed locations and the City's report regarding such locations.

(I) **Alternative Location Analysis.** The alternative location analysis must include, at a minimum, the following:

(i) For oil and gas facilities:

(A) A map depicting the following elements within three (3) miles of the proposed surface location. (This requirement is limited to one (1) mile for a proposed single vertical or directional well):

(1) All mineral rights held or controlled by the applicant; and

(2) The location of all features listed in the "Preliminary Site Analysis."

(B) The alternative location analysis shall evaluate a minimum of three potential locations that can reasonably access the mineral resources within the proposed drilling and spacing unit(s), including the following information for each site:

(1) General narrative description of each location;

(2) Any location restrictions that the site does not satisfy;

(3) Any existing surface use agreements or other documentation regarding legal property rights;

(4) Off-site impacts that may be associated with each site;

(5) Proposed truck traffic routes and access roads for each location; and

(6) Any information pertinent to the applicable review criteria that will assist the Director in evaluating the locations.

(ii) For oil and gas pipelines, the alternative location analysis shall evaluate a minimum of three potential alignments for the pipeline, including the following information for each alignment:

(A) General narrative description of each alignment;

(B) Any location restrictions that the alignment does not satisfy;

(C) Any existing surface use agreements or other documentation regarding legal property rights;

(D) Off-site impacts that may be associated with each alignment; and

(E) Any information pertinent to the applicable review criteria that will assist the Director in evaluating the locations.

(II) **Preliminary Site Analysis.** The Preliminary Site Analysis shall include maps with the following information:

(i) Provide an ecological characterization study if the development site contains or is within two thousand (2,000) feet of a natural habitat or feature as defined in Section 5.6.1.

(ii) All drilling and spacing units proposed by the applicant within one (1) mile of the City's boundaries; and

(iii) All features defined below that are wholly or partially within one (1) mile of the proposed oil and gas facility:

(A) Any existing or future building approved as occupiable space, as defined in the City's Building Code;

(B) City parks or City property intended to be used for City parks;

(C) City maintained trails and trailheads or City property intended to be used for City trails and trailheads;

(D) Outdoor venues, playgrounds, permanent sports fields, amphitheaters, or other similar places of outdoor assembly;

(E) City natural areas;

(F) Existing and approved oil and gas facilities and pipelines;

(G) Areas within the FEMA 100-Year Floodplain boundary;

(H) The centerline of all USGS perennial and intermittent streams and the map will indicate which surface water features are downgradient;

(I) Active reservoirs and public and private water supply wells of public record;

(J) Natural habitats and features as defined in Land Use Code Section 5.6.1 within one (1) mile of the proposed oil and gas facility;

(K) High priority habitat as defined by the ECMC; and

(L) Disproportionately impacted communities, as defined by the ECMC.

(b) **Step 2 (Neighborhood Meeting):** Mandatory. After a proposed location has been selected for the oil and gas facility or oil and gas pipeline, a neighborhood meeting must be held. Written notice of the neighborhood meeting must be mailed to the owners of record and occupants of all real property within one (1) mile (exclusive of public rights-of-way, public facilities, parks or public open space) of the property line of the parcel of land upon which the development is planned.

(c) **Step 3 (Development Application Submittal):** All items or documents required for project development plans as described in the development application submittal master list for oil and gas facilities and oil and gas pipelines shall be submitted. The Director may waive or modify the foregoing submittal requirements if, given the facts and circumstances of the specific application, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary for the full and complete review of the application.

The complete project development plan application must be submitted and accepted by the City as complete prior to the applicant submitting any required Form 2 or 2A to the ECMC. Should the applicant submit any required Form 2 or 2A to the ECMC prior to submitting its complete project development plan application to the City, the applicant must withdraw the Form 2 or 2A and refrain from resubmitting until a complete project development plan application has been submitted and accepted by the City as complete.

(4) **Oil and Gas Facility Development Standards**

The following requirements apply to oil and gas facilities in addition to other applicable Land Use Code requirements.

(a) **Location Restrictions for New Oil and Gas Facilities or Enlarged or Expanded Existing Oil and Gas Facilities.**

(1) Allowed Zone Districts. Oil and gas facilities may only be located on property located within:

(i) The Industrial (I) zone district;

(ii) A zone district to which oil and gas facility is added as an allowed use for a particular parcel pursuant to Division 6.9, Addition of Permitted Uses; or

(iii) A Planned Unit Development (PUD) overlay in which oil and gas facilities are an allowed use.

A development application for an oil and gas facility may not be submitted until oil and gas facility is an allowed use for the proposed location.

(2) Setbacks. Setbacks for new oil and gas facilities and enlarged or expanded existing oil and gas facilities cannot be modified pursuant to Division 6.8, Modification of Standards. Setbacks are measured as the shortest distance from the edge of the working pad surface.

(i) No working pad surface shall be located within two thousand (2,000) feet from the following:

(A) The nearest wall of any existing or platted building approved or to be approved as occupiable space as defined under the City's Building Code;

(B) The property boundary line of any property containing a City park or City property intended to be used for a City park;

(C) The easement or parcel boundary of City maintained recreation trails and trailheads or City property intended to be used for City maintained trails and trailheads;

(D) The edge of outdoor venues, playgrounds, permanent sports fields, amphitheaters, or other similar places of outdoor assembly; or

(E) The property boundary line of any property containing a City natural area.

(ii) No working pad surface shall be located within one thousand (1,000) feet from the following:

(A) Public water supply surface intakes or public water supply wells;

(B) Ditches that transport water used by, or to augment, a public water supply system; or

(C) Conservation easements.

(3) Buffer zones surrounding natural habitats and features. Oil and gas facilities shall protect natural habitats and features specified in Section 3.4.1 through buffer zones. Buffer zones set forth in the *Buffer Zone Table for Fort Collins Natural Habitats and Features* in Section 5.6.1(E) are measured from the shortest distance from the working pad surface to the top of bank, and are modified as follows:

(i) All features under the Stream Corridors category: 1,000 feet

(ii) Wetlands greater than 1/3 acre: 1,000 feet

(iii) Lakes or reservoirs: 1,000 feet

(iv) Naturalized storm drainage channels/detention ponds: 1,000 feet

(v) Naturalized irrigation ponds: 1,000 feet

(vi) Buffer zones for natural habitats and features not listed above will conform to the buffer distances specified in Section 5.6.1(E) or 1,000 feet, whichever is greater.

(b) **Prohibited Oil and Gas Facilities.** The following facilities are prohibited within the City:

(I) Injection wells for disposal of oil and gas exploration and production wastes;

(II) Gas storage wells;

(III) Disposal pits;

(IV) Commercial disposal facilities;

(V) Centralized exploration and production waste management facilities;

(VI) Subsurface disposal facilities; and

(VII) Glycol dehydrators and desiccant gas processing dehydrators.

(VIII) Onsite oil storage greater than thirty (30) feet in height.

(c) **Landscaping.** Land Use Code Section 5.10.1 applies in addition to the following requirements:

(I) The requirements of Section 5.10.1, Landscaping and Tree Protection, apply within designated setbacks as defined in Section 4.3.4(4)(A)(2) above to meet the Landscaping and Tree Protection general standard set forth in Land Use Code Section 5.10.1.

(II) No landscaping may be placed within a twenty-five (25) foot buffer around any tank or other structure containing flammable or combustible materials.

(d) **Environmental Protection.** Land Use Code Section 5.6.1, Natural Habitats and Features, applies in addition to the requirement for an Ecological Characterization Study if the development site contains or is within two thousand (2,000) feet of a natural habitat or feature.

(e) **Artificial Lift.** Artificial lift may not be accomplished through the use of traditional pump jacks and an alternative artificial lift system must be used that is both less visible and has fewer auditory impacts than a traditional pump jack. Alternatives such as gas lift, linear rod pumps, or hydraulic pumping unit must be used instead of traditional pumpjacks and are to be as low profile as practicable with a maximum height of thirty (30) feet.

(f) **Fencing Plan.** The requirements in this Subsection (f) apply to oil and gas facilities in substitution of the requirements set forth in Land Use Code Section 4.3.5(C), Fences and Walls. A fencing plan must be submitted as part of the application for a project development plan and such plan must demonstrate how the oil and gas facility will comply with the following requirements:

(I) All pumps, wellheads and production facilities must be fenced to prevent unauthorized access and fencing must:

(i) Completely surround such facilities;

(ii) Be no less than six (6) feet in height;

(iii) Be noncombustible and allow for adequate ventilation;

(iv) May not consist of solid masonry walls; and

(v) Must be visually compatible with surrounding land uses.

(II) Each fence enclosure must be equipped with at least one gate. Each gate must meet the following requirements:

(i) Gates shall be provided with a combination catch and locking attachment device for a padlock and shall be kept locked except when being used to access the oil and gas location; and

(ii) Gates must provide adequate access for emergency responders and the operator must provide Poudre Fire Authority with a "Knox Padlock" or "Knox Box with a key" to allow emergency access to the oil and gas location.

(5) Oil and Gas Pipelines

**Oil and Gas Pipelines.** To the maximum extent feasible, oil and gas pipelines must be utilized for the transport of oil, gas, and produced water within and from any oil and gas location except that temporary tanks may be utilized during drilling, flowback, workover, completion, hydraulic fracturing and maintenance operations. All oil and gas pipelines needed to transport oil, gas, and produced water within and from any oil and gas location must be constructed prior to the production phase of such oil and gas facility.

Oil and gas pipelines must meet the following requirements in order to be approved:

(a) Oil and gas pipelines shall be located underground except to the extent above ground connections to surface oil and gas facilities are necessary.

(b) Oil and gas pipelines shall be sited a minimum of fifty (50) feet away from residential and non-residential buildings. This distance shall be measured from the nearest edge of the oil and gas pipeline. Increased setbacks of up to one hundred and fifty (150) feet may be required for public safety on a case-by-case basis in consideration of the size, pressure, and type of oil and gas pipeline being proposed.

(c) Oil and gas pipelines that pass within one hundred and fifty (150) feet of residential or non-residential building or the high-water mark of any surface water body shall incorporate leak detection, secondary containment, or other mitigation, as appropriate.

(d) To the maximum extent feasible, oil and gas pipelines shall be aligned with established roads in order to minimize surface impacts and reduce natural habitat fragmentation and disturbance.

(e) To the maximum extent feasible, operators shall share existing oil and gas pipeline easements and consolidate new corridors for oil and gas pipeline easements to minimize surface impacts.

(f) The legal description of the location of all new oil and gas pipelines must be recorded on the respective property with the Larimer County Clerk and Recorder within thirty (30) days of completion of construction.

(g) Coordinates of all oil and gas pipelines shall be provided in a format suitable for input into the City's GIS system depicting the locations and type of above and below ground facilities.

(h) Operators shall use boring technology when crossing streams, rivers, irrigation ditches or wetlands with a pipeline to minimize negative impacts to the channel, bank, and riparian areas, except that open cuts may be used across irrigation ditches if the affected ditch company approves the technique.

(i) Special conditions of approval for all gathering lines and transmission lines:

(I) Operator must make available to the City upon request all records submitted to PHMSA or the PUC including those related to inspections, pressure testing, pipeline accidents and other safety events.

(II) Operator shall comply with Fort Collins right-of-way permit and easement processes for all gathering lines installed in Fort Collins owned property or rights-of-way.

(6) **Plugging and Abandonment of Wells and Pipelines and Decommissioning of Oil and Gas Facilities**

(a) The plugging and abandonment of a well, abandonment of an oil and gas pipeline, and the decommissioning of any oil and gas facility are subject to basic development review. City review and approval of an application to plug and abandon a well, abandon an oil and gas pipeline or decommission and oil and gas facility is intended to be in addition to any required ECMC review and approval. The following documents and information shall be provided as part of the basic development review application:

(I) Coordinates of the well proposed to be plugged and abandoned or pipeline to be abandoned.

(II) A removal plan for flowlines and wastewater pipelines associated with any well proposed to be plugged and abandoned to the extent such lines will not serve a well that has not been plugged and abandoned.

(III) A sampling and monitoring plan associated with any well proposed to be plugged and abandoned. Site investigation, sampling, and monitoring shall be conducted to demonstrate that the well has been properly abandoned and that soil, air and water quality have not been adversely impacted by oil and gas facilities or other sources of contamination. Such sampling and monitoring shall be conducted by a qualified environmental engineering or consulting firm with experience in oil and gas investigations. Director approval that the sampling and monitoring plan contains the information required pursuant to this Subsection (3) is required prior to sampling occurring and such plan shall include, but is not limited to, the following:

(i) Site survey, historical research, and/or physical locating techniques to determine exact location and extent of oil and gas facilities.

(ii) Documentation of plugging activities, abandonment and any subsequent inspections.

(iii) Soil sampling, including soil gas testing.

(iv) Groundwater sampling, if deemed necessary.

(v) Installation of permanent groundwater wells for future site investigations, if deemed necessary.

(vi) A minimum of five (5) years of annual soil gas and groundwater monitoring at the well location.

(vii) Upon completion of the site investigation and sampling, not including the ongoing monitoring, the consultant must provide a written report verifying that the soil and groundwater samples meet applicable Environmental Protection Agency and State residential regulations and that a reclaimed site would not pose a greater health or safety risk for future residents or users of the site. Otherwise, the decision maker may require that the following actions be completed by a qualified professional before development may occur, including but not limited to:

(A) Remediation of environmental contamination to background levels.

(B) Well repair or re-plugging of a previously abandoned well.

(IV) A final reclamation plan for the associated oil and gas location. The final reclamation plan must demonstrate how the following reclamation requirements will be satisfied:

(i) All oil and gas related improvements and equipment must be removed from the oil and gas location, including flowlines, gathering lines, and oil and gas pipelines of any kind unless such improvements or equipment are needed to serve a well that has not been plugged and abandoned.

(ii) Upon written request, the Director may approve in writing the abandonment in place of any oil and gas pipeline. The Director may approve abandonment in place only if removal would cause greater adverse impacts to public health, safety, welfare, or the environment than allowing the oil and gas pipeline to remain. If an oil and gas pipeline is abandoned in place, a tracer will be placed in any nonmetal line. Any oil and gas pipeline approved to be abandoned in place must comply with all ECMC rules and the location of the abandoned oil and gas pipeline must be recorded with the Larimer County Clerk and Recorder on the corresponding property.

(iii) The oil and gas location must be reclaimed and revegetated to the satisfaction of the City and in consultation with the landowner, the oil and gas location and all access roads associated with the oil and gas location proposed to be reclaimed within three (3) years after seeding, or as directed by the landowner in a surface use agreement.

(b) Prior to commencing plugging and abandonment of a well, the applicant must provide the City with evidence of ECMC approval of the request to plug and abandon.

(c) After plugging and abandonment is completed, the operator must:

(I) Provide the City with evidence of ECMC approval of the completed plugging and abandonment.

(II) Provide evidence that the location of the plugged and abandoned well has been recorded with the Larimer County Clerk and Recorder on the corresponding property.

(III) Permanently mark by a brass plaque set in concrete, similar to a permanent benchmark, to monument the plugged and abandoned well's existence and location. Such plaque shall contain the information required by the ECMC to properly identify the well.

(d) **Reclamation.** Within six (6) months after plugging and abandoning a well, abandoning an oil and gas pipeline, or decommissioning an oil and gas facility, reclamation of the associated oil and gas location must be completed pursuant to the approved final reclamation plan unless the Director grants additional time to complete reclamation in consideration of the complexity of the reclamation and conditions that may delay reclamation such as the season and weather. The operator must notify the City upon commencement of reclamation and upon completion.

## 4.3.5 ACCESSORY/MISCELLANEOUS USES

### (A) Accessory Buildings, Structures and Uses

(1) Accessory buildings, structures and uses (when the facts, circumstances and context of such uses reasonably so indicate) may include but are not limited to the following:

(a) Home Occupations;
(b) Horse and household pets;
(c) Signs;
(d) Off-street parking areas;
(e) Off-street loading areas;
(f) Fences;
(g) Private green houses;
(h) Private swimming pools, recreations facilities and clubhouses;
(i) Storage of merchandise in business, commercial and industrial districts;
(j) Cultivation, storage and sale of crops, vegetables, plants and flowers produced on the premises;
(k) Family-care homes;
(l) Solar energy systems
(m) Satellite dish antennas less than thirty-nine (39) inches in diameter;

(n) Hoop houses;
(o) Garage sales, wherein property which not originally purchased for the purpose of resale is sold, provided that such sales are limited to no more than five (5) weekend periods (as defined in Section 15-316 of the City Code) in one (1) calendar year;
(p) Community based shelters services.

(2) In the UE zone district accessory buildings 2,500 sq. ft. or greater shall be reviewed by the Planning and Zoning Commission.

(B) Composting

(1) Composting facilities shall be located at least six hundred sixty (660) feet from any land located in the RL, LMN, or MMN zone districts and/or any residential use (except a residential use occupied by the owner, operator or any employee of such composting facility) as such zone districts or residential uses exist at the time of the establishment of such composting facility.

(2) Composting facilities shall contain and treat on-site, all water run-off that comes into contact with the feedstocks or compost, in such manner that the run-off will not contaminate surface or ground water.

(3) Composting facilities shall not be located in any floodway.

(4) No composting facility shall commence operation until a nuisance condition control plan, specifying all measures to be taken to control nuisance conditions (such as odor, noise, scattered solid waste, dust or vectors) has been approved by the Director. The Director's approval shall be based on a finding that the nuisance condition control plan adequately and reasonably identifies potential nuisance conditions and that compliance with the plan will fully address, significantly mitigate, or substantially reduce any adverse conditions to a level reasonably calculated to protect the health and safety of the public.

(C) Fences and Walls

(1) Fences and walls are allowed in all zone districts as provided in this section.

(2) If used along collector or arterial streets, such features shall be made visually interesting and shall avoid creating a "tunnel" effect. Compliance with this standard may be accomplished by integrating architectural elements such as brick or stone columns, incorporating articulation or openings into the design, varying the alignment or setback of the fence, softening the appearance of fence lines with plantings, or similar techniques. In addition to the foregoing, and to the extent reasonably feasible, fences and sections of fences that exceed one hundred (100) feet in length shall vary the alignment or setback of at least one-third (⅓) of the length of the fence or fence section (as applicable) by a minimum of five (5) feet.

(3) **Materials:** Chain-link fencing with or without slats shall not be used as a fencing material for screening purposes. Except as permitted below, no barbed wire or other sharp-pointed fence and no electrically charged fence shall be installed or used in any zone districts.

(a) In the Urban Estate (UE), Rural Land (RUL) and Foothills Residential (RF) Districts, barbed wire and portable electrically charged fencing may be used for the purpose of livestock and pasture management. Electrically charged fencing must be used within permanent fencing. Electrically charged fencing that is located along any public right-of-way shall contain signage that identifies it as being electrically charged. Such signage shall occur every three hundred (300) feet and be a minimum of thirty-six (36) square inches in area. All electrically charged fencing shall be limited to low impedance

commercially available electric fence energizers using an interrupted flow of current at intervals of about one (1) second on and two (2) seconds off and shall be limited to two thousand six hundred (2,600) volts at a five-hundred-ohm load at seventeen (17) millamperes current. All electric fences and appliances, equipment and materials used shall be listed or labeled by a qualified testing agency and shall be installed in accordance with manufacturers' specifications and in compliance with the National Electrical Code, 1981 Edition NFPA 701981.

(b) In the Employment (E) District and the Industrial (I) District, the Director may grant a revocable use permit that must be renewed every three (3) years for installation of security arms and barbed wire strands atop protective fences or walls, provided that the following conditions are met: the lowest strand of barbed wire must be maintained at least ten (10) feet above the adjoining ground level outside the fence; exterior area security lighting controlled by an automatic light level switch must be installed and maintained in good operating condition; and such lighting must be directed into the site and not outward toward the perimeter.

(4) No more than four (4) feet high between the front building line and front property line;

(5) No more than four (4) feet high if located in the front yard, or within any required side yard setback area in the front yard, except if required for demonstrated unique security purposes;

(6) No more than six (6) feet high if located within any required rear yard setback area or within any side yard setback area in a rear yard;

(7) No more than forty-two (42) inches in height when located within the visual clearance triangle described in Section 5.16.1(K), and, if over thirty-two (32) inches in height within such triangle, fences shall be constructed of split rail with a minimum dimension of twelve (12) inches between horizontal members;

(8) No closer than two (2) feet to a public sidewalk;

(9) No closer than three (3) feet to a lot line along an alley where an alley-accessed garage door is set back at least twenty (20) feet from the lot line, and no closer than eight (8) feet to a lot line along an alley where an alley-accessed garage door is set back less than twenty (20) feet from the lot line, except that alley fences on lots in the RL and OT districts may be located closer to the lot line along an alley when the City Engineer approves such a location.

(D) Urban Agriculture

(1) The following standards apply to all urban agriculture land uses, except those urban agriculture land uses that are approved as a part of a site-specific development plan.

(2) The intent of these urban agriculture regulations is to allow for a range of urban agricultural activities at a level and intensity that is compatible with the City's neighborhoods.

(3) Standards

(a) *License required.* Urban agriculture land uses shall be permitted only after the owner or applicant for the proposed use has obtained an urban agriculture license from the City. The fee for such a license shall be the fee established in the Development Review Fee Schedule. If active operations have not been carried on for a period of twenty-four (24) consecutive months, the license shall be deemed to have been abandoned regardless of intent to resume active operations. The Director may revoke any urban

agriculture license issued by the City if the holder of such license is in violation of any of the provisions contained in subsection(b) below, provided that the holder of the license shall be entitled to the administrative review of any such revocation under the provisions contained in Article 6.

(b) General Standards. Urban agriculture shall be allowed as a permitted use, provided that all of the following conditions are met:

(I) Mechanized Equipment. All mechanized equipment used in the urban agriculture land use must be in compliance with Chapter 20, Article II of the City Code regarding noise levels.

(II) Parking. Urban agriculture land uses shall provide additional off-street vehicular and bicycle parking areas adequate to accommodate parking demands created by the use.

(III) Chemicals and Fertilizers. Synthetic pesticides or herbicides may be applied only in accordance with state and federal regulations. All chemicals shall be stored in an enclosed, locked structure when the site is unattended. No synthetic pesticides or herbicides may be applied within a Natural Habitat Buffer Zone.

(IV) Trash/Compost. Trash and compost receptacles shall be screened from adjacent properties by utilizing landscaping, fencing or storage within structures and all trash shall be removed from the site weekly. Compost piles and containers shall be set back at least ten (10) feet from any property line when urban agriculture abuts a residential land use.

(V) Maintenance. All urban agriculture land uses shall be maintained in an orderly manner, including necessary watering, pruning, pest control and removal of dead or diseased plant materials, and shall be maintained in compliance with the provisions of Chapter 20 of the City Code.

(VI) Water Conservation and Conveyance. To the extent reasonably feasible, the use of sprinkler irrigation between the hours of 10:00 a.m. and 6:00 p.m. shall be minimized. Drip irrigation or watering by hand may be done at any time. The site must be designed and maintained so that any water runoff is conveyed off-site into a City right-of-way or drainage system without adversely affecting downstream property.

(VII) Identification/Contact Information. A clearly visible sign shall be posted near the public right-of-way adjacent to all urban agriculture land uses, which sign shall contain the name and contact information of the manager or coordinator of the agricultural land use. If a synthetic pesticide or herbicide is used in connection with such use, the sign shall also include the name of the chemical and the frequency of application. The contact information for the manager or coordinator shall be kept on file with the City. All urban agriculture signs must comport with Article 5 of this Code.

(VIII) If produce from an urban agriculture land use is proposed to be distributed within the City, the applicant must provide a list of proposed Food Membership Distribution Sites in the application.

(IX) Floodplains. If urban agriculture is proposed within a floodplain, then a Floodplain Use Permit is required in accordance with Chapter 14 of the City Code.

(X) Hoop Houses. If an urban agriculture land use contains a hoop house, then the hoop house shall be set back a minimum of five (5) feet from any property line and shall also be located in such a

manner that the hoop house does not generate potential adverse impacts on adjacent uses, such as shading or glare.

(XI) Additional Impact Mitigation. The Director may impose measures, such as landscaping, fencing or setbacks, deemed by the Director to reasonably mitigate potential visual, noise or odor impacts on adjoining property. The Director's imposition of measures shall be found reasonable where the Director determines that any noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line of the parcel where the urban agriculture land use is conducted will likely be reduced to a level that will not adversely impact public health and safety. Where an urban agriculture land use abuts a residential use, there shall be a minimum setback of five (5) feet between the operation and the property line.

(XII) Notice. At the time of an initial application for an urban agriculture land use within a residential zone (OT, UE, RF, RL, LMN, MMN, HMN, MH, RC and POL) or if the urban agriculture land use exceeds one-half (0.5) acre in size, the Director shall determine whether the proposed urban agriculture land use presents a significant impact on the affected neighborhood, and, if so, the Director shall schedule a neighborhood meeting and provide mailed and posted notice for such meeting. Such notice and neighborhood meeting shall be conducted in accordance with Article 6 of this Code.

(E) Off-Site Construction Staging

(1) Applicability. Use of any parcel for off-site construction staging shall be permitted only in accordance with the provisions of an off-site construction staging license issued pursuant to this Section 4.3.5(E).

(2) Purpose. The purpose of requiring an off-site construction staging licensed under this Section 4.3.5(E) is to address the compatibility of off-site construction staging with the zone districts in which they are located, mitigate the impact off-site construction staging on adjacent parcels, the neighborhoods and environment, and ensure the health and safety of off-site construction staging.

(3) Location. Subject to issuance of and compliance with an off-site construction staging license under subsection (4) below, off-site construction staging shall be permitted in specified zone districts as listed in Division 4.2, Table of Primary Uses.

(4) Off-site construction staging license.

(a) An application for an off-site construction staging license shall be accompanied by a site and grading plan that shows the following for the site on which the off-site construction staging is to occur:

(I) Existing grade contours of the site and of adjoining properties;
(II) Locations of different activities to be located on the site;
(III) List of materials and equipment to be stored on the site, including the means and methods to safely store any hazardous material or dangerous equipment;
(IV) Any proposed grading necessary to stabilize the site;
(V) Proposed erosion control measures and storm drainage control measures to prevent wind and water erosion, drainage impacts and tracking mud onto streets;
(VI) Flood ways and flood plains;
(VII) Natural habitat and features;
(VIII) Fences;

(IX) Restrooms;
(X) Existing trees;
(XI) Existing easements and rights-of-way;
(XII) Existing underground utilities;
(XIII) Other information necessary to describe the site;
(XIV) Traffic control plan reflecting means of ingress and egress to be used;
(XV) Mitigation plan to address any adverse impacts to the site, or adjacent parcels, caused by the off-site construction staging during and after the staging; and
(XVI) Restoration and final site condition plan.

(b) An off-site construction staging license shall be issued, with or without conditions, if the Director finds that the off-site construction staging:

(I) is not detrimental to the public good; and

(II) will not cause substantial adverse impacts to the parcel on which it is located or adjacent parcels or the environment, with or without mitigation; and

(III) is located within a quarter (.25) of a mile of the construction or development site to be served by the off-site construction staging.

(c) An off-site construction staging license issued hereunder shall expire eighteen (18) months after the date of issuance unless an extension is granted.

(I) A six (6) month extension may be granted by the Director upon a finding that the conditions specified in Section 4.3.5(E)(4)(b), including any conditions to mitigate adverse impacts, have been and continue to be satisfied.

(II) The Director may further extend the license up to an additional twelve (12) months beyond the first six (6) month extension, for a maximum total of not more than thirty-six (36) months, if a neighborhood meeting for which the neighborhood is notified in compliance with Section 6.3.6(D) is conducted and the Director determines: the extension is not detrimental to the public good; and that the license conditions specified in Section 4.3.5(E)(4)(b), including any conditions to mitigate adverse impacts, have been and continue to be satisfied.

(d) After expiration of an off-site construction staging license, at least four (4) consecutive months shall lapse before a new license is issued for the same parcel.

(e) The Director may modify or revoke any off-site construction staging license issued by the City for any of the following:

(I) After issuance of the license, the site or activities thereon are found to be out of compliance with the approved application or license, including any conditions to mitigate adverse impacts; or

(II) An adverse impact not previously anticipated at the time the license or license extension was issued is identified and such adverse impact cannot be adequately mitigated and/or is detrimental to the public good.

(f) The Director shall inform the license holder in writing of the decision to modify or revoke the license and the reasons for same.

(l) The license holder may appeal any decision denying, modifying or revoking an off-site construction staging license to the Land Use Review Commission pursuant to Article 6 .

(5) Restoration of Site. Within fifteen (15) days after expiration of the license, the license holder must have completed restoration of the site consistent with the approved restoration or final site condition plan included in the application.

(F) **Outdoor Vendor**

(1) Outdoor vendors shall be prohibited on undeveloped lots.

(2) Outdoor vendors shall be considered as accessory uses in the zone districts in which they are permitted, provided they are on lots that contain a principal building wherein active operations are being conducted. Outdoor vendors that qualify as accessory uses shall not be subject to change-of-use regulations which would otherwise require the properties on which they are located to be brought into compliance with the standards of this Code.

(3) Outdoor vendors located on lots wherein active operations in the principal building have ceased shall be considered principal uses and shall be subject to change-of-use regulations requiring that the properties upon which they are located be brought into compliance with the applicable standards of this Code.

(4) Signage for outdoor vendors shall be limited to signs placed directly onto the vehicle or cart used in connection with the business.

(5) Outdoor vendors shall comply with all outdoor vendor regulations and standards contained in Chapter 15 of the City Code.

(6) An outdoor vendor shall be situated on a lot in such a manner that no aspect of its operation shall impede vehicular, pedestrian or bicycle circulation.

(7) The owner of a private parcel or lot, or owner of the principal business thereon, upon which an outdoor vendor, or outdoor vendors, vend from mobile food trucks, pushcarts, or any other vehicles, as such terms are defined in Section 15-381 of the City Code, shall not allow such outdoor vendor, or outdoor vendors, to operate on such private parcel or lot for more than three (3) consecutive calendar days, or for more than three (3) total calendar days within any calendar week, defined for purposes of this Section as Sunday through Saturday, unless stationary vending is an approved use thereon.

(8) The owner of a private parcel or lot upon which stationary vending will occur shall comply with the following additional requirements:

(a) Obtain an approved minor amendment to allow stationary vending on the private parcel or lot as an accessory use.

(I) A property owner may apply for a minor amendment to allow stationary vending only for private parcels or lots within non-neighborhood zone districts. Non-neighborhood zone districts solely for purposes of eligible stationary vendor locations shall be defined as: D, CC, CCN, CCR, CG, NC, CL, HC, E, and I.

(II) Stationary vending shall not be permitted on parcels or lots within any neighborhood zone district. Neighborhood zone districts solely for purposes of non-eligible stationary vendor locations shall be defined as: RUL, UE, RF, RL, LMN, MMN, OT-A, OT-B, OT-C, HMN.

(III) Stationary vending shall not be allowed to occur for more than twelve (12) hours per calendar day on the private parcel or lot for which a minor amendment has been granted to allow such use; and

(IV) After the completion of each period of vending operations, a stationary vendor shall not be allowed to leave outdoors overnight (3:00 a.m. to 7:00 a.m.) on any private parcel or lot where stationary vending is allowed any food truck, push cart, or vehicle, as such terms are defined in Section 15-381 of the City Code, from which the vendor vends.

### (G) Solar Energy Systems

The following standards shall apply to all solar energy systems.

(6) Purpose. The purposes of these solar energy system supplementary regulations are to promote reduced dependence on nonrenewable energy sources, to design solar energy systems in a manner that minimizes impacts on adjacent properties and to promote systems that are visually compatible with the character of the areas in which they are located and that are not detrimental to public health, safety and welfare.

(7) General Design Standards:

(a) To the maximum extent feasible, ancillary solar equipment shall be located inside the building or screened from public view.

(b) The applicant shall demonstrate that the height, location, setback or base elevation of a solar energy system minimizes potential glare and visual impacts of the system on adjacent properties.

(c) Support structures for ground-mounted solar facilities shall, to the extent reasonably feasible, use materials, colors and textures that complement the site context.

(d) All solar energy system appurtenances, including, but not limited to, plumbing, water tanks and support equipment, shall be of a color that is complementary to the site location, and shall be screened to the extent reasonably feasible without compromising the effectiveness of the solar collectors. Solar panels/collectors are exempt from the screening requirements of this Code.

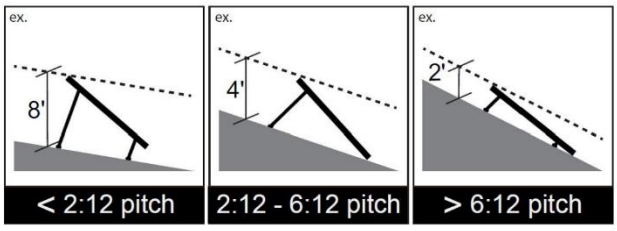
(e) Building-mounted solar energy systems are exempt from the height requirements of this Code, except that they must comply with the height limitations of this Section 4.3.5(G), including the following:

Solar Energy Table

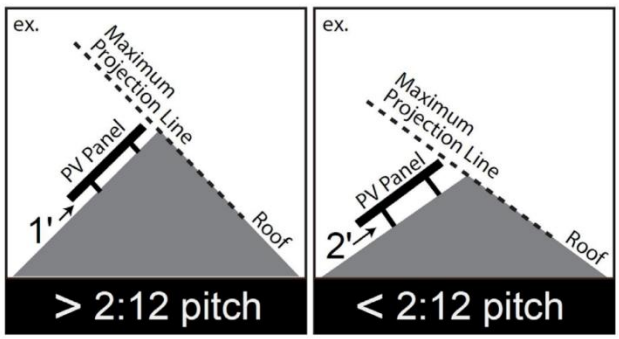
| | |
|---|---|
| ***Nonresidential and residential buildings (excluding single-dwelling unit or duplex dwellings)*** | |
| < 2:12 pitch | 8 feet, as measured on a vertical axis to the roof below, to which it is installed (see Figure 16.3 below) |
| 2:12 to 6:12 pitch | 4 feet, as measured on a vertical axis to the roofline below, to which it is installed. |
| > 6:12 pitch | 2 feet, as measured on a vertical axis to the roofline below, to which it is installed. |
| ***Single dwelling unit and duplex dwellings (principal and accessory buildings)*** | |
| No taller than 1 foot, as measured on a vertical axis to the roof below, to which it is installed, unless roof pitch is 2:12 or less, in such case 2 feet is permitted. No portion of a solar energy system shall project above the maximum projection line depicted within Figures 16.3 and 16.4 below. | |
| ***All buildings*** | |
| Building-mounted solar energy systems shall not extend horizontally beyond any roof overhang. | |
| ***Building-mounted solar energy systems*** | |
| Solar panels installed on the sides of buildings as awnings or attached to buildings as shade elements are permitted so long as the provisions of this and other applicable requirements are met. | |

Maximum Height for Roof-mounted Systems

(Principal Building [Excluding Single-Unit and Two-Unit Dwellings]



Maximum Height for Roof-Mounted Systems (Single Unit and Two-Unit Dwellings)




(3) Standards for Small, Medium and Large-scale Solar Energy Systems. Solar energy systems shall conform to the applicable size-based regulations as set out in this subsection:

(a) Small-Scale Solar Energy Systems.

(I) Covering less than one-half (0.5) acre.

(II) Maximum Height. All ground-mounted small-scale solar energy systems shall comply with the accessory building height limits within the zone district, except for light poles with integrated solar panels, which are subject to the standards of Article 5.

(III) Setbacks. Ground-mounted, small-scale solar energy systems shall not be located within the front, side or rear building setbacks, or the front yard area. If necessary for the system's effectiveness, ground-mounted solar energy collectors may be located within the minimum setbacks for the zone district, provided that the solar energy collector is located no less than fifteen (15) feet from rights-of-way and five (5) feet from all other property lines.

(IV) Parking. No minimum parking requirements shall apply. Parking spaces located beneath covered parking solar energy systems are exempt from maximum parking limits.

(b) Medium-Scale Solar Energy Systems.

(I) Covering between one-half (0.5) acre and five (5) acres.

(II) Maximum Height. All ground-mounted medium-scale solar energy systems shall comply with the accessory building height limits within the zone district, except for light poles with integrated solar panels, which are subject to the standards of this Code.

(III) Setbacks. Ground-mounted, medium-scale solar energy systems shall not be located within the front, side or rear building setbacks, or the front yard area.

(IV) Fencing/Access. Ground-mounted medium-scale solar energy systems shall be enclosed with a perimeter fence with a minimum height of five (5) feet and a maximum height of seven (7) feet. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. Warning signage shall be placed at the entrance and perimeter of the facility.

(V) Visual Appearance. Buildings and accessory structures shall, to the extent reasonably feasible, use materials, colors and textures that blend the facility into the existing environment.

(VI) Landscaping. Landscaping and/or screening materials shall be provided to assist in screening the facility from public rights-of-way and neighboring residences.

(VII) Lighting. Lighting shall be limited to the minimum necessary for security and shall incorporate shielded full cut-off light fixtures.

(VIII) Electrical Interconnections. All electrical interconnection and distribution lines within the project boundary shall be underground, except for power lines that extend beyond the project site or are within a substation.

(c) Large-Scale Solar Energy Systems.

(I) Covering more than five (5) acres.

(II) Maximum Height. All ground-mounted large-scale solar energy systems shall comply with the accessory building height limits within the zone district, except for light poles integrating solar panels, which are subject to the standards of Article 5.

(III) Setbacks. Large-scale solar energy systems shall be set back from all property lines a minimum of thirty (30) feet, and shall be located at least one hundred (100) feet from all residentially zoned land. Additional setbacks may be required to mitigate visual and functional impacts.

(IV) Fencing/Access. Ground-mounted large-scale solar energy systems shall be enclosed with a perimeter fence with a minimum height of five (5) feet and a maximum height of seven (7) feet. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. Warning signage shall be placed at the entrance and perimeter of the facility.

(V) Visual Appearance. Buildings and accessory structures shall, to the extent reasonably feasible, use materials, colors and textures that blend the facility into the existing environment.

(VI) Landscaping. Landscaping and/or screening materials shall be provided to assist in screening the facility from public rights-of-way and neighboring residences.

(VII) Lighting. Lighting shall be limited to the minimum extent necessary for security and shall incorporate shielded full cut-off light fixtures.

(VIII) Electrical Interconnections. All electrical interconnection and distribution lines within the project boundary shall be underground, except for power lines that extend beyond the project site or are within a substation.

(4) Maintenance. Any solar energy system that has not been in working condition for a period of one (1) year shall be subject to Section 115 (Unsafe Structures and Equipment) of the International Building Code, which may require the panels and associated equipment to be removed, or the unsafe condition otherwise mitigated if it is determined to be unsafe. If so determined by the Building Official, the panels and associated

equipment shall be promptly removed from the property to a place of safe and legal disposal, after which the site and/or building, as applicable, must be returned to its preexisting condition.

(5) Use Restrictions in Established Residential Areas. Notwithstanding the use review criteria contained set out in Article 4, if either a small-scale solar energy system or a medium-scale solar energy system is located on an existing platted lot and within an established residential neighborhood, then such system must be processed as a permitted use subject to review by the Planning and Zoning Commission.

(6) Allocation of Energy. Energy derived from solar collectors may be allocated to the lot where the system is located or may be distributed to other locations.

(H) Wireless Communication

(1) 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:

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

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(2) 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, however, be permitted to be attached to or mounted on any residential building containing four (4) or fewer dwelling units.

(3) 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.

(4) Standards.

(a) *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 telecommunication 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 (¼) mile).

(b) *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.

(c) *WCFs in Residential Zone Districts.* Non-collocated WCFs permitted in the following zone districts: UE, RL, LMN, MMN, and HMN, as specified in Article 4 - Use Standards must be located on a non-residential parcel and installation must be mitigated by use of concealment design techniques and compatibility standards.

(d) *Collocated or attached WCFs .*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.

(e) *Landscaping.* WCFs and related transmission equipment may need to be landscaped with landscaping materials that exceed the levels established in Division 5.10, 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.

(f) *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.

(g) *Berming.* Berms shall be considered as an acceptable screening device. Berms shall feature slopes that allow mowing, irrigation and maintenance.

(h) *Irrigation*. Landscaping and berming shall be equipped with automatic irrigation systems meeting the water conservation standards of the City.

(i) *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.

(j) *Lighting.* The light source for security lighting shall comply with the requirements of Division 5.12. Light fixtures, whether freestanding or tower-mounted, shall not exceed twenty-two (22) feet in height.

(k) *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.

(l) *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.

(m) *Access Roadways.* Access roads must be capable of supporting all of the emergency response equipment of the Poudre Fire Authority.

(n) *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.

(o) *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.

(p) *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.

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

(r) *Compatibility Required.*

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

(i) New or existing WCFs do not adversely impact the visual character* of the community within the area of adjacency; and

(ii) The design of WCFs are compatible and contextually appropriate with the built or natural environment surrounding a proposed wireless communication site.

(II) 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.

(III) 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.

(IV) 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 |
|---|---|
| *Height and Mass of WCFs* | 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.<br><br>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.<br><br>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. |
| *Materials for WCFs* | Create visual and contextual connection between WCFs colors and materials with those found in the surrounding area.<br><br>New or modified WCFs shall utilize, to the extent feasible, the following elements found within the area of adjacency to inform their concealment techniques:<br><br>a) Architectural style<br>b) Building materiality<br>c) Color<br>d) Tree species<br>e) Structures that are related to the primary use of the site |
| *Technology for Facilities* | 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.<br><br>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. |

(5) 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.

(6) **Review Procedures and Requirements.**

(a) 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 this Code.

(b) Application Requirements. All applications for WCFs shall include:

(I) Application form as provided by the Director.

(II) 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.

(III) 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.

(IV) 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.

(V) Submittal fees.

(VI) 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.

(VII) Narrative detailing the rationale for the proposed location.

(VIII) 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.

(c) 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.

(I) 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.

(II) 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.

(d) 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 (2)-(4) above.

(7) **Timeframes for Review.**

(a) Application types. All WCFs shall be reviewed according to the following timeframes (the review of Eligible Facility Requests is addressed in (8)(c) below):

(I) Review of a completed application to collocate a facility other than a small cell facility on an existing tower or base station: 90 days.

(II) Review of an application to deploy a WCF other than a small cell facility on a new structure: 150 days.

(III) 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.

(b) 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.

(I) 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;

(II) 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

(III) 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 (I) and (II) 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.

(c) Specific Review Procedures for Eligible Facility Requests.

(I) 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:

(i) result in a Substantial Change to the physical dimensions of the site; and

(ii) 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.

(II) 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.

(III) Tolling the timeframe for EFR review.

(i) 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.

(ii) 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.

(IV) 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.

# ARTICLE 5

# General Development and Site Design

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# ARTICLE 5
# General Development and Site Design

## DIVISION 5.1 APPLICABILITY

### 5.1.1 APPLICABILITY

**Applicability.** Article 5, general development and site design standards apply throughout the City and are not unique to a specific zone district, unless excluded as stated in a specific standard such as Chapter 14 of the Code of the City of Fort Collins regarding Landmarks.

## DIVISION 5.2 AFFORDABLE HOUSING

### 5.2.1 AFFORDABLE HOUSING

(A) **Purpose.** To support the City's adopted housing goals as outlined in the Housing Strategic Plan and to achieve 10% deed-restricted, affordable housing stock by 2040, this Division outlines applicability of affordable housing incentives and requirements for compliance. This Division seeks to:

(1) Encourage the development of deed-restricted, affordable housing for low- and moderate-income households.

(2) Provide options for use of affordable housing incentives in order to allow for increased flexibility for various development types and contexts.

(B) **Applicability.** This Section shall apply to the following development projects:

(1) Projects that meet the definition of Affordable Housing Development as outlined in Article 7; and

(2) Projects that propose to use bonus option standards for maximum density, maximum height, and/or minimum parking.

(3) Section 5.2 does not apply to group homes, dormitories, medical facilities, hotels, motels, shelters, tents, short-term rentals or other structures designed or used primarily for temporary occupancy and/or group living.

(C) **Affordability Standards.** Rental and For-sale projects shall provide one of the following minimum unit options:

(1) Rental Units:

(a) 10% units at 60% AMI; or

(b) 20% units at 80% AMI

(2) For-Sale:

(a) 10% units at 80% AMI; or

(b) 20% units at 100% AMI

(D) **Compliance.** To achieve compliance, all Affordable Housing built under the standards of this Code shall provide the following:

(1) Certification Letter. The applicant shall submit a notarized affidavit to the Director that provides how the development meets the affordability standards above and administrative requirements. Upon review and acceptance of the affidavit in consultation with the Director of the Social Sustainability Department, the Director will provide a letter certifying that the development meets the standards stated above and any administrative requirements (Certification Letter). This letter is required to be submitted as part of the building permit application before a building permit can be issued for the development but is not required to as a part of a land use review.

(2) Qualified Preservation Partner (QPP). If applicable, the Certification Letter shall identify the Qualified Preservation Partner.

(3) Covenant/Deed Restriction. The units will be required by binding legal instrument acceptable to the City, providing rights of enforcement to the City, and duly recorded with the Larimer County Clerk and Recorder, to be occupied by and affordable to low-income households for at least sixty (60) years. This covenant shall be recorded prior to issuance of a building permit for the development. There will be language placed in real estate sales documents, acceptable to the City, clearly noticing the deed restriction as part of the sale, and containing a continued requirement of notice in all future sales.

(E) **Timing of Development**. The construction of the affordable dwelling units or spaces shall occur before the construction of the market rate units, or at no case less than on a proportional basis, according to the same ratio as the number of affordable units bears to the number of the market rate units.

(F) **Annual Reporting**. The applicant or Qualified Preservation Partner shall provide annual documentation to the Director, who shall provide a copy to the Director of the Social Sustainability Department, relating to the affordable dwelling units in the development. This documentation must commence no later than thirty (30) days following issuance of a Certificate of Occupancy (CO) for the affordable dwelling units and will include, at minimum, the following:

(1) Occupancy and demographic report;

(2) Rent report (annually at minimum and at any time the applicant/owner proposes to increase rents);

(3) Reporting required for compliance as part of a City funding award for affordable units shall satisfy the requirements of this subsection; and

(4) Any further documentation/verification the City may deem necessary to verify the validity of the affordable housing reporting, including, but not limited to, seeking direct verification from tenants/owners of affordable units.

(G) **Monitoring and Enforcement.**

(1) Monitoring. The Director in consultation with the Director of Social Sustainability Department shall periodically monitor and verify the commitments made by the applicant or Qualified Preservation Partner in the Declaration of Covenants, Conditions and Restrictions. Upon reasonable notice to the applicant or Qualified Preservation Partner, the applicant or Qualified Preservation Partner shall provide information to the City sufficient to verify the following:

(a) Compliance with all Affordable Housing Requirements as set forth in this Division.

(b) The affordable dwelling units are occupied by households earning income as required in the Declaration of Covenants, Conditions and Restrictions.

(c) The eligibility of each prospective household is verified by the owner prior to occupancy of any affordable unit and proof provided to the City upon request. Applicants or Qualified Preservation Partners submit documentation for certification to the City for a determination of tenant eligibility, prior to tenant occupancy. No affordable unit is rented, sold, or occupied by any person unless and until the City determines that the prospective tenant or occupant satisfies the eligibility requirements.

(2) Staff shall be entitled to arrange periodic site visits to ensure habitability of affordable units; owner will secure authority to enter the unit and will cooperate with Staff.

(3) Monitoring required for compliance as part of a City funding award for affordable units shall satisfy the requirements of this subsection (G).

(H) **Enforcement.** Upon a finding by the City that an Affordable Housing project built under the standards of this Code does not comply with the requirements of Section 5.2, the City make take one or more enforcement actions;

(1) imposition of penalties including those found in City Code Section 1-15 civil infractions and any additional penalties as set forth in an agreement between the owner/developer and the City; or

(2) imposition of another appropriate action to enforce these requirements or accomplish their intended result.

# DIVISION 5.3 RESIDENTIAL DEVELOPMENT

## 5.3.1 RESIDENTIAL DEVELOPMENTS

(A) **Purpose.** To promote variety of architecture and housing choices that create cohesion within a development project and relates to the surrounding context.

(B) **Applicability**. Division 5.3 applies to all residential development projects that approve one or more buildings on one or more parcels unless otherwise excluded in a specific standard.

## 5.3.2 MULTI-BUILDING AND MIX OF HOUSING

(A) **Purpose.** To promote:

- a variety of architecture;
- housing choices;
- cohesion within a development project;
- visual interest;
- relationship to the surrounding context, visual interest; and
- pedestrian-oriented streets in residential development.

(B) **Applicability.** Applies to all development projects with more than one building on one or more parcels unless otherwise excluded in a specific standard

(C) **Mix of Housing Types.** A mix of permitted building types shall be included in any individual development plan that includes residential uses, to the extent reasonably feasible, depending on the size of the parcel. To promote such variety, the following minimum standards shall be met:

(1) A minimum number of building types is required on any project development plan as shown in the following table:

| Minimum number of Building Types in a development project | |
|---|---|
| Acre Size | Number of Building Types |
| 15>20 | 2 |
| 20>30 | 3 |
| 30+ | 4 |

(a) in the HC district only, if Detached House dwelling units are proposed, at least an equivalent number of Row House, Duplex or Apartment Building dwelling units (or combination thereof) must also be provided.

(2) Housing types, block dimensions, garage placement, lot sizes and lot dimensions shall be significantly and substantially varied to avoid repetitive rows of housing and monotonous streetscapes. For example, providing distinct single-unit detached dwellings or two-unit dwellings on larger lots and on corners and providing small lot single-unit dwellings on smaller lots abutting common open spaces fronting on streets are methods that accomplish this requirement.

(3) The following list of building types shall be used to satisfy the minimum number of building type requirement, provided that no building type comprises less than 5% or more than 80% of development:

(a) Detached House with rear loaded garages.

(b) Detached House with front or side loaded garages.

(c) Small lot with Detached House (lots containing less than four thousand [4,000] square feet or with lot frontages of forty [40] feet or less) if there is a difference of at least two thousand (2,000) square feet between the average lot size for small lot single-unit and the average lot size for single-unit detached dwellings with front or side loaded garages.

(d) Duplex.

(e) Rowhouse.

(f) Duplex, attached, the placement of which shall be limited to no more than two (2) dwellings per two (2) consecutive individual lots.

(g) Mixed-Use building.

(h) Apartment Building containing up to four (4) units per building;

(i) Apartment Building containing at least five (5) up to seven (7) units per building.

(j) Apartment Building containing at least eight (8) up to twelve (12) units per building.

(k) Apartment Building containing more than 12 units per building

(l) Manufactured Housing.

(4) For any development containing repeated building types (excluding clubhouses/leasing offices) there shall be a minimum number of distinct designs as shown in the table below:

| Minimum number of distinct designs for repeating Building Types in a development project | |
|---|---|
| Repeating Building Types | Distinct designs |
| 5 to 7 | 2 |
| 8+ | 3 |

(a) For all developments, there shall be no more than two (2) similar buildings placed next to each other along a street or major walkway spine.

(b) Distinctly different building designs shall provide significant variation in:

| Distinct Building Requirements | |
|---|---|
| **Varies in either:** | |
| Footprint size; or | 30% difference in square footage from another building. |
| Shape | Square |
| | Rectangle, 40ft difference from the longest side compared to the longest side of another building. |
| | Other Polygons, 40ft difference from the longest side compared to the longest side of another building. |
| **And includes variations in at least three of the following building elements:** | |
| **Element** | **Components of the element** |
| Exterior finish materials | Brick, Wood, Stone, Metal, or Other Material |
| Window Combinations/Placement | Size and/or Pattern |
| Entrance feature | • Recessed or Covered • Portal Size •Location on building elevation • Lighting |
| Roof forms | Flat, Pitch, or Overhang greater than 4ft |
| Patio/balcony size | 30% Difference in Square Footage |
| Upper story step-back (above 2nd story) | 10ft min. Step-Back on all Sides |
| Building Height | 12ft min Difference in Height |
| Vertical building module | 3 min. |

(5) For development that contains Detached House and Duplex building types found in Article 3, there shall be model variety and variation among buildings as indicated in the following table:

| Minimum number of Detached house and Duplex models | |
|---|---|
| Number of dwelling units | Distinct models |
| 11 to 99 | 3 |
| 100+ | 4 |

(a) The applicant shall include, in the application for approval of the project development plan, documentation showing how the development will comply with the model variation.

(b) Each housing model shall have at least three (3) characteristics which clearly and obviously distinguish it from the other housing models, which characteristics may include, without limitation, differences in floor plans, exterior materials, roof lines, garage placement, placement of the footprint on the lot and/or building face.

(c) An applicant for a Building Permit for these building types shall affirm and certify in the application that the dwelling which is the subject of the Building Permit does not adjoin a lot with the same housing model, if on the same block face.

(6) Development that contains Row House building type containing more than two (2) dwelling units shall comply with the following requirements:

(a) For any development containing at least three (3) and not more than five (5) buildings (excluding clubhouses/leasing offices), there shall be at least two (2) distinctly different building designs. For any such development containing more than five (5) buildings (excluding clubhouses/leasing offices), there shall be at least three (3) distinctly different building designs. For all developments, there shall be no similar buildings placed next to each other along a street or street-like private drive. Building designs shall be considered similar unless they vary significantly in footprint size and shape.

(b) Building designs shall be further distinguished by including unique architectural elevations and unique entrance features, within a coordinated overall theme of roof forms, massing proportions and other characteristics. Such variation among buildings shall not consist solely of different combinations of the same building features.

(D) **Relationship of Dwellings to Streets and Parking**. Development projects containing residential buildings shall place a high priority on building entryways and their relationship to the street. Pedestrian usability shall be prioritized over vehicular usability. Buildings shall include human-scaled elements, architectural articulation, and in projects containing more than one (1) building, design variation.

(1) **Orientation to a Connecting Walkway**. Every front facade with a primary entrance to a dwelling unit shall face the adjacent street to the extent reasonably feasible. Every front facade with a primary entrance to a dwelling unit shall face a connecting walkway with no primary entrance more than two hundred (200) feet from a street sidewalk and the address shall be posted to be visible from the intersection of the connecting walkway and public right of way. The following exceptions to this standard are permitted:

(a) Up to one (1) dwelling on an individual lot that has frontage on either a public or private street.

(b) A primary entrance may be up to three hundred fifty (350) feet from a street sidewalk if the primary entrance faces and opens directly onto a connecting walkway that qualifies as a major walkway spine.

(c) If an Apartment Building or Mixed-Use building has more than one (1) front facade, and if one (1) of the front facades faces and opens directly onto a street sidewalk, the primary entrances located on the other front facade(s) need not face a street sidewalk or connecting walkway.

- Street-Facing Facades. Every building containing four (4) or more dwelling units shall have at least one (1) building entry or doorway facing all adjacent streets that are smaller than a full arterial or has on-street parking.

- At least one (1) door providing direct access for emergency responders from the outside into each individual Rowhouse Building must be located within one hundred fifty (150) feet from the closest emergency access easement or designated fire lane as measured along paved walkways. Neither an exterior nor an interior garage door shall satisfy this requirement.

(E) ***Block Requirements***. All development shall comply with the applicable standards set forth below, unless the decision maker determines that compliance with a specific element of the standard is infeasible due to unusual topographic features, existing development, safety factors or a natural area or feature:

(1) *Block Structure.* Each multi-unit project shall be developed as a series of complete blocks bounded by streets (public or private). (See Block Examples at 5(a)-(f) below). Natural areas, irrigation ditches, high-voltage power lines, operating railroad tracks and other similar substantial physical features may form up to two (2) sides of a block.

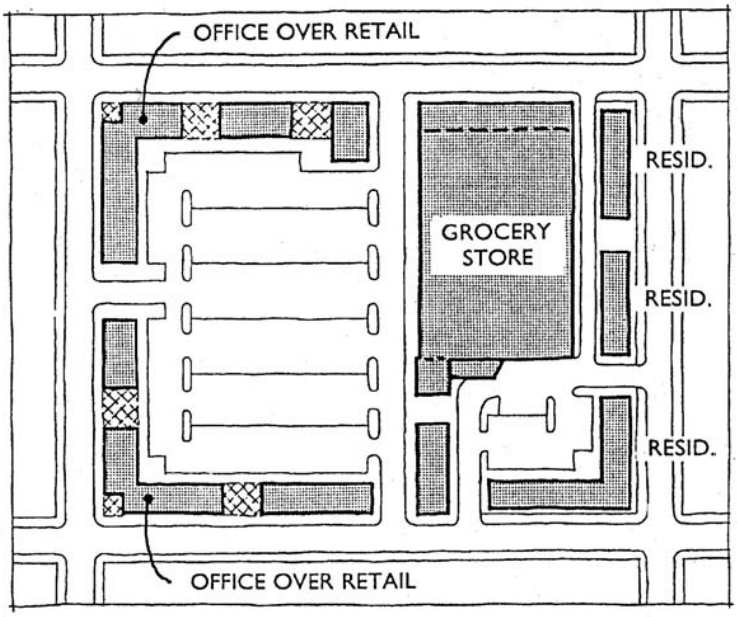
(2) *Block Size.* All blocks shall be limited to a maximum size of seven (7) acres.

(3) *Mid-block Pedestrian Connections.* If any block face is over seven hundred (700) feet long, then walkways connecting to other streets shall be provided at approximately mid-block or at intervals of at least every six hundred fifty (650) feet, whichever is less.

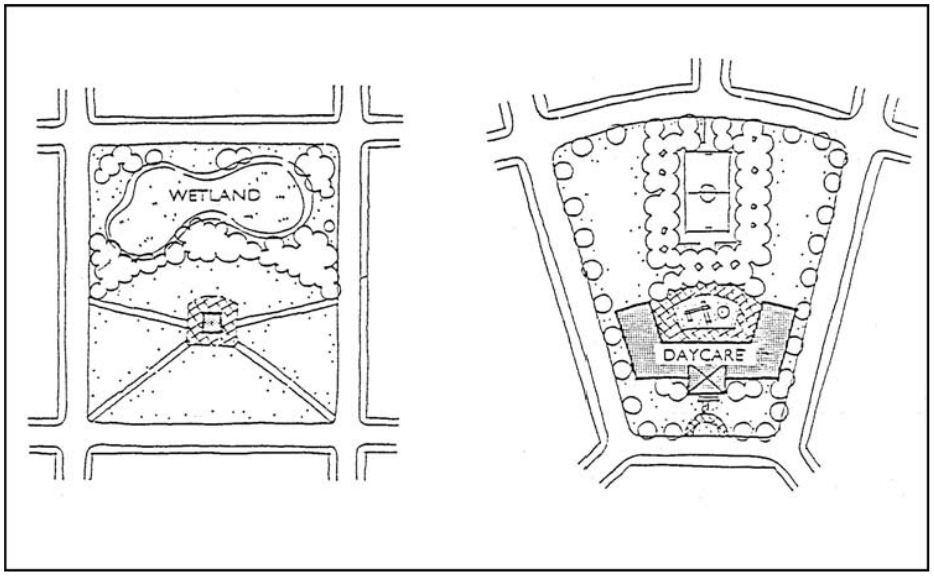
(4) *Minimum Building Frontage.* Forty (40) percent of each block side or fifty (50) percent of the block faces of the total block shall consist of either building frontage, plazas or other function open space.

(5) *Block Examples.*

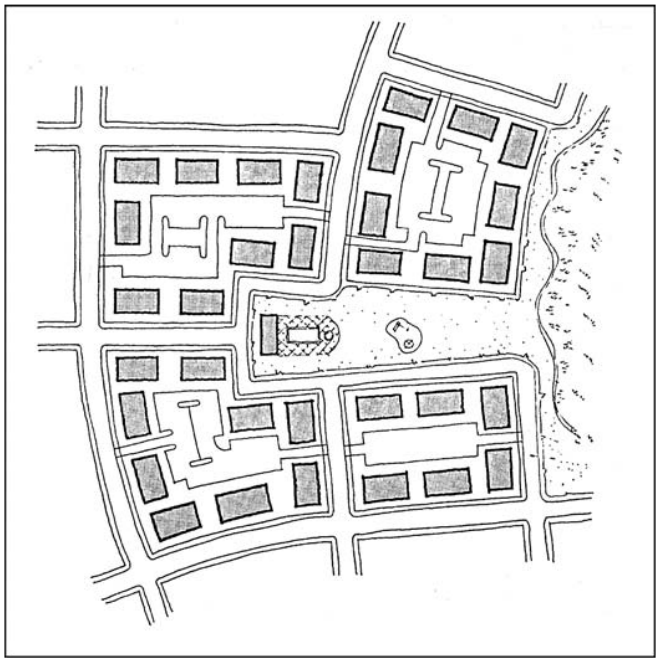
(a) **Figure of Shopping Center on One Block**




(b) **Figure of Park/Civic Block**



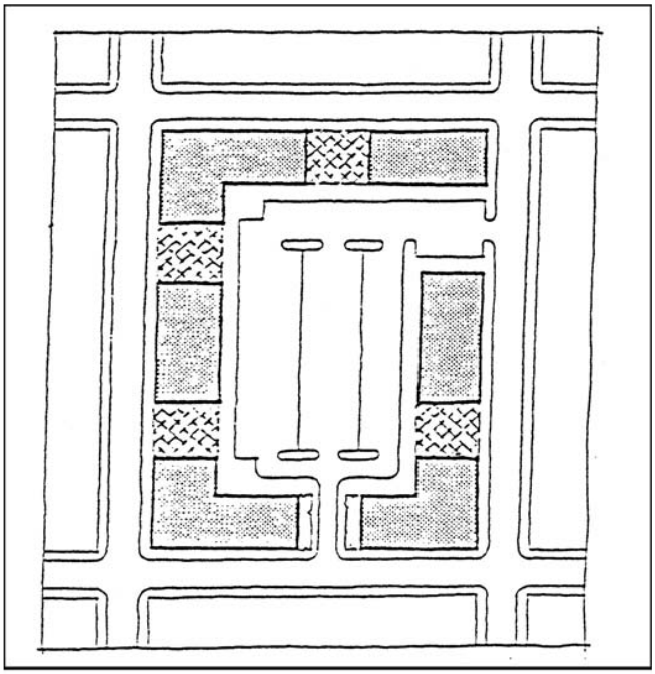
(c) **Figure of Garden Apartment Block**



(d) **Figure of Townhouses and Small Lot Houses**

(e) **Figure of Bungalow Block**

(f) **Figure of Office Block**



(F) **Residential Building Setbacks, Lot Width, and Size**

(1) **Setback from Arterial Streets.** Except as provided in Articles 2 and 3, the minimum setback for residential buildings and all incidental detached accessory buildings shall be thirty (30) feet from any arterial street right-of-way.

(2) **Setback from Nonarterial Streets.** Except as provided in Articles 2 and 3, the minimum setback for residential buildings and all incidental detached accessory buildings shall be fifteen (15) feet from any public street right-of-way.

(3) **Exceptions to the setback standards**. Exceptions to Subsection (1) and (2) are permitted if one (1) of the following is met:

(a) Each unit side that faces the street has a porch and/or balcony that has a minimum depth of six (6) feet (as measured from the building facade to the far side posts, railings/spindles) and a minimum length of eight (8) feet. If more than one (1) side of a unit faces the street, then only one (1) side is required to comply.

(b) An outdoor space such as a plaza, courtyard, patio or garden is located between a building and the sidewalk, provided that such space shall have landscaping, low walls, fencing or railings, a tree canopy and/or other similar site improvements along the sidewalk designed for pedestrian interest, comfort and visual continuity.

(c) All ground units that face a street are ADA compliant units that have street-facing porches that are directly and individually accessed from the public sidewalk by a connecting walkway that is at least six (6) feet in width.

(d) All ground units that face a street with a transit stop that fronts the building are affordable housing units, each having a street-facing stoop that directly accesses the public sidewalk by a connecting walkway.

(e) A project is within an area in the Downtown that is designated in the Downtown Plan as allowing "main street storefront" buildings with zero or minimal setback.

(4) **Side and Rear Yard Setbacks**. Except as provided in Articles 2 and 3, the minimum side yard setback for all residential buildings and for all detached accessory buildings that are incidental to the residential building shall be five (5) feet from the property line, except for garages accessed from alleys or private drives where the associated dwelling faces on-site walkways rather than street sidewalks for which the minimum setback from an alley or private drive shall be eight (8) feet. If a zero-lot-line development plan is proposed, a single six (6) foot minimum side yard is required. Rear yard setbacks in residential areas shall be a minimum of eight (8) feet from the rear property line, except for garages and storage sheds not exceeding eight (8) feet in height, where the minimum setback shall be zero (0) feet.

(5) Setback for Windmills. Windmills shall be set back from the property lines a minimum of one (1) foot for every foot of height of the structure measured from the ground to the top of the highest blade of the windmill; provided, however, that, if the applicant demonstrates with a certified analysis of a licensed professional engineer that the structure will collapse rather than topple, then this requirement may be waived by the Director. Shadow flicker shall not be allowed to cross any property line.

## 5.3.3 NEIGHBORHOOD CENTERS

(A) **Access to Neighborhood Centers.** At least ninety (90) percent of the dwellings in all development projects greater than forty (40) acres shall be located within three thousand nine hundred sixty (3,960) feet (three-quarters [¾] mile) of either a neighborhood center contained within the project, or an existing neighborhood center located in an adjacent development, or an existing or planned Neighborhood Commercial District commercial project, which distance shall be measured along street frontage, and without crossing an arterial street. Neighborhood centers shall meet the requirements contained in subparagraphs (B) through (E) below.

(B) **Location.** A neighborhood center shall be planned as an integral part of surrounding residential development and located where the network of local streets provides direct access to the center. Neighborhood centers that are located on arterial streets and that include retail uses or restaurants shall be spaced at least three thousand nine hundred sixty (3,960) feet (three-quarters [¾] mile) apart.

(C) **Use Requirements.**

(1) A neighborhood center shall include two (2) or more of the following uses:

- mixed-use dwelling units;
- community facilities;
- neighborhood support/recreation facilities;
- schools;
- child care centers;
- places of worship or assembly;
- convenience retail stores;
- retail stores, offices;
- financial services and clinics with less than five thousand (5,000) square feet of building footprint area;
- personal or business service shops;
- standard or fast food restaurants (without drive-in or drive-through facilities);
- small animal veterinary clinics;
- convenience retail stores with fuel sales that are at least three-quarters (¾) mile from any other such use and from any gasoline station;
- artisan or photography studios or galleries;
- dog day cares;
- music studios;
- micro-breweries/distilleries/wineries; and
- grocery stores and health and membership clubs.

(2) No drive-in facilities shall be permitted.

(3) A neighborhood center shall not exceed five (5) acres in size, excluding such portion of the neighborhood center which is composed of a school, park, place of worship or assembly and/or outdoor space as defined in Subparagraph (E) of this Section.

(D) **Design and Access.** The design of neighborhood centers shall be integrated with surrounding residential areas by matching the scale of nearby residential buildings; providing direct access from surrounding residential areas; creating usable outdoor spaces; orienting building entrances to connecting walkways; and to the extent reasonably feasible, maintaining/continuing the architectural themes or character of nearby neighborhoods.

(E) **Outdoor Spaces.** A publicly accessible outdoor space such as a park, plaza, pavilion or courtyard shall be included within or adjacent to every neighborhood center to provide a focal point for such activities as outdoor gatherings, neighborhood events, picnicking, sitting and passive and active recreation.

### 5.3.4 SMALL NEIGHBORHOOD PARKS

At least ninety (90) percent of the dwellings in any development project of ten (10) acres or larger as measured along the street frontage shall be located within a maximum of one-third (1/3) mile of either a neighborhood park or a privately owned park, that is at least one (1) acre in size.

(A) **Location.** Such parks shall be highly visible, well-defined settings formed by the street layout and pattern of lots and easily observed from streets. Rear facades and rear yards of dwellings shall not abut more than two (2) sides or more than fifty (50) percent of the perimeter frontage of the park.

(B) **Accessibility.** All parts of such parks shall be safely and easily accessible by and open to the public.

(C) **Facilities.** Such parks shall consist of multiple-use turf areas, walking paths, plazas, pavilions, picnic tables, benches or other features for various age groups to enjoy.

(D) **Ownership and Maintenance.** Such parks may, in the discretion of the City, be acquired by the City (through dedication or purchase), or be privately owned and maintained by the developer or property owners association.

(E) **Storm Drainage.** When integrating storm drainage and detention functions to satisfy this requirement, the design of such facilities shall not result in slopes or gradients that conflict with other recreational and civic purposes of the park.

### 5.3.5 GARAGE DESIGN

(A) **Garage Doors**. To prevent residential streetscapes from being dominated by protruding garage doors, and to allow the active, visually interesting features of the house to dominate the streetscape, the following standards shall apply:

(1) Street-facing garage doors must be recessed behind either the front facade of the ground floor living area portion of the dwelling or a covered porch (measuring at least six [6] feet by eight [8] feet) by at least four (4) feet. Any street-facing garage doors complying with this standard shall not protrude forward from the front facade of the living area portion of the dwelling by more than eight (8) feet.

(2) Garage doors may be located on another side of the dwelling ("side- or rear-loaded") provided that the side of the garage facing the front street has windows or other architectural details that mimic the features of the living portion of the dwelling.

(3) Garage doors shall not comprise more than fifty (50) percent of the ground floor street-facing front linear building frontage. Alleys and side streets are exempt from this standard.

(4) Attached and multi-unit dwellings which also face a second street or a major walkway spine shall be exempt from paragraphs (1) through (3) above. The façade oriented to the second street or walkway spine shall include windows, doorways and a structured transition from public to private areas using

built elements such as porch features, pediments, arbors, low walls, fences, trellis work and/or similar elements integrated with plantings.

(5) Alternative garage door treatments shall be accepted by the Director if:

(a) the configuration of the lot or other existing physical condition of the lot makes the application of these standards impractical; and

(b) the proposed design substantially meets the intent of this Code to line streets with active living spaces, create pedestrian-oriented streetscapes and provide variety and visual interest in the exterior design of residential buildings.

(B) **Rear Walls of Multi-Unit Garages**. To add visual interest and avoid the effect of a long blank wall with no relation to human size, accessibility needs or internal divisions within the building, the following standards for minimum wall articulation shall apply:

(1) **Perimeter Garages.**

(a) Length. Any garage located with its rear wall along the perimeter of a development and within sixty-five (65) feet of a public right-of-way or the property line of the development site shall not exceed sixty (60) feet in length. A minimum of seven (7) feet of landscaping must be provided between any two (2) such perimeter garages.

(b) Articulation. No rear garage wall that faces a street or adjacent development shall exceed thirty (30) feet in length without including at least one (1) of the following in at least two (2) locations:

(I) change in wall plane of at least six (6) inches;

(II) change in material or masonry pattern;

(III) change in roof plane;

(IV) windows;

(V) doorways;

(VI) false door or window openings defined by frames, sills and lintels; and/or

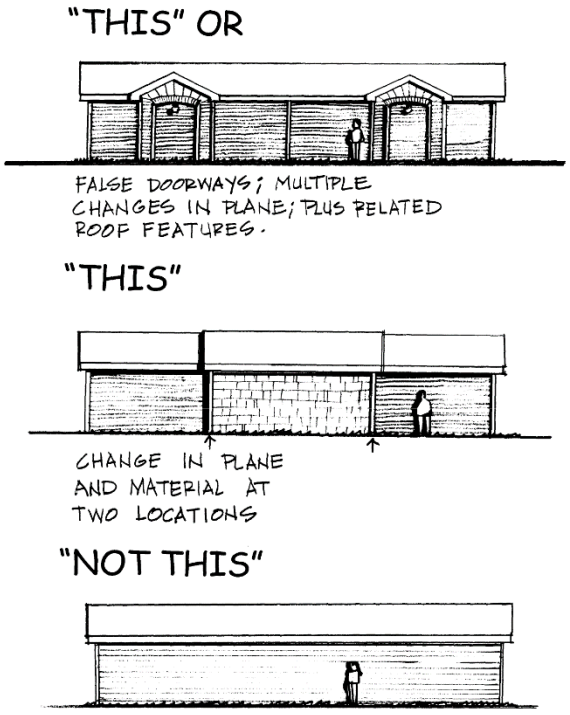
(VII) an equivalent vertical element that subdivides the wall into proportions related to human scale and/or the internal divisions within the building. (See Figure 9A.)

(2) **All Garages.**

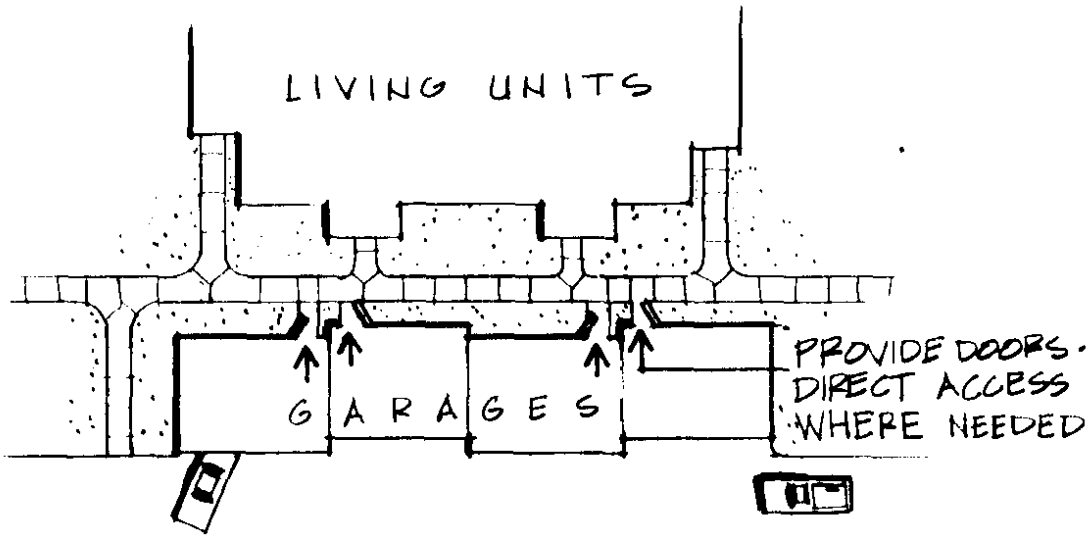
(a) Access Doors. Rear doorways shall be provided as determined by the decision maker to be reasonably necessary to allow direct access to living units without requiring people to walk around the garage to access their living units. (See Figure 9B.)

(b) Articulation. At a minimum, a vertical trim detail that subdivides the overall siding pattern shall be provided at intervals not to exceed two (2) internal parking stalls (approximately twenty [20] to twenty-four [24] feet). In addition, the articulation described in paragraph (1)(b) above is encouraged but shall not be required.

(I) Figure 9A – Garage Articulation.




(II) Figure 9B – Garage Door Direct Access




### 5.3.6 SECOND KITCHEN

(A) **Second Kitchen.** A maximum of one additional kitchen may be established inside a dwelling unit without creating an additional dwelling unit if approved through a minor amendment pursuant to Section 6.3.10 and the following standards are met:

(1) That both kitchens are accessible to all occupants of the dwelling unit;

(2) That both kitchens have non-separated, continuous, and open access with no locked doors separating the kitchens from the rest of the dwelling unit;

(3) That neither kitchen is located in an accessory building; and

(4) The property owner of a dwelling unit in which a second kitchen is approved by the Director shall, prior to issuance of a building permit, sign and record with the Larimer County Clerk and Recorder a notarized affidavit stating that the second kitchen will not be used for a second dwelling unit and the property owner acknowledges and agrees that the dwelling shall only be used as a single-unit dwelling.

# DIVISION 5.4 DEVELOPMENT INFRASTRUCTURE

## 5.4.1 DEVELOPMENT INFRASTRUCTURE

(A) **Purpose.** Implement the variety of *place types* identified in City Plan to create a cohesive network of varying types of transportation routes, utility connections, housing variety, and recreational areas both City owned and privately owned.

(B) **Applicability.** Applies to all development projects, unless otherwise excluded in a specific standard.

## 5.4.2 DEVELOPMENT IMPROVEMENTS

(A) **Approval of City Engineer.**

(1) Before the Director certifies the acceptance of any final plat, the Director must be notified by the City Engineer that the required improvements have been designed according to the City's various design criteria and construction standards.

(2) No improvements shall be made until all required plans, profiles and specifications, including reproducible plans for the same, have been submitted to and approved by the City Engineer.

(3) As each portion of the improvements in a subdivision is completed, and after inspection and acceptance by the City Engineer, the amount of guaranty covering that phase of the development shall be released following the written request of the applicant to the Director.

(B) **Development Agreement.** At the time the plans, profiles and specifications required in this Division are approved, the applicant shall enter into an agreement providing for the installation of all improvements in the subdivision required by this Code. Such agreement shall establish and set forth the extent to which the City is to participate in the cost of constructing any public improvements, including, without limitation, collector or arterial streets. No final plan or plat or other site specific development plan shall be approved by the City or recorded until such agreement has been fully executed. Such agreement shall further provide that the applicant will fully account to the City for all costs incurred in the construction of any public improvement in which the City is participating, and the books and records of the applicant relating to such public improvement shall be open to the City at all reasonable times for the purpose of auditing or verifying such costs. Such agreement (and any amendments thereto) shall be recorded by the City with the Larimer County Clerk and Recorder with all recording costs to be paid to the City by the applicant.

(C) **Development Guarantee and Maintenance and Repair Guarantees.**

(1) **Construction Security**.

(a) Prior to the issuance of a Development Construction Permit for a new development, the developer must provide to the City a guarantee in the form of a development bond, performance bond, letter of credit, cash, certificate of deposit or other City-approved means to guarantee the completion of all public improvements to be constructed as shown on the approved plans for the development (hereafter referred to as the "construction security").

(b) The amount of the construction security shall be equal to the total cost of the developer's portion of the public improvements, as estimated by the developer and approved by the City Engineer.

(c) As progress is made on the construction of the new public infrastructure, the developer may request a reduction in the amount of construction security in proportion to the actual completion percentage of the installed infrastructure. However, draws upon such construction security shall not exceed the actual cost of completing a deficient development project or making any necessary repairs. Upon receipt of such a request, the City shall verify the completion percentage and permit the substitution of an approved construction security instrument in an amount equal to the cost of the developer's portion of the remaining public improvements.

(2) **Maintenance/Repair Security.**

(a) The plat shall contain a two (2) year maintenance guarantee and a five (5) year repair guarantee covering all errors or omissions in the design and/or construction. Said guarantees shall run concurrently and shall commence upon the date of completion of the public improvements and acceptance by the City, as described in paragraph 6.3.3(C)(3) (Execution of Plats/Deeds; Signature Requirements).

(b) If a plat is not required or if the plat does not include the entire area being developed, then said maintenance and repair guarantees shall be established in a development agreement. Security for the maintenance guarantee and the repair guarantee (hereinafter referred to as the "maintenance/repair security") shall be in the form of a bond, letter of credit, cash, certificate of deposit, an extension of the security as provided in paragraph (1) above or other City-approved means to secure said maintenance and repair. The amount of the maintenance/repair security during the maintenance guarantee period shall be based on a percentage of the cost of the public improvements. Said percentage shall be determined by the City Engineer based on the potential costs of repairs within the development and shall not exceed twenty-five (25) percent.

(c) At the conclusion of the two (2)year maintenance/repair period, representatives of the City and the developer shall jointly conduct an inspection of the development for the purpose of identifying any repairs or maintenance actions necessary before transfer of the maintenance responsibility from the developer to the City. Upon satisfactory completion of said repairs or maintenance actions, the City will assume the responsibility for maintaining the streets and other improvements which have been dedicated to the City

(3) **Maintenance/Repair Security Extension.**

(a) Whether maintenance/repair security must be provided by the developer for the remaining three (3) years of the repair guarantee period shall depend upon the condition of the streets and other public infrastructure within the development.

(b) The developer shall not be required to provide such additional maintenance/repair security for streets or infrastructure that, upon inspection by the City Engineer, are found not to exhibit any evidence of deterioration or defect (including, without limitation, excessive cracking, settlements, deflections, rutting, potholes or other similar defects), other than normal wear and tear. However, if evidence of such deterioration or defect is exhibited, then the existing maintenance/repair security shall be required to be renewed, or a new security shall be required for the final three (3) years of the repair guarantee period.

(c) The amount of the maintenance/repair security during the repair guarantee period shall be based on a percentage of the cost of the public improvements. Said percentage shall be determined by the City Engineer based on the potential costs of repairs within the development, shall not exceed twenty-five (25) percent, and may be adjusted if appropriate during the guarantee period.

(4) **Affordable Housing Security Exemption**. Notwithstanding the security requirements contained in subparagraphs (1), (2) and (3) above, applications for the construction of affordable housing projects shall be totally or partially exempt from such security requirements according to the following criteria:

(a) The security authorized under this subsection (C) shall be entirely waived for development projects in which one hundred (100) percent of the dwelling units qualify as affordable housing units for sale or for rent.

(b) The security authorized under this subsection (C) shall be reduced in direct proportion to the percentage of affordable housing units for sale or for rent that are provided in the development project (within the authorized waiver range of ten [10] percent to one hundred [100] percent), in accordance with the following formula:

- number of affordable housing units ÷ total number of housing units x total security required = amount of security waived

(c) The security authorized under this subsection (C) shall not be reduced if less than ten (10) percent of the dwelling units within the project qualify as affordable housing units for sale or for rent.

(d) In order to determine whether a development project is eligible for a waiver or reduction of fees under this subparagraph (4), any applicant seeking such waiver or reduction must submit documentation evidencing the eligibility of the development project to the City Engineer, who may, upon review of such documentation, reduce the amount of said security in accordance with this subparagraph (4). Prior to the issuance of any certificate of occupancy for the development project, a final determination shall be made by the City Engineer as to whether the development project qualifies for a waiver or reduction of the security. In the event that the City Engineer determines that the development project does not so qualify, security shall be increased to the level required in the applicable subparagraph (1), (2) or (3) above, and the security shall be deposited with the City prior to the issuance of the first certificate of occupancy.

(D) **Required Improvements Prior to Issuance of Building Permit.** The following improvements shall be required prior to the issuance of a Building Permit, unless otherwise specified in the development agreement:

(1) *Survey Monuments.* The applicant shall provide survey monuments as required by Articles 51 and 53, Title 38, C.R.S.

(2) *Sanitary Sewers.* The applicant shall provide adequate lines and stubs to each lot as required by the current standards of the utility provider (if not the City) or current City design criteria and construction standards, whichever is applicable.

(3) *Water Mains.* The applicant shall provide adequate mains and stubs to each lot as required by the current standards of the utility provider (if not the City) or current City design criteria and construction standards, whichever is applicable.

(4) *Fire Hydrants.* The applicant shall provide sufficient fire hydrants as required according to the Fire Code.

(5) *Stormwater Drainage.* The applicant shall provide stormwater facilities and appurtenances as required by Section 26-544 of the City Code and, where applicable, such facilities shall conform to Section 10-37 of the City Code.

(6) *Streets, Alleys and Paths.* The applicant shall provide street improvements necessary to serve the lot or lots in accordance with Section 24-95 of the City Code.

(7) *Utilities (including, without limitation, communications, electric power, gas, water, sewer).*

(a) Except as hereafter provided, all new utility facilities on or adjoining the development shall be installed underground and, if located in a street or alley, shall be installed, inspected and approved in accordance with the permit required pursuant to Section 23-16 of the City Code, prior to the completion of street or alley surfacing. To the extent feasible, the undergrounding of utilities shall be planned, coordinated and installed in an orderly fashion from deepest to shallowest.

(b) Aboveground facilities necessarily appurtenant to underground facilities shall be allowed, but shall be located outside of the parkway area that is between the street and sidewalk where detached sidewalks exist and, in all circumstances, shall be located at least two (2) feet behind the back of the sidewalk, or if there is no sidewalk, behind the edge of the pavement.

(c) Roadway lighting fixtures with their poles and junction boxes, as well as traffic signals with their controller cabinets, are exempt from this requirement.

(d) Any aboveground facilities shall be located so as to not cause a sight obstruction for vehicular, pedestrian or bicycle traffic.

(e) In addition, all existing overhead utilities located on the development site, or adjoining the development site in public rights-of-way or utility easements, whether they serve the development or not, shall be relocated underground when such relocation is an incidental conversion associated with other public improvements in conjunction with the development project.

**Exceptions**:

(I) New or existing overhead utility facilities shall be allowed if they:

(i) are electric transmission lines above forty (40) kilovolts nominal; or

(ii) are temporary in nature for the purpose of servicing construction or lands not developed to urban qualifications; or

(iii) are required to be installed on a temporary basis while an underground utility facility is being repaired; or

(iv) are necessary to span natural barriers such as canyons, rivers or boulder fields where an underground installation would be extremely impractical.

(II) Existing overhead utility facilities shall be allowed if they:

(I) are capable of serving only territories anticipated to be annexed to the City in the future; or

(II) traverse the periphery of the development for a distance less than four hundred (400) feet (and provided that the developer has installed conduit to accommodate future undergrounding); or

(III) are distribution lines which will be removed upon future development, or

(IV) are electric distribution circuits of utilities that do not provide electric service to persons within the City.

(E) **Required Improvements Prior to Issuance of Certificate of Occupancy.**

(1) The improvements in subparagraph (3) shall be required prior to the issuance of a certificate of occupancy.

(2) In cases where the strict interpretation of this provision would place undue hardship upon the person requesting the certificate of occupancy, and the health, safety and welfare of the public would not be placed at risk, he or she may be permitted to establish an escrow account in an amount acceptable to the Director which will cover the costs of completion of the required improvements and the maintenance of any incomplete street sections which might be involved.

(3) The amount so placed in escrow shall be available to ensure to the City that the subject improvements are installed in the event that the person requesting the certificate of occupancy fails to install the same as agreed:

(a) Sidewalks. All on-site sidewalks shall be installed as required by City specifications.

(b) Street signs. All street signs shall be installed as required by the Traffic Operations Engineer and shall conform to the Manual of Uniform Traffic Control Devices.

(c) Streets, alleys and paths.

(I) All streets shall be paved with curbs and gutters installed in accordance with the approved utility plans.

(II) All alleys and paths required to be constructed by the City shall be paved. In cases where a previously existing street which has not been brought up to City specifications is located within a subdivision, such street shall be paved with curbs and gutters installed in order to meet City specifications.

(III) All streets existing within ownership of the lands which make up any subdivision shall be shown on the subdivision plat. If any subdivision is located adjacent to any existing street right-of-way, the applicant shall improve local streets to the full width and collector and arterial streets to one-half (½) width except as is otherwise provided herein below, with pavement, curb, gutter, sidewalk and any other required street improvements as necessary to bring such street up to City specifications.

(IV) Notwithstanding the foregoing, collector and arterial streets shall be constructed to such specifications as shall be necessary in the judgment of the City Engineer based upon traffic safety considerations, and taking into account the traffic impact of the development upon such arterial or collector street.

(V) No such arterial street shall be constructed to a width of less than thirty-six (36) feet.

(d) Streetlights. All streetlights shall be installed as required according to City specifications.

(e) Drainage.

(I) The construction of stormwater drainage facilities required by the approved Development Plan Documents must be consistent with the Stormwater Criteria Manual as it may be modified from time to time.

(II) Such stormwater drainage facility must be verified by an authorized City inspector at the appropriate phases of construction activities as specified in the Development Certification Checklist issued by Water Utilities Engineering and available on the City of Fort Collins website.

(III) In the event of non-compliance, the City shall have the option to withhold building permits and/or certificates of occupancy or use any other legal remedy that may be provided in the City Code, the Land Use Code and/or the Development Agreement, as determined appropriate to ensure that the Developer properly installs all privately owned stormwater improvements associated with the development as specified in the Development Plan Documents.

(IV) In addition, a "Drainage Certification" prepared by a Professional Engineer licensed in the State of Colorado must be provided. The "Certification" must confirm to the City that all stormwater drainage facilities required to serve the property have been constructed in conformance with the approved Development Plan Documents so as to protect downstream property and the quality of Stormwater runoff from the property to comply with the City's Municipal Separate Storm Sewer System permit. Such certification must be in the form required by the City's Stormwater Criteria Manual and Construction Standards.

(f) Other. All other improvements required as a condition of approval of the plat shall be completed.

(g) Where applicable, the person requesting a certificate of occupancy shall be required to conform to the provisions of Section 10-38 of the City Code by submitting a post-construction floodproofing elevation certificate to the Utilities Executive Director for the City's permanent records.

(F) **Off-Site Public Access Improvements.**

(1) **Path Improvements**.

(a) All developments must have adequate access to the City's Improved Arterial Street Network, as described below, or to a street that connects to the Improved Arterial Street Network. Exceptions to the

foregoing requirements may be granted for streets which have adequate funds appropriated by the City for improvement to current standards.

(b) The developer of any property which does not have such adequate access to an Improved Arterial Street or which does not have such adequate access to streets which connect to the Improved Arterial Street Network, along the primary access routes for the development, shall be required to improve the impacted intervening streets as follows:

(I) For arterial and collector streets, such improvements shall consist, at a minimum, of constructing a thirty six (36) foot wide paved street cross section on a base that is adequate to accommodate the ultimate design of the street either (1) as designated on the Master Street Plan, or (2) in accordance with the City design criteria for streets, whichever is applicable.

(II) For all other street classifications, the off-site improvements shall be designed and constructed to City standards including, without limitation, curb, gutter, sidewalk and pavement.

(III) All streets that connect to the Improved Arterial Street Network shall include the width and improvements necessary to maintain a level of service as defined by Part II of the City of Fort Collins Multi-modal Transportation Level of Service Manual for the length required to connect to the Improved Arterial Street Network.

(IV) Off-site public access improvements shall be required for all primary access routes that will, in the judgment of the Traffic Engineer, carry the most trips (per travel mode) generated by the development as defined by the Transportation Impact Study required by Section 5.4.10.

(c) To identify the improvements to be made as a condition of approval of the development, the City Engineer shall utilize a map entitled the "Improved Arterial Street Network" depicting, as nearly as practicable, (1) all existing arterial and collector streets in the City; and (2) the current structural condition of the same.

(d) A waiver to these requirements may be granted by the City Engineer for primary access routes which, in the judgment of the City Engineer, are in substantial compliance with the City standards applicable for such routes and are designed and constructed to adequately accommodate the traffic impacts of the development.

(4) **Costs and Reimbursements**.

(a) Off-site streets, street intersections, sidewalks, alleys, paths or other related improvements to serve the development site or such improvements along the perimeter of the development site shall be funded by the developer unless otherwise agreed by the City Manager, in his or her discretion. The developer (and others providing funding, including but not limited to the City) may be entitled to request reimbursement under paragraph (b).

(b) The entire cost of such construction (including right-of-way acquisition) shall be the responsibility of such developer.

(c) If, within twelve (12) months of the completion and acceptance by the City of such improvements, the developer installing such improvements (the "Funding Developer") has entered into a reimbursement agreement with the City in the manner prescribed by this Section, then, at the time that other property adjacent to the improvements (the "Adjacent Property") is developed or redeveloped and access to such improvements is accomplished or other benefit from such improvements is conferred, the City may collect from the developer of the Adjacent Property a proportionate charge, based upon the cost incurred by the Funding Developer, plus an inflation factor, and based upon the benefit conferred upon the Adjacent Property.

(d) For the purpose of this Section, benefit to the Adjacent Property may include, among other things, the construction of improvements that will allow the Adjacent Property to be developed in accordance with the requirements of Section 5.4.10, where, in the absence of the improvements, such development

would not be allowed to proceed. Said charge, if imposed by the City, shall be paid prior to the issuance of any building permits for the Adjacent Property; provided, however, that the City shall not attempt to make such collection unless the reimbursement agreement has been timely and properly prepared, executed and delivered to the City.

(I) If such charge is collected, the City shall reimburse the Funding Developer to the extent of such collection after deducting a service charge of three (3) percent to cover administrative costs.

(e) All costs for the construction (including right-of-way acquisition) of such improvements must be fully paid by the Funding Developer before such person shall be entitled to reimbursement under any agreement established hereunder. The amount of the reimbursement assessed by the City for each Adjacent Property as it develops shall be based on:

(I) The fair market value (as determined by the City) of any right-of-way acquired by the Funding Developer that was needed for, and is directly attributable to, the improvements; and

(II) The original cost of design and construction of the improvements plus an adjustment for inflation based on the construction cost index for Denver, Colorado, as published monthly by "Engineering News Record." (If said index shows deflation, the adjustment shall be made accordingly, but not below the original cost as submitted by the Funding Developer and approved by the City Engineer.)

(i) The original cost of the right-of-way and design and construction shall mean the cost of right-of-way acquisition, financing, engineering, construction and any other costs actually incurred which are directly attributable to the improvements, including any costs incurred for the formation or administration of a special improvement district.

(f) The City's obligation to reimburse the Funding Developer shall be contingent upon the City's actual collection of the charge from the developer of the Adjacent Property. In order to obtain approval of a reimbursement agreement from the City, the Funding Developer shall provide the City Engineer with copies of the following, after acceptance of the improvements:

(I) real estate closing documents and/or appraisals or other documents showing to the satisfaction of the City the fair market value of the right-of-way for the improvements;

(II) an invoice from the Funding Developer's engineer for any fee assessed on the project;

(III) the contractor's application for final payment approved by the Funding Developer's engineer;

(IV) a letter from the Funding Developer and/or contractor certifying that final payment has been received by the contractor;

(V) a letter from the Funding Developer and/or engineer certifying that final payment of engineering fees has been made;

(VI) a letter from the Funding Developer certifying the portion of the cost which has been funded by such developer and also any portions funded by others, and naming such proportionate contributors, if any;

(VII) a map prepared by a licensed engineer or surveyor which shows:

(i) the location of the improvements constructed;

(ii) the name of the owner of each Adjacent Property which is benefited by the improvements;

(iii) the proportionate benefit conferred upon each Adjacent Property, together with the assessment due based on the original costs;

(iv) the acreage and parcel number of each Adjacent Property;

(v) a reference to the book, page and reception number from the records of the county Clerk and Recorder where the information for each property was obtained; and

(vi) any other information deemed necessary by the City Engineer.

Any right to reimbursement pursuant to this provision shall not exceed a period of ten (10) years from the acceptance by the City of the street improvements. The City Council may approve extensions of the reimbursement agreement for additional ten (10) year periods. No such reimbursement shall be made unless the person entitled to reimbursement has fully satisfied his or her obligations under any other reimbursement agreements with the City.

(G) **City Participation in Certain Street Improvements.**

(1) If a street within or adjacent to the development is improved as an arterial or collector street rather than as a local street, the developer making such improvements shall be reimbursed in accordance with the provisions of Section 24-112 of the Code of the City of Fort Collins.

(2) If an off-site street is improved to a width in excess of thirty six (36) feet, and provided that such excess width is not required because of the traffic impacts of the development, the City Engineer shall compute the extra expense caused by such street being improved to such excess width. Such extra expense shall be paid by the City out of the Transportation Improvements Fund established in Section 8-87. The City's obligations to participate in such costs shall be limited to those funds budgeted and appropriated for the payment requested. The participation of the City shall be limited to the costs of design, construction and right-of-way acquisition as limited pursuant to Section 24-112 of the City Code and costs of curbs, gutters or sidewalks exceeding local standards.

(3) If the right to develop has lapsed or been abandoned pursuant to Sections 6.3.10 and 6.3.11 and no extension has been granted, any right to City participation, pursuant to this Section and Chapter 24 of the City Code, shall be limited to those improvements substantially completed and accepted by the City Engineer at the time of the termination.

### 5.4.3 ENGINEERING DESIGN STANDARDS

Development Projects must comply with all design standards, requirements and specifications for the following services as certified by the appropriate agency or variances must be granted by such agency:

- water supply
- sanitary sewer
- mass transit
- fire protection
- flood hazard areas
- telephone
- walks/bikeways
- irrigation companies
- electricity
- natural gas
- storm drainage
- cable television
- streets/pedestrians
- broadband/fiber optic

### 5.4.4 PLAT AND DEVELOPMENT PLAN STANDARDS

(A) **General Provisions.**

(1) **Applicability.** No (1) final plat of a subdivision or (2) development plan, shall be approved and accepted by the City unless it conforms to the provisions of this Code.

(2) **Jurisdiction**. This Division shall be applicable to all lands located within the City.

(3) **Plat.** General Requirements.

(a) All plats of a subdivision of land within the City shall be filed and recorded only after having been approved by the appropriate decision maker, with such approval evidenced in writing on the plat and signed by the City Clerk.

(b) Except with respect to property which is platted as an official subdivision (or part thereof) approved in accordance with the provisions of this Code (or prior law, if applicable), no Building Permit or certificate of occupancy shall be issued for any of the following and no person shall perform any of the following:

(I) construction of any new principal building;

(II) enlargement of any principal building used for nonresidential purposes by more than twenty-five (25) percent of the existing floor area of such building; and/or

(III) an act which changes the use of any building.

(B) **Lots.**

(1) No lot in a subdivision shall have less area than required under the applicable zoning requirements of the City. Each lot must have vehicular access to a public street. Lots with both front and rear frontage on a street shall not be permitted except where necessary to provide separation from arterial streets or from incompatible land uses, or to take access from an alley.

(2) The general layout of lots, roads, driveways, utilities, drainage facilities and other services within the proposed development shall be designed in a way that enhances an interconnected street system within and between neighborhoods, preserves natural areas and features, and otherwise accomplishes the purposes and intent of this Code. Applicants shall refer to the development standards set forth in Articles 2 through 5 of this Code and shall apply them in the layout of the development in order to avoid creating lots or patterns of lots that will make compliance with such development standards difficult or infeasible.

(C) **Public Sites, Reservations and Dedications.**

(1) An applicant shall be required to dedicate rights-of-way for public streets, drainage easements and utility easements as needed to serve the area being developed and/or platted. In cases where any part of an existing road is abutting or within the tract being developed and/or subdivided, the applicant shall dedicate such additional rights-of-way as may be necessary to increase such roadway to the minimum width required under this Code for such street.

(2) Reservation of sites for flood control, open space and other municipal uses shall be made in accordance with the requirements of this Code, and, generally, the City Code.

## 5.4.5 MASTER STREET PLAN

(A) **Purpose**. This Section is intended to ensure that the transportation network of streets, alleys, roadways and trails is in conformance with adopted transportation plans and policies established by the City.

(B) **General Standard**. The transportation network of any proposed development shall be in conformance with the City of Fort Collins Master Street Plan, as well as City adopted access control plans and the Larimer County Urban Area Street Standards.

(C) **Establishment of Master Street Plan.** In order to accomplish the purposes of this Code, the location and ultimate functional classification of necessary arterial and collector streets and other transportation facilities have been established on a map entitled "City of Fort Collins Master Street Plan," dated February 15, 2011, as amended, which map is incorporated herein by reference. The Master Street Plan is on file with the City Clerk and the City Engineer.

(D) **Compliance With Master Street Plan.** All development plans shall provide for or accommodate the streets and transportation facilities identified on the Master Street Plan that are associated with the development plan.

(E) **Compliance with Access Control Plans.** The State Highway Access Control Code and/or any specific access control plan shall determine the location of all intersections (whether of public streets or private drives or other access ways) with state highways or City streets, as applicable. All development plans that are adjacent to a state or federal highway shall provide the access design facilities, including supporting circulation facilities, identified within any applicable adopted access control plans, when such facilities are needed because of the development plan. All development plans shall be in compliance with applicable State regulations including, but not limited to, CDOT regulations. In addition, all development plans that are adjacent to any street for which an access control plan has been adopted by the City shall provide the access design facilities, including supporting circulation facilities, identified within such access control plan, when such facilities are needed because of the development plan.

## 5.4.6 STREETS, STREETSCAPES, ALLEYS AND EASEMENTS

(A) **Purpose**. This Section is intended to ensure that the various components of the transportation network are designed and implemented in a manner that promotes the health, safety and welfare of the City.

(B) **General Standard**. Public streets, public alleys and private alleys, private streets, street-like private drives and private drives shall be designed and implemented in a manner that establishes a transportation network that protects the public health, safety and welfare. Rights-of-way and/or easements for the transportation system shall be sufficient to support the infrastructure being proposed. The transportation network shall clearly identify construction and maintenance responsibilities for the proposed infrastructure. All responsibilities and costs for the operation, maintenance and reconstruction of private streets and medians, street-like private drives and private drives shall be borne by the property owners. The City shall have no obligation to operate, maintain or reconstruct such private streets, street-like private drives and private drives nor shall the City have any obligation to accept such private streets, street-like private drives and private drives.

(C) Streets on a project development plan or subdivision plat shall conform to the Master Street Plan where applicable. All streets shall be aligned to join with planned or existing streets. All streets shall be designed to bear a logical relationship to the topography of the land. Intersections of streets shall be at right angles unless otherwise approved by the City Engineer.

(D) Cul-de-sacs shall be permitted only if they are not more than six hundred sixty (660) feet in length and have a turnaround at the end with a diameter of at least one hundred (100) feet. Surface drainage on a cul-de-sac shall be toward the intersecting street, if possible, and if not possible a drainage easement shall be provided from the cul-de-sac. If fire sprinkler systems or other fire prevention devices are to be installed within a residential subdivision, these requirements may be modified by the City Engineer according to established administrative guidelines and upon the recommendation of the Poudre Fire Authority.

(E) Except as provided in subsection (D) above for cul-de-sacs, no dead-end streets shall be permitted except in cases where such streets are designed to connect with future streets on abutting land, in which case a temporary turnaround easement at the end of the street with a diameter of at least one hundred (100) feet must be dedicated and constructed. Such turnaround easement shall not be required if no lots in the subdivision are dependent upon such street for access.

(F) If residential lots in a subdivision abut an arterial street, no access to individual lots from such arterial street shall be permitted.

(G) Reverse curves on arterial streets shall be joined by a tangent at least two hundred (200) feet in length.

(H) The applicant shall not be permitted to reserve a strip of land between a dedicated street and adjacent property for the purpose of controlling access to such street from such property unless such reservation is approved by the City Engineer and the control of such strip is given to the City.

(I) Street right-of-way widths shall conform to the *Larimer County Urban Area Street Standards* as approved and amended by the City Council from time to time by ordinance or resolution.

(J) Streetscape design and construction, including medians and parkways, shall conform to the *Larimer County Urban Area Street Standards* as approved and amended by the City Council from time to time by ordinance or resolution. Any permits that are required pursuant to the *Larimer County Urban Area Street Standards* shall be obtained by the applicant before the construction of the street, streetscape, sidewalk, alley or other public way (as applicable) is commenced.

(K) **Public alleys** shall be controlled by the following requirements:

(1) **When Allowed**. Public alleys in residential subdivisions shall be permitted only when: (a) they are necessary and desirable to continue an existing pattern or to establish a pattern of alleys that will extend over a larger development area, and (b) they are needed to allow access to residential properties having garages or other parking areas situated behind the principal structure and the principal structure is on a residential local street. Public alleys shall also be provided in commercial and industrial areas unless other provisions are made and approved for service access.

(2) **Design Construction Requirements**. All public alleys shall be constructed in conformance with the *Larimer County Urban Area Street Standards* as adopted by the City Council by ordinance or resolution, except those public alleys within the OT zone district that do not abut commercially zoned properties and that provide access only for Accessory Dwelling Units (ADUs) and habitable accessory buildings as such terms are described in Article 4. Dead-end alleys shall not be allowed.

(L) **Private Streets.** Private streets shall be controlled by the following requirements:

(1) **When Allowed**. Private streets shall be allowed in a development, provided that their function will be primarily to provide access to property within the development. Private streets shall not be permitted if (by plan or circumstance) such streets would, in the judgment of the City Engineer, attract "through traffic" in such volumes as to render public streets necessary as connections between developments, neighborhoods or other origins and destinations outside of the development plan.

(2) **Design Requirements**. As with public streets, the design of private streets must be completed by or under the charge of a professional engineer licensed by the State of Colorado. The design for all private streets shall be included in the utility plans for the development. Designs for public streets shall be permitted if either:

(a) The designs meet all standards for public streets in accordance with the *Larimer County Urban Area Street Standards*, as adopted by the City Council by ordinance or resolution; or

(b) The designs have customized treatments and features including travel lanes; parallel or diagonal street parking; tree-lined sidewalks with the sidewalks either detached or attached with trees in cutouts; and

crosswalks. Other features such as bikeways, landscaped medians, corner plazas, custom lighting, bike racks, and identity signs may be provided to afford an appropriate alternative to a standard City street in the context of the development plan. Head-in parking may only be used in isolated parking situations where the effect on the character of the street is negligible. Customized treatments and features will not be approved unless the City determines that such treatments and features present no safety risk to the public and that the City's utilities will not incur maintenance or replacement costs for their utilities above normal costs associated with the City's standard design.

(3) **Construction Requirements**. The construction of all private streets shall be under the direct supervision of a professional engineer licensed by the State of Colorado, who must certify that all improvements for private streets have been completed in accordance with the plans approved by the City. In addition, the construction of private streets shall be subject to inspection by the City Engineer for compliance with City standards established in the *Larimer County Urban Area Street Standards*, as adopted by the City Council by ordinance or resolution, and in accordance with the approved plans for the development. All private streets shall be subject to the same bonding and warranty requirements as are established for public streets.

(4) **Traffic Control**. All traffic control devices for the private street system, such as signs, signals, striping, speed control devices (traffic calming) and speed limits, must meet City standards. All plans for traffic control, including any proposed revisions, must be reviewed and approved by the Traffic Engineer prior to installation thereof.

(5) **Operation, Maintenance and Reconstruction**.

(a) The developer of a private street system must submit to the City that portion of the covenants, declarations and/or bylaws of the appropriate property owners association which defines the responsibilities for the operation, maintenance and reconstruction of the private street system, the costs of which must be borne by the property owners and not the City.

(b) The documents must provide for maintenance, reconstruction, drainage, lighting, landscaping, traffic control devices and any other special conditions. This information must also be shown on the plat and site plan for the development with the added statement that the City has no obligation to perform or pay for repair and maintenance or any obligation to accept the streets as public streets.

(c) At the time of recording of the plat, the developer shall also record a notice in the Larimer County, Colorado records showing the location of such street and identifying the property or properties which are burdened with the obligation of operation, maintenance and reconstruction of such street, and affirming that the City has no such obligation, or any obligation to accept such street as a public street.

(6) **Naming and Addressing**. Private streets shall be named and addressed in the same manner as public streets, in accordance with the laws and standards of the City.

(7) **Gated Developments**. Gated street entryways into residential developments are prohibited in accordance with Subsection 5.4.7(G). Gated entryways for private streets are also prohibited.

(M) **Private Drives.**

(1) **When Allowed**.

(a) Internal access or additional cross-access. Private drives shall be allowed in a development, provided that their function will only be to provide access to property within the development or *additional* cross-access between developments that are also connected by a street(s). Private drives shall not be permitted if (by plan or circumstance) such drives would, in the judgment of the City Engineer, attract "through traffic" in such volumes as to render such drives necessary as connections between developments, neighborhoods or other origins and destinations outside of the development plan.

(b) Primary access. A private drive shall be allowed to provide primary access to a development, provided that the drive is in compliance with Subparagraph (a) above.

(c) A private drive shall not be permitted if it prevents or diminishes compliance with any other provisions of this Code.

(2) **Design Requirements**. Private drives shall be designed to meet the following criteria:

(a) If any property served by the private drive cannot receive fire emergency service from a public street, then all emergency access design requirements shall apply to the private drive in accordance with Section 5.4.8. An "emergency access easement" must be dedicated to the City for private drives that provide emergency access.

(b) Private drives which must comply with Section 5.4.8 for emergency access shall be limited to an overall length of six hundred sixty (660) feet from a single point of access (measured as the fire hose would lay).

(c) Private drives which must comply with Section 5.4.8 for emergency access shall be limited to an overall length of six hundred and sixty (660) feet from a single point of access (measure as the fire hose lay).

(d) The design of private drives shall comply with all the standards for *Emergency Access* as contained in Section 5.4.8.

(e) Access locations on public or private streets shall be placed in accordance with City standards.

(f) The connection of a private drive with a public street shall be made in accordance with City street standards.

(g) If drainage from a private drive is channeled or directed to a public street, such drainage shall be in accordance with City street standards.

(3) **Construction Requirements**. The construction of all private drives shall be under the direct supervision of a professional engineer licensed by the State of Colorado, who must certify that all improvements for private drives have been completed in accordance with the plans approved by the City. In addition, the construction of private drives that will serve emergency access purposes shall be inspected by the City Engineer for compliance with City standards and the approved plans in the same manner as is required by the City for public streets.

(4) **Operation, Maintenance and Reconstruction**.

(a) The developer of a private drive must submit to the City that portion of the covenants, declarations and/or by-laws of the appropriate property owners association which defines the responsibilities for the operation, maintenance and reconstruction of the private drive, the costs of which must be borne by the property owners and not the City.

(b) The documents must provide for maintenance, reconstruction, drainage, policing and any other special conditions. This information must also be shown on the plat and site plan for the development with the added statement that the City has no obligation to perform or pay for repair and maintenance or any obligation to accept the private drives as public streets.

(c) At the time of recording of the plat, the developer shall also record a notice in the Larimer County, Colorado records showing the location of such drive and identifying the property or properties which are burdened with the obligation of operation, maintenance and reconstruction of such drive, and

affirming that the City has no such obligation, nor any obligation to accept such drive as a public street or drive.

(5) **Naming and Addressing**. Private drives shall be named, if necessary, to comply with the standards for *Emergency Access* as contained in Section 5.4.8. Addressing of the property shall be assigned by the City in conformance with the Larimer County Urban Area Street Standards.

(6) **Gated Developments**. Gated street entryways into residential developments are prohibited in accordance with subsection 5.4.7(G). Gated entryways for private drives are also prohibited.

(N) **Easements.** Easements shall be controlled by the following requirements:

(1) Public and private easements shall be provided on lots for utilities, public access, stormwater drainage or other public purposes as required and approved by the City Engineer.

(2) Pedestrian and bicycle paths shall be provided to accommodate safe and convenient pedestrian and bicycle movement throughout the subdivision and to and from existing and future adjacent neighborhoods and other development; all such pedestrian and bicycle paths shall be constructed in conformity with the *Larimer County Urban Area Street Standards* as adopted by the City Council by ordinance or resolution.

(3) Development plans shall incorporate and continue any public access easements so as to connect them to any such easements that exist on abutting properties.

(4) The subdivider shall be responsible for adequate provisions to eliminate or control flood hazards associated with the subdivision in accordance with Chapter 10 of the City Code. Agreements concerning stormwater drainage between private parties shall be subject to City review and approval.

## 5.4.7 STREET PATTERN AND CONNECTIVITY STANDARDS

(A) **Purpose.** This Section is intended to ensure that local street system is well designed with regard to safety, efficiency and convenience for automobile, bicycle, pedestrian, mobility devices, and transit modes of travel.

For the purposes of this Division, "local street system" shall mean the interconnected system of collector and local streets providing access to development from an arterial street.

(B) **General Standard**. The local street system of any proposed development shall be designed to be safe, efficient, convenient and attractive, considering use by all modes of transportation that will use the system, (including, without limitation, cars, trucks, buses, bicycles, pedestrians, mobility devices and emergency vehicles). The local street system shall provide multiple direct connections to and between local destinations such as parks, schools and shopping. Local streets must provide for both intra- and inter-neighborhood connections to knit developments together, rather than forming barriers between them. The street configuration within each parcel must contribute to the street system of the neighborhood.

(C) **Spacing of Full Movement Collector and Local Street Intersections With Arterial Streets**. Potentially signalized, full-movement intersections of collector or local streets with arterial streets shall be provided at least every one thousand three hundred twenty (1,320) feet or one-quarter (¼) mile along arterial streets, unless rendered infeasible due to unusual topographic features, existing development or a natural area or feature.

(D) **Spacing of Limited Movement Collector or Local Street Intersections With Arterial Streets**. Additional non-signalized, potentially limited movement, collector or local street intersections with arterial streets shall be spaced at intervals not to exceed six hundred sixty (660) feet between full movement collector or local street intersections, unless rendered infeasible due to unusual topographic features, existing development or a natural area or feature.

The City Engineer may require any limited movement collector or local street intersections to include an access control median or other acceptable access control device. The City Engineer may also allow limited movement intersection to be initially constructed to allow full movement access.

(E) **Distribution of Local Traffic to Multiple Arterial Streets.** All development plans shall contribute to developing a local street system that will allow access to and from the proposed development, as well as access to all existing and future development within the same section mile as the proposed development, from at least three (3) arterial streets upon development of remaining parcels within the section mile, unless rendered infeasible by unusual topographic features, existing development or a natural area or feature.

The local street system shall allow multi-modal access and multiple routes from each development to existing or planned neighborhood centers, parks and schools, without requiring the use of arterial streets, unless rendered infeasible by unusual topographic features, existing development or a natural area or feature.

(F) **Utilization and Provision of Sub-Arterial Street Connections to and From Adjacent Developments and Developable Parcels.** All development plans shall incorporate and continue all sub-arterial streets stubbed to the boundary of the development plan by previously approved development plans or existing development. All development plans shall provide for future public street connections to adjacent developable parcels by providing a local street connection spaced at intervals not to exceed six hundred sixty (660) feet along each development plan boundary that abuts potentially developable or re-developable land.

(G) **Gated Developments.** Gated street entryways into residential developments shall be prohibited.

(H) **Alternative Compliance.** Upon request by an applicant, the decision maker may approve an alternative development plan that may be substituted in whole or in part for a plan meeting the standards of this Section.

(1) Procedure. Alternative compliance development plans shall be prepared and submitted in accordance with submittal requirements for plans as set forth in this Section. The plan and design shall clearly identify and discuss the alternatives proposed and the ways in which the plan will better accomplish the purpose of this Section than would a plan which complies with the standards of this Section.

(2) Review Criteria. To approve an alternative plan, the decision maker must find that the proposed alternative plan accomplishes the purposes of this Division equally well or better than would a plan and design which complies with the standards of this Division, and that any reduction in access and circulation for vehicles maintains facilities for bicycle, pedestrian, mobility devices and transit.

In reviewing the proposed alternative plan, the decision maker shall take into account whether the alternative design minimizes the impacts on natural areas and features, fosters nonvehicular access, provides for distribution of the development's traffic without exceeding level of service standards, enhances neighborhood continuity and connectivity and provides direct, sub-arterial street access to any parks, schools, neighborhood centers, commercial uses, employment uses and Neighborhood Commercial Districts within or adjacent to the development from existing or future adjacent development within the same section mile.

## 5.4.8 EMERGENCY ACCESS

(A) **Purpose.** This Section is intended to ensure that emergency vehicles can gain access to, and maneuver within, the project so that emergency personnel can provide fire protection and emergency services without delays.

(B) **General Standard.** All developments shall provide adequate access for emergency vehicles and for those persons rendering fire protection and emergency services by complying with Article 9, Fire Department Access and Water Supply, of the Uniform Fire Code as adopted and amended pursuant to Chapter 9 of the

City Code. All emergency access ways, easements, rights-of-way or other rights required to be granted pursuant to the Uniform Fire Code must include not only access rights for fire protection purposes, but also for all other emergency services.

### 5.4.9 BUS STOP DESIGN STANDARDS

(A) **Purpose.** The purpose of this Section is to ensure that new development adequately accommodates existing and planned transit service by integrating facilities designed and located appropriately for transit into the development plan.

(B) **General Standard**. All development located on an existing or planned transit route shall install or construct a transit stop and other associated facilities on an easement or right-of-way dedicated to the City as prescribed by the City of Fort Collins Bus Stop Design Standards and Guidelines in effect at the time of installation, unless the Director determines that adequate transit facilities consistent with the Bus Stop Design Standards already exist to serve the needs of the development. All development located on existing transit routes will accommodate the transit facilities by providing the same at the time of construction. All development located on planned routes will accommodate said facilities by including the same in the development plan and escrowing funds to enable the City or its agents to construct the transit facilities at the time transit service is provided to the development. All facilities installed or constructed shall, upon acceptance by the City, become the property of the City and shall be maintained by the City or its agent.

(C) **Location of Existing and Planned Transit Routes.** For the purposes of application of this standard, the location of existing transit routes shall be defined by the Transfort Route Map in effect at the time the application is approved. The location of planned transit routes shall be defined according to the Transfort Strategic Operating Plan, as amended.

### 5.4.10 TRANSPORTATION LEVEL OF SERVICE REQUIREMENTS

(A) **Purpose.** In order to ensure that the transportation needs of a proposed development can be safely accommodated by the existing transportation system, or that appropriate mitigation of impacts will be provided by the development, the project shall demonstrate that all adopted level of service (LOS) standards will be achieved for all modes of transportation as set forth in this Section.

(B) **General Standard**. All development plans shall adequately provide vehicular, pedestrian, mobility devices, and bicycle facilities necessary to maintain the adopted transportation level of service standards. The vehicular level of service standards are those contained in Table 4-2 of the Larimer County Urban Area Street Standards (LCUASS). The bicycle and pedestrian level of service standards are those contained in Part II of the City of Fort Collins Multi-modal Transportation Level of Service Manual. Mitigation measures for levels of service that do not meet the standards are provided in Section 4.6 of LCUASS. No Transit level of service standards will be applied for the purposes of this Section. Notwithstanding the foregoing, adopted level of service standards need not be achieved where the necessary improvements to achieve such standards are not reasonably related and proportional to the impacts of the development. In such cases, the Director may require improvements or a portion thereof that are reasonably related and proportional to the impacts of the development, or the requirement may be varied or waived pursuant to LCUASS Section 4.6.

(C) **Transportation Impact Study, Nominal Impact**. In order to identify those facilities that are necessary in order to comply with these standards, development plans may be required to include the submittal of a Transportation Impact Study, to be approved by the Traffic Engineer, consistent with the Transportation

Impact Study guidelines as established in LCUASS Chapter 4. Should a Transportation Impact Study not be required pursuant to LCUASSS Chapter 4, a proposed development shall be deemed to have a nominal impact and shall not be subject to the transportation level of service requirements described in this Section.

# DIVISION 5.5 ENVIRONMENTAL REQUIREMENTS

## 5.5.1 NOISE AND VIBRATION

General Standard. Proposed land uses and activities shall be conducted so that any noise generated on the property will not violate the noise regulations contained in the City's Noise Control Ordinance (Chapter 20, Article II of the City Code), and so that any vibration caused by using the property will be imperceptible without instruments at any point along the property line.

## 5.5.2 HAZARDOUS MATERIALS

(A) **Purpose.** The purpose of this Section is to protect the community and neighborhood from potential harm caused directly or indirectly by hazardous materials. The proper location, construction and processing of hazardous materials facilities are important to controlling community risk. If the type and magnitude of hazardous materials emergencies can be predicted, the potential impact on adjacent land uses, emergency providers and the environment can be minimized.

(B) **General Standard**. If any use on the development site may entail the use or storage of hazardous materials (including hazardous wastes) on-site, the project shall be designed to comply with all safety, fire and building codes for the use and storage of the hazardous materials involved. Adequate precautions shall be taken to protect against negative off-site impacts of a hazardous materials release, using the best available technology.

(C) **Hazardous Materials** Impact Analysis. To evaluate the impact of hazardous materials risk, all development proposals that have the potential to cause off-site impacts during the release of a hazardous material shall include a Hazardous Materials Impact Analysis (HMIA). These include land uses such as gas stations, manufacturing facilities and similar establishments that require the use or storage of flammable or toxic substances.

- This analysis shall provide basic information on the project (including site layout and proposed hazardous materials use), describe likely incident scenarios, describe mitigation actions designed to limit the potential for off-site impacts on adjacent land uses or environment and describe emergency response measures in the event of a spill. Based on the information provided in the impact analysis, recommendations will be made by the Poudre Fire Authority to the relevant decision maker to protect against off-site impacts. If a HMIA is required for a development proposal, a statement indicating that such a study has been required will be included in all required written notices to property owners as defined by Section 6.3.6 of this Code, to the extent reasonably feasible.

## 5.5.3 GLARE OR HEAT

(A) **Purpose**. This Section is intended to protect the community and neighborhood from glare, defined as a harsh, uncomfortably bright light. Glare can inhibit good visibility, cause visual discomfort and create safety

problems. This Section is also intended to protect the neighborhood from the adverse effects of reflected heat that could be caused by a proposed land use.

(B) **General Standard**. If the proposed activity produces intense glare or heat, whether direct or reflected, that is perceptible from any point along the site's property lines, the operation shall be conducted within an enclosed building or with other effective screening sufficient to make such glare or heat imperceptible at the property line.

(C) **Glare From Manufacturing Sources**. Manufacturing processes that create glare, such as welding, shall be conducted within an enclosed building or be effectively screened from public view. If the source of the glare is proposed to be screened with plant material, then the applicant must show that the screening will be effective year-round.

### 5.5.4 SOLAR ACCESS, ORIENTATION, AND SHADING

(A) **Purpose**. It is the City's intent to encourage the use of both active and passive solar energy systems for heating air and water in homes and businesses, as long as natural topography, soil or other subsurface conditions or other natural conditions peculiar to the site are preserved. While the use of solar energy systems is optional, the right to solar access is protected. Solar collectors require access to available sunshine during the entire year, including between the hours of 9:00 am and 3:00 pm, MST, on December 21, when the longest shadows occur. Additionally, a goal of this Section is to ensure that site plan elements do not excessively shade adjacent properties, creating a significant adverse impact upon adjacent property owners. Thus, standards are set forth to evaluate the potential impact of shade caused by buildings, structures and trees.

(B) **General Standard**. All development shall be designed throughout to accommodate active and/or passive solar installations to the extent reasonably feasible.

(C) **Solar-Oriented Residential Lots**. At least sixty-five (65) percent of the lots less than fifteen thousand (15,000) square feet in area in single- and two-unit residential developments must conform to the definition of a "solar-oriented lot" in order to preserve the potential for solar energy usage.

(D) **Access to Sunshine**. The elements of the development plan (e.g., buildings, circulation, open space and landscaping) shall be located and designed, to the maximum extent feasible, to protect access to sunshine for planned solar energy systems or for solar-oriented rooftop surfaces that can support a solar collector or collectors capable of providing for the anticipated hot water needs of the buildings in the project between the hours of 9:00 a.m. and 3:00 p.m. MST, on December 21.

(E) **Shading**.

(1) The physical elements of the development plan shall be, to the maximum extent feasible, located and designed so as not to cast a shadow onto structures on adjacent property greater than the shadow which would be cast by a twenty –five (25) foot hypothetical wall located along the property lines of the project between the hours of 9:00 am and 3:00 pm, MST, on December 21. This provision shall not apply to structures within the following high-density zone districts: Downtown, Community Commercial, and Transit-Oriented Overlay District.

(2) The impact of trees shall be evaluated on an individual basis considering the potential impacts of the shading and the potential adverse impacts that the shading could create for the adjacent properties in terms of blocking sunlight in indoor living areas, outdoor activity areas, gardens and similar spaces benefiting from access to sunlight. Shading caused by deciduous trees can be beneficial and is not prohibited.

(F) **Alternative Compliance.** Upon request by an applicant, the decision maker may approve an alternative site layout that may be substituted in whole or in part for a plan meeting the standards of this Section.

(1) **Procedure**. Alternative compliance plans shall be prepared and submitted in accordance with submittal requirements for plans as set forth in this Section. The plan shall clearly identify and discuss the modifications and alternatives proposed and the ways in which the plan will better accomplish the purpose of this Section than a plan which complies with the standards of this Section.

(2) **Review Criteria.** In approving an alternative plan, the decision maker shall find that the proposed alternative plan accomplishes the purposes of this Section equally or better than a plan which complies with the standards of this Section.

(3) In reviewing the proposed alternative plan, the decision maker shall take into account whether the alternative design enhances neighborhood continuity and connectivity, fosters nonvehicular access, and preserves existing natural or topographic conditions on the site.

### 5.5.5 PARKS AND TRAILS

(A) **Establishment of Parks and Recreation Policy Plan Master Plan.** In order to accomplish the purposes of this Code, the location, size and characteristics of parks and trails have been established on a plan entitled "ReCreate: Parks & Recreation Master Plan" dated January 19, 2021, as amended, which plan is hereby made a part of this Code by reference. The Parks and Recreation Policy Plan Master Plan is on file with the City Clerk.

(B) **Purpose.** The compliance of development plans with the Parks and Recreation Policy Plan ensures that the community will have a fair and equitable system of parks, trail and recreation facilities as the community grows. Establishment of the facilities in the Parks and Recreation Policy Plan shall generally provide the same level of service to new portions of the community as the existing community enjoys.

(C) **General Standard.** All development plans shall provide for, accommodate or otherwise connect to, either on-site or off-site, the parks and trails identified in the Parks and Recreation Policy Plan Master Plan that are associated with the development plan.

## DIVISION 5.6 ENVIROMENTAL SITE SUITABILITY

### 5.6.1 NATURAL HABITATS AND FEATURES

(A) **Applicability.** This Section applies if any portion of the development site is within five hundred (500) feet of an area or feature identified as a natural habitat or feature on the City's *Natural Habitats and Features Inventory Map,* or if any portion of the development site contains natural habitats or features that have significant ecological value, and such natural habitats or features are discovered during site evaluation

and/or reconnaissance associated with the development review process. Natural habitats and features considered to have significant ecological value are as follows:

(1) **Natural Communities or Habitats:**

(a) aquatic (e.g., rivers, streams, lakes, pond);
(b) wetland and wet meadow;
(c) native grassland;
(d) riparian forest;
(e) urban plains forest;
(f) riparian shrubland;
(g) foothills shrubland; and
(h) foothills forest.

(2) **Special Features***:*

(a) Significant remnants of native plant communities;
(b) Potential habitats and known locations of rare, threatened or endangered species of plants;
(c) Potential habitats and know locations of rare, threatened or endangered species of wildlife;
(d) Raptor habitat features, including nest sites, communal roost sites and key concertation areas;
(e) Concertation areas for nesting and migratory shorebirds and waterfowl;
(f) Migratory songbird concertation areas;
(g) Key nesting areas for grassland birds;
(h) Fox and coyote dens;
(i) Mule deer winter concertation areas;
(j) Prairie dog colonies one (1) acre or greater in size;
(k) Concentration areas for rate, migrant or resident butterflies;
(l) Areas of high terrestrial or aquatic insect diversity;
(m) Areas of significant geological or paleontological interest; and
(n) Irrigating ditches that serve as wildlife corridors.

(B) **Purpose.** The purpose of this Section is to ensure that when property is developed consistent with its zoning designation, the way in which the proposed physical elements of the development plan are designed and arranged on the site will protect the natural habitats and features both on the site and in the vicinity of the site.

(C) **General Standard**. The development plan shall be designed and arranged to be compatible with and to protect natural habitats and features and the plants and animals that inhabit them and integrate them within the developed landscape of the community by: (1) directing development away from sensitive resources, (2) minimizing impacts and disturbance through the use of buffer zones, (3) enhancing existing conditions, or (4) restoring or replacing the resource value lost to the community (either on-site or off-site) when a development proposal will result in the disturbance of natural habitats or features.

(D) **Ecological Characterization and Natural Habitat or Feature Boundary Definition**. The boundary of any natural habitat or feature shown on the *Natural Habitats and Features Inventory Map* is approximate. The actual boundary of any area to be shown on a project development shall be proposed by the applicant and established by the Director through site evaluations and reconnaissance and shall be based on the ecological characterization of the natural habitat or feature in conjunction with the map.

(1) *Ecological Characterization Study.*

(a) If the development site contains, or is within five hundred (500) feet of, a natural habitat or feature, or if it is determined by the Director, upon information or from inspection, that the site likely includes areas with wildlife, plant life and/or other natural characteristics in need of protection, then the developer shall provide to the City an ecological characterization report prepared by a City approved professional qualified in the areas of ecology, wildlife biology or other relevant discipline.

(b) At least ten (10) working days prior to the submittal of a project development plan application for all or any portion of a property, a comprehensive ecological characterization study of the entire property must be prepared by a qualified consultant and submitted to the City for review.

(c) The Director may waive any or all of the following elements of this requirement if the City already possesses adequate information required by this subsection to establish the buffer zone(s), as set forth in subsection (E) below, and the limits of development ("LOD"), as set forth in subsection (N) below. The ecological characterization study shall describe, without limitation, the following:

(I) the wildlife use of the area showing the species of wildlife using the area, the times or seasons that the area is used by those species and the "value" (meaning feeding, watering, cover, nesting, roosting, perching) that the area provides for such wildlife species;

(II) the boundary of wetlands in the area and a description of the ecological functions and characteristics provided by those wetlands;

(III) any prominent views from or across the site;

(IV) the pattern, species and location of any significant native trees and other native site vegetation;

(V) the pattern, species and location of all non-native trees and vegetation that contribute to the site's ecological, shade, canopy, aesthetic and cooling value;

(VI) the top of bank, shoreline and high water mark of any perennial stream or body of water on the site;

(VII) areas inhabited by or frequently utilized by Sensitive and Specially Valued Species;

(VIII) special habitat features;

(IX) wildlife movement corridors;

(X) the general ecological functions provided by the site and its features;

(XI) any issues regarding the timing of development-related activities stemming from the ecological character of the area; and

(XII) any measures needed to mitigate the projected adverse impacts of the development project on natural habitats and features.

(2) **Wetland Boundary Delineation**.

(a) Wetland boundary delineations of both a non-jurisdictional wetland and "jurisdictional wetland" shall be established in accordance with the U.S. Army Corps of Engineers 1987 Westland Delineation Manual and the appropriate Regional Supplement, and classified according to the U.S. Fish and Wildlife Service wetland classification system. In establishing the boundaries of a wetland, the applicant and the Director shall use soil samples, vegetation analysis and hydrological evidence.

(b) If at least one of the required criteria for wetland delineation, hydric soil, hydrophytic vegetation, or hydrology, is present on the development site, the applicant shall communicate the criterion or criteria to the Director for consideration.

(c) The Director may also utilize the standards and guidelines and/or the professional recommendations of the U.S. Army Corps of Engineers or other organization, individual, or governmental entity in reviewing such boundaries. These shall be identified in the submittal documents for the review of the project development plan (if applicable, or if not applicable, the most similar development review) and prior to commencement of any construction activities.

(E) **Establishment of Buffer Zones.** Buffer zones surrounding natural habitats and features shall be shown on the project development plan for any development that is subject to this Division. The purpose of the buffer zones is to protect the ecological character of natural habitats and features from the impacts of the ongoing activity associated with the development.

(1) **Buffer Zone Performance Standards.** The decision maker shall determine the buffer zones for each natural habitat or feature contained in the project site. The buffer zones may be multiple and noncontiguous. The general buffer zone distance is established according to the buffer zone table below, but the decision maker may reduce any portion of the general buffer zone distance so long as the reduced buffer complies with the performance standards set forth below. To mitigate a reduced portion of the buffer area, the decision maker may also enlarge any portion of the general buffer zone distance if necessary to ensure that the buffer complies with the performance standards set forth below. The buffer zone performance standards are as follows:

(a) The project shall be designed to preserve or enhance the ecological character or function and wildlife use of the natural habitat or feature and to minimize or adequately mitigate the foreseeable impacts of development.

(b) The project, including, by way of example and not by way of limitation, its fencing, pedestrian/bicycle paths and roadways, shall be designed to preserve or enhance the existence of wildlife movement corridors between natural habitats and features, both within and adjacent to the site.

(c) The project shall be designed to preserve existing trees and vegetation that contribute to the site's ecological, shade, canopy, aesthetic, habitat and cooling value. Notwithstanding the requirements of Section 5.10.1(F), trees and vegetation within the Limits of Development must be preserved or, if necessary, mitigated based on the values established by the Ecological Characterization Study or the

City Environmental Planner. Such mitigation, if necessary, shall include trees, shrubs, grasses, or any combination thereof, and must be planted within the buffer zone.

(d) The project shall be designed to protect from adverse impact species utilizing special habitat features such as key raptor habitat features, including nest sites, night roosts and key feeding areas as identified by the Colorado Parks and Wildlife Division ("CPW") or the Fort Collins Natural Areas Department ("NAD"):

(I) key production areas;
(II) wintering areas and migratory feeding areas for waterfowl;
(III) heron rookeries;
(IV) key use areas for wading birds and shorebirds;
(V) key use areas for migrant songbirds;
(VI) key nesting areas for grassland birds;
(VII) fox and coyote dens;
(VIII) mule deer winter concentration areas as identified by the CPW or NAD;
(IX) prairie dog colonies one (1) acre or greater in size;
(X) key areas for rare, migrant or resident butterflies as identified by the NAD;
(XI) areas of high terrestrial or aquatic insect diversity as identified by the NAD;
(XII) remnant native prairie habitat;
(XIII) mixed foothill shrubland;
(XIV) foothill ponderosa pine forest;
(XV) plains cottonwood riparian woodlands; and
(XVI) wetlands of any size.

(e) The project shall be designed so that the character of the proposed development in terms of use, density, traffic generation, quality of runoff water, noise, lighting and similar potential development impacts shall minimize the degradation of the ecological character or wildlife use of the affected natural habitats or features.

(f) The project shall be designed to integrate with and otherwise preserve existing site topography, including, but not limited to, such characteristics as steepness of slopes, existing drainage features, rock outcroppings, river and stream terraces, valley walls, ridgelines and scenic topographic features.

(g) The project shall be designed to enhance the natural ecological characteristics of the site. If existing landscaping within the buffer zone is determined by the decision maker to be incompatible with the purposes of the buffer zone, then the applicant shall undertake restoration and mitigation measures such as regrading and/or the replanting of native vegetation.

(h) The project may be designed to provide appropriate human access to natural habitats and features and their associated buffer zones in order to serve recreation purposes, provided that such access is compatible with the ecological character or wildlife use of the natural habitat or feature.

(i) Fencing associated with the project shall be designed to be compatible with the ecological character and wildlife use of the natural habitat or feature.

(2) **Development Activities Within the Buffer Zone**.

(a) No disturbance shall occur within any buffer zone and no person shall engage in any activity that will disturb, remove, fill, dredge, clear, destroy or alter any area, including vegetation within natural habitats or features including without limitation lakes, ponds, stream corridors and wetlands, except as provided in subsection (c) below.

(b) If the development causes any disturbance within the buffer zone, whether by approval of the decision maker or otherwise, the applicant shall undertake restoration and mitigation measures within the buffer zone such as regrading and/or the replanting of native vegetation. The applicant shall undertake mitigation measures to restore any damaged or lost natural resource either on-site or off-site at the discretion of the decision maker. Any such mitigation or restoration shall be at least equal in ecological value to the loss suffered by the community because of the disturbance, and shall be based on such mitigation and restoration plans and reports as have been requested, reviewed and approved by the decision maker. Unless otherwise authorized by the decision maker, if existing vegetation (whether native or non-native) is destroyed or disturbed, such vegetation shall be replaced with native vegetation and landscaping.

(c) The decision maker may allow disturbance or construction activity within the buffer zone for the following limited purposes:

(I) mitigation of development activities;

(II) restoration of previously disturbed or degraded areas or planned enhancement projects to benefit the natural area or feature;

(III) emergency public safety activities;

(IV) utility installations when such activities and installations cannot reasonably be located outside the buffer zone or other nearby areas of development;

(V) construction of a trail or pedestrian walkway that will provide public access for educational or recreational purposes provided that the trail or walkway is compatible with the ecological character or wildlife use of the natural habitat or feature; and

(VI) construction or installation of recreation features or public park elements, provided that such features or elements are compatible with the ecological character or wildlife use of the natural habitat or feature.

**(d) Buffer Zone Table for Fort Collins Natural Habitats and Features.**

| *Natural Habitat or Feature* | *Buffer Zone Standard*[3] |
|---|---|
| **Isolated Areas** | |
| Irrigation ditches that serve as wildlife corridors | 50 feet |
| Isolated patches of native grassland or shrubland | 50 feet |
| Isolated patches of native upland or riparian forest | 50 feet |
| Woodlots/farmstead windbreaks | 25 feet |
| Naturalized irrigation ponds | 50 feet |
| Naturalized storm drainage channels/detention ponds | 50 feet |

| | |
|---|---|
| Lakes or reservoirs | 100 feet |
| Wetlands < ⅓ acre in size | 50 feet |
| Wetlands > ⅓ acre in size, without significant use by waterfowl and/or shorebirds | 100 feet |
| Wetlands > ⅓ acre in size, with significant use by waterfowl and/or shorebirds | 300 feet |
| **Stream Corridors** | |
| Boxelder Creek | 100 feet |
| Cache la Poudre River (west UGA boundary to College Avenue) | 300 feet |
| Cache la Poudre River in downtown (College to Lincoln Avenue)[2] | 200 feet |
| Cache la Poudre River (Lincoln Avenue to east UGA boundary) | 300 feet |
| Cooper Slough | 300 feet |
| Dry Creek | 100 feet |
| Fossil Creek and Tributaries | 100 feet |
| Spring Creek | 100 feet |
| **Special Habitat Features/Resources of Special Concern** | |
| Bald eagle communal feeding sites | 660 feet |
| Bald eagle communal roost sites | 1,320 feet |
| Bald eagle nest sites | 2,640 feet |
| Winter raptor concentration areas | 300 feet |
| Great blue heron colonial nest sites | 825 feet |
| Migratory waterfowl concentration areas | 300 feet |
| Nesting waterfowl concentration areas | 300 feet |
| Migratory shorebird concentration areas | 300 feet |
| Nesting shorebird concentration areas | 300 feet |
| Migratory songbird concentration areas | 300 feet |
| Locations of Preble's meadow jumping mouse | 300 feet |
| Locations of fox, coyote and badger dens | 50 feet |
| Locations of rare butterfly species | site analysis |
| Locations of rare, threatened or endangered plant species | site analysis |
| Locations of geological or paleontological sites of special interest | site analysis |
| Prairie dog colonies | site analysis |

(I) Note that these buffer zone standards do not apply in areas zoned RDR - River Downtown Redevelopment. Alternative standards are included in the description of this zone district.

(II) Table distances may be modified as described in Section 5.6.1(E)(1) above to meet performance standards.

(III) Buffer zone table distances shall be measured in a straight line without regard to topography. Measurements will be made from the outer edge of the natural habitat or feature to the boundary of the lot, tract or parcel of land that defines and describes the development and:

(i) Isolated area buffer zones such as woodlots, farm windbreaks and forests will be measured from the outer edge of the drip line toward the boundary of such lot, tract or parcel of land;

(ii) Wetlands, grasslands and shrubland buffer zones will be measured from the outside edge of the habitat toward the boundary of such lot, tract or parcel of land;

(iii) Stream corridors, lakes, reservoirs and irrigation ditches buffer zones will be measured from the top of bank toward the boundary of such lot, tract or parcel of land;

(iv) Special habitat features/resources of special concern will be measured as a radius starting from the outer edge of the habitat toward the boundary of such lot, tract or parcel of land; and

(v) Locations of geological or paleontological sites of special interest will be measured from the outer edge of the feature toward the boundary of such lot, tract or parcel of land.

(F) **Protection of Wildlife Habitat and Ecological Character.**

(1) **Rare, Threatened or Endangered Species.** If the ecological characterization report required pursuant to Subsection (D)(1) above shows the existence in a natural habitat or feature of a rare, threatened or endangered species of plant or wildlife, then the development plan shall include provisions to ensure that any habitat contained in any such natural habitat or feature or in the adjacent buffer zone which is of importance to the use or survival of any such species shall not be disturbed or diminished and, to the maximum extent feasible, such habitat shall be enhanced. (NOTE: Some studies, e.g., rare plant surveys, are time-limited and can only be performed during certain seasons.)

(2) **Sensitive or Specially Valued Species**. If the ecological characterization report required pursuant to subsection (D)(1) above shows the existence in a natural habitat or feature of a plant or wildlife species identified by the City as a sensitive or specially valued species, excluding threatened or endangered species, then the development plan shall include provisions to protect, enhance, or mitigate impacts to any such natural habitat or feature or in the adjacent buffer zone which is of importance to the use or survival of any such species to the extent reasonably feasible.

(3) **Connections**. If the development site contains existing natural habitats or features that connect to other off-site natural habitats or features, to the maximum extent feasible the development plan shall preserve such natural connections. If natural habitats or features lie adjacent to (meaning in the region immediately round about) the development site, but such natural habitats or features are not presently connected across the development site, then the development plan shall, to the extent reasonably feasible, provide such connection. Such connections shall be designed and constructed to allow for the continuance of existing wildlife movement between natural habitats or features and to enhance the opportunity for the establishment of new connections between areas for the movement of wildlife.

(4) **Wildlife Conflicts**. If wildlife that may create conflicts for the future occupants of the development (including, but not limited to, prairie dogs, beaver, deer and rattlesnakes) are known to exist in areas adjacent to or on the development site, then the development plan must, to the extent reasonably feasible, include provisions such as barriers, protection mechanisms for landscaping and other site features to minimize conflicts that might otherwise exist between such wildlife and the developed portion of the site.

(G) **Lakes/Riparian Area Protection**

(1) **Lakes, Reservoirs and Ponds**. If the development site contains a lake, reservoir or pond, the development plan shall include such enhancements and restoration as are necessary to provide reasonable wildlife habitat and improve aesthetic quality in areas of shoreline transition and areas subject to wave erosion. The development plan shall also include a design that requires uniform and ecologically and aesthetically compatible treatment among the lots or tracts surrounding a lake, reservoir or pond with regard to the establishment of erosion control protection and shoreline landscaping on or adjacent to such lots or tracts. Water bodies and features such as irrigation ponds, reflecting pools and lagoons constructed as new landscaping features of a development project shall be exempt from the standards contained in this subparagraph.

(2) **Streambank Stabilization.** When the Stormwater Master Plans and the Storm Drainage Design Criteria and Construction Standards of the City require streambank stabilization, native vegetation shall be utilized for such purpose, and engineered stabilization techniques such as exposed rip rap shall be avoided, to the maximum extent feasible. The use of native vegetation shall be the principal means of streambank stabilization, and the use of rip-rap for streambank stabilization shall be restricted to locations where the use of vegetation techniques is not reasonably feasible.

(H) **Ridgeline Protection.**

(1) **Ridgeline Setback.** So that structures blend more naturally into the landscape rather than being a prominent focal point, no development shall intrude into any ridgeline protection area identified and designated by the Director during the development review process in conjunction with the establishment of the LOD and the buffer zone. For the purposes of this subsection, a designated ridgeline protection area shall include the crest of any hill or slope so designated, plus the land located within one hundred (100) horizontal feet (plan view) on either side of the crest of the hill or slope.

(2) **Building Height and Profile**. Multilevel buildings shall follow the general slope of the site in order to keep the building height and profile in scale with surrounding natural features.

(I) **Design and Aesthetics.**

(1) **Project design**. Projects in the vicinity of large natural habitats and/or natural habitat corridors, including, but not limited to, the Poudre River Corridor and the Spring Creek Corridor, shall be designed to complement the visual context of the natural habitat. Techniques such as architectural design, site design, the use of native landscaping and choice of colors and building materials shall be utilized in such manner that scenic views across or through the site are protected, and manmade facilities are screened from off-site observers and blend with the natural visual character of the area. These requirements shall apply to all elements of a project, including any aboveground utility installations.

(2) **Visual Character of Natural Features.** Projects shall be designed to minimize the degradation of the visual character of affected natural features within the site and to minimize the obstruction of scenic views to and from the natural features within the site.

(J) **Stormwater Drainage/Erosion Control.** All stormwater drainage and erosion control plans shall meet the standards adopted by the City Stormwater Utility for design and construction and shall, to the maximum extent feasible, utilize nonstructural control techniques, including but not limited to:

(1) limitation of land disturbance and grading;
(2) maintenance of vegetated buffers and natural vegetation;
(3) minimization of impervious surfaces;
(4) use of terraces, contoured landscapes, runoff spreaders, grass or rock-lined waterways;
(5) use of infiltration devices; and
(6) use of recharge basins, seepage pits, dry wells, seepage beds or ditches, porous pavement or sub-drain systems

(K) **Water Rights.** To the extent that a development plan proposes the creation of water features such as lakes, ponds, streams or wetlands, the plan must include clear and convincing evidence that such water features will be supplied with sufficient water whether by natural means or by the provision of sufficient appropriative water rights. No development plan shall be approved which would have the effect of injuring or diminishing any legally established water supply for any natural area.

(L) **Compatibility with Public Natural Areas or Conserved Land**. If the project contains or abuts a publicly owned natural area or conserved land, the development plan shall be designed so that it will be compatible with the management of such natural area or conserved land. In order to achieve this, the development plan shall include measures such as barriers or landscaping measures to minimize wildlife conflicts, setbacks or open space tracts to provide a transition between the development and the publicly owned natural area or conserved land, and educational signage or printed information regarding the natural values, management needs and potential conflicts associated with living in close proximity to such natural area or conserved land.

(M) **Access to Public Natural Areas or Conserved Land.** In the event that the development plan contains or abuts a publicly owned natural area or conserved land, the development plan shall include such easements and rights-of-way as are necessary to allow reasonable access for the public to such natural area or conserved land, unless such access is deemed by the decision maker to be unnecessary and undesirable for the proper public utilization of such natural area or conserved land. Any such access requirement or dedication shall be credited (based upon a fair market value analysis) against any such natural area or conserved land dedication or fee-in-lieu thereof required by the City. If the development site contains any privately owned natural area or open lands, any access provided to such area or open lands, whether for private or public use, if determined to be appropriate, shall be designed and managed in such manner as to minimize the disturbance of existing wildlife using such area.

(N) **Standards for Protection During Construction.** For every development subject to this Division, the applicant shall propose, and the Director shall establish, measures to be implemented during the actual construction phase of the project to ensure protection of natural habitats and features and their associated buffer zones, as follows:

(1) **Limits of Development**. The applicant shall propose, and the Director shall establish on the project development plan, a "limits of development" ("LOD") line(s) to establish the boundary of the project outside of which no land disturbance activities will occur during the construction of the project. The purpose of the LOD lines shall be to protect natural habitats and features and their associated buffer zones from inadvertent damage during site construction activities. The location of the LOD shall be

designed to preserve significant ecological characteristics of the affected natural habitat or feature that could not reasonably be restored if disturbed by construction activities associated with the project. The LOD shall also be designed to accommodate the practical needs of approved construction activity in terms of ingress and egress to the developed project and necessary staging and operational areas.

(2) **Designation.** LODs, as approved by the Director, shall be shown on the final plan for development. LODs shall be designated in the field prior to commencement of excavation, grading or construction with fencing or other methods approved by the Director.

(3) **Barrier Fencing.** Construction barrier fencing shall be provided at the limits of development during construction. For the protection of natural habitats and features, including but not limited to trees and clumps of trees to be preserved with a buffer zone that is to be disturbed, tree protection specifications as described in subsection 5.10.1(G)(1) and (3) through (7) shall be followed.

(4) **Construction Timing**. Construction shall be organized and timed to minimize the disturbance of Sensitive or Specially Valued Species occupying or using on-site and adjacent natural habitats or features.

(5) **Red-tailed and Swainson's Hawk Nest Sites.**

(a) No tree with an active nest shall be removed unless a permit for such removal has been obtained by the developer from the United States Fish and Wildlife Service.

(b) To the extent reasonably feasible, trees that are known to have served as nest sites shall not be removed within five (5) years of the last known nesting period. If the tree is removed, it shall be mitigated in accordance with Section 5.10.1, Landscaping and Tree Protection Standards.

(c) A temporary LOD of a four-hundred-fifty (450) foot radius shall be established for Red-tailed and Swainson's hawk active nest sites during the period from February 15 through July 15 of the first year of a multi-year development construction project.

(6) **Prairie Dog Removal**. Before the commencement of grading or other construction on the development site, any prairie dogs inhabiting portions of the site within the LOD shall be relocated or eradicated by the developer. Prairie dog relocation shall be accomplished using methods reviewed and approved by the Colorado Parks and Wildlife Division. Following relocation or eradication activities, a report shall be provided to the City that documents when prairie dog removal occurred, the method(s) that were used to remove prairie dogs, measures taken to ensure that prairie dogs will not re-inhabit the site, and confirmation that no threatened or endangered species were harmed by removal activities.

(O) **Proof of Compliance.**

(1) If a proposed development will disturb an existing wetland, the developer shall provide to the City a written statement from the U.S. Army Corps of Engineers that the development plan fully complies with all applicable federal wetland regulations as established in the federal Clean Water Act.

### 5.6.2 AIR QUALITY

(A) **General Standard.** The project shall conform to all applicable local, state and federal air quality regulations and standards, including, but not limited to, those regulating odor, dust, fumes or gases which are noxious,

toxic or corrosive, and suspended solid or liquid particles. The project shall be designed and constructed to comply with the dust control measures contained in the Dust Control Manual to the extent required therein.

(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:

(a) any residential use;

(b) any commercial/retail use except frozen food lockers, enclosed mini-storage facilities and properties used principally as parking lots or parking garages;

(c) any industrial use except warehouses, properties used for recreational vehicle, boat or truck storage, composting facilities, outdoor storage facilities, junkyards, transport terminals, recycling facilities, and resource extraction;

(d) any institutional/civic/public use except cemeteries, golf courses, public facilities, parks, recreation and other open lands, places of worship or assembly; and

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

(2) The following minimum horizontal distances shall apply to the kinds of wastewater treatment works listed below and the uses specified in subparagraph 1. above:

(a) Non-aerated lagoons: one thousand three hundred twenty (1,320) feet (¼ mile).

(b) Aerated lagoons containing less than two (2) total surface acres with no surface aeration one hundred (100) feet.

(c) Aerated lagoons containing greater than two (2) total surface acres and/or with surface aeration: one thousand (1,000) feet, or with established vegetation barriers, and/or walls, berms or other topographic features to reduce aerosol drift as approved pursuant to paragraph (C) below: five hundred (500) feet.

(d) Small mechanical plants with less than one hundred thousand (100,000) gpd capacity and all facilities with building enclosure: one hundred (100) feet.

(e) All other mechanical plants: one thousand (1,000) feet.

(C) **Alternative Compliance.** Upon request by an applicant, the decision maker may approve an alternative setback distance that may be substituted for a setback distance meeting the standards of this Section.

(1) **Procedure**. Alternative compliance setback plans shall be prepared and submitted in accordance with the submittal requirements for plans as set forth in this Section. The plan shall clearly identify and discuss the setback modifications proposed and the ways in which the plan will equally well or better

accomplish the purpose of this Section than would a plan which complies with the standards of this Section.

(2) **Review Criteria.** To approve an alternative plan, the decision maker must find that the proposed alternative plan accomplishes the purposes of this Section equally well or better than would a plan which complies with the standards of this Section.

(3) **Alternative Plan.** In reviewing the proposed alternative plan, the decision maker shall consider any mitigating factors that exist to counter the potential for odor problems and/or aerosol drift, including, without limitation, structural, chemical or technological mitigation occurring at the subject wastewater treatment works, established vegetation barriers and/or walls, berms, or other topographic features sufficient to serve as mitigation for odor problems and/or aerosol drift. In order to assist the decision maker in evaluating the proposed mitigation factors the Utilities Executive Director shall submit a written recommendation regarding such mitigation factors, which recommendation shall include the technical analysis and reasoning used in support of the Utilities Executive Director's recommendation.

### 5.6.3 WATER QUALITY

**General Standard.** Projects shall be designed so that precipitation runoff flowing from the site is treated in accordance with the criteria set forth in the *Stormwater Criteria Manual*.

### 5.6.4 WATER HAZARDS

(A) Lands which are subject to flooding or are located in a natural drainageway shall not be approved for development or redevelopment unless the following conditions are met:

(1) the project development plan complies with the Basin Master Drainageway Plan as applicable;

(2) the project development plan complies with the City's Stormwater Criteria Manual;

(3) the project development plan complies with the floodplain regulations as established in Chapter 10 of the City Code; and

(4) all measures proposed to eliminate, mitigate or control water hazards related to flooding or drainageways have been approved by the Water Utilities Executive Director.

(B) If a project includes a water hazard such as an irrigation canal, water body or other water channel, necessary design precautions shall be taken to minimize any hazard to life or property, and additional measures such as fencing, water depth indicators and erection of warning signs shall be taken, to the extent reasonably feasible.

(C) Any lands that are subject to high groundwater (meaning groundwater at an elevation such that basement flooding is reasonably anticipated by the City Engineer to occur) shall not be platted for building lots with basements unless adequate provisions to prevent groundwater from entering basements have been designed and approved by the City Engineer.

### 5.6.5 HAZARDS

(A) If the project contains potential areas of natural or geologic hazard (such as unstable or potentially unstable slopes, faulting, landslides, rockfalls) or soil conditions (such as expansive soils) unfavorable to

development, the applicant shall provide to the Director a study of such hazards produced by a geotechnical engineer licensed in the state of Colorado. Such study shall contain, where appropriate, recommendations for special mitigation measures and engineering precautions that shall be taken to overcome those limitations. In the alternative, if determined to be a safe and reasonable option by the geotechnical engineer, such areas may be set aside from development.

(B) Steep or unstable land and areas having inadequate drainage shall not be subdivided into building lots unless the applicant makes adequate provisions to prevent the same from endangering life, health or other property.

### 5.6.6 HEALTH RISKS

(A) **Purpose**. This Section is intended to protect the occupants of and visitors to the site following development from health risks that may be presented by the existence of dangerous chemicals, metals or other substances, microorganisms, germs, bacteria or viruses, which pose a health risk to the potential occupants of and/or visitors to the development site if permitted to develop.

(B) **General Standard.** If, because of credible evidence in the possession of the City or the applicant, whether written or otherwise, there is a reasonable suspicion or belief that the development site contains dangerous chemicals, metals or other substances, microorganisms, germs, bacteria or viruses, which pose a health risk to the potential occupants of and/or visitors to the development site if permitted to develop, then the applicant shall either take such actions as are necessary to satisfy the decision maker that such health risks have been reasonably mitigated, or shall demonstrate to the decision maker by presentation of written statements from either the Larimer County Health Department or from specialists appropriate in education and training to examine the risks, showing that the suspicion of danger and health risk is scientifically unfounded and that actual, reasonable risk is unlikely.

### 5.6.7 OTHER JURISDICTION ENVIRONMENTAL COMPLIANCE

(A) If the Director obtains credible information regarding threatened or pending regulatory oversight or enforcement related to an environmental condition of the property to be developed, or an environmental impact related to the development plan, then the Director may require the developer to provide to the City written statements from such governmental agencies as the Director may designate as having related jurisdiction based on the nature of the oversight or enforcement or environmental impact.

(a) Said statements shall verify that the development plan fully complies with environmental regulations within the jurisdiction of the writing agency. If the developer, after a diligent effort, is unable to obtain such written verifications from one (1) of more of the designated agencies, the developer shall at least provide to the City a written verification from said agency that the City's approval of the development plan will not interfere with a threatened or pending environmental enforcement action of said agency.

(B) All required written statements shall be provided to the Director prior to the scheduling of the hearing for the project development plan.

## DIVISION 5.7 COMPACT URBAN GROWTH STANDARDS

### 5.7.1 COMPACT URBAN GROWTH

(A) **Purpose**. The City has adopted a compact urban growth policy that encourages and directs development to take place within areas contiguous to existing development in the community. Such a policy seeks to accomplish several goals, including:

(1) improving air quality by reducing vehicle miles traveled and by encouraging mass transit and alternatives to the private automobile;

(2) preserving natural areas and features, particularly in the periphery of the City;

(3) making possible the efficient use of existing infrastructure and cost-effective extensions of new services;

(4) encouraging infill development and reinvestment in built-up areas of the City; and

(5) promoting physical separation from neighboring communities to help each maintain its individual identity and character.

(B) **Establishment of Growth Management Area**. The City has adopted a cooperative planning area policy in the City Plan that includes a Growth Management Area as adopted by Intergovernmental Agreement with Larimer County.

(C) **General Standard.** No development shall be approved unless it is located within the City limits and meets the specific standards set forth in this Division relating to the required degree of contiguity, availability of adequate public facilities and access.

### 5.7.2 CONTIGUITY

(A) **Development Approval Criteria.** No development for any site within the City limits shall be approved unless it meets the following minimum requirements:

(1) **Degree of Contiguity**. At least one-sixth (1/6) of the proposed development's boundaries must be contiguous to existing urban development within either the City or unincorporated Larimer County within the Growth Management Area. For purposes of this Section, contiguity shall not be affected by the existence of a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, publicly owned open space, or a lake, reservoir, stream or other natural or artificial waterway between the proposed development and existing urban development.

(2) **Existing Urban Development Defined**. For purposes of this Section, *existing urban development* shall mean industrial uses; commercial/retail uses; institutional/civic/public uses; or residential uses having an overall minimum density of at least one (1) unit per acre; and provided further that all engineering improvements for any such development, including paved streets, public sewer and water, stormwater drainage and other utilities, and fire suppression consistent with the Fire Code must have been completed.

(3) **Exemption for Properties Located Within Certain Planned Subareas**. Development located within the following planned subareas are not required to comply with the requirements of this Section :

(a) Fossil Creek Reservoir Area; and
(b) Harmony Corridor.

(B) **Developments Outside the Growth Management Area.** No development application shall be accepted or approved as part of an annexation petition if the proposed development is located outside the Growth Management Area.

(C) **Waiver/Exceptions.** The Planning and Zoning Commission may waive or make modifications to the contiguity requirements of this Section upon making a specific finding that the proposed development will:

(1) Substantially advance the implementation of the City Plan in the provision of Medium-Density Mixed-Use Neighborhoods or Community Commercial Districts;

(2) Produce special benefits to the City in terms of large-scale open space dedication or preservation, completion of regional trail linkages, or substantially advance other primary open space and recreational goals contained in the City Plan;

(3) Produce special benefits to the City in terms of long-term economic development opportunity in accordance with the City Plan; or

(4) Promote the infilling of an area with already existing noncontiguous urban-level development.

### 5.7.3 ADEQUATE PUBLIC FACILITIES

(A) **Purpose**. The purpose of the adequate public facilities (APF) management system is to establish an ongoing mechanism which ensures that public facilities and services needed to support development are available concurrently with the impacts of such development.

(B) **Applicability.** This Section shall apply to all development in the City.

(C) **APF Management System.**

(1) **APF Management System Established.** In order to implement the City's Principles and Policies, the adequate public facilities management system ("APF management system") is hereby established. The APF management system is incorporated into and shall be part of the development review procedures as well as the process for issuance of Building Permits.

(2) **General Requirements**. The approval of all development shall be conditioned upon the provision of adequate public facilities and services necessary to serve new development. No Building Permit shall be issued unless such public facilities and services are in place, or the commitments described in subparagraph (E)(1)(a)(II) below have been made, or with respect to transportation facilities, a variance under LCUASS Section 4.6.7 or an alternative mitigation strategy under LCUASS Section 4.6.8 has been approved. Under this APF management system, the following is required:

(a) The City shall adopt and maintain level of service standards for the following public facilities: transportation, water, wastewater, storm drainage, fire and emergency services, electrical power and any other public facilities and services required by the City.

(b) No site specific development plan or Building Permit shall be approved or issued in a manner that will result in a reduction in the levels of service below the adopted level of service standards for the affected facility, except as expressly permitted under this Section (and the referenced provisions of LCUASS).

(D) **Level of Service Standards.** For the purpose of review and approval of new development and the issuance of Building Permits, the City hereby adopts the following level of service standards for the public facilities and services identified below:

(1) **Transportation.**

(a) All development must have access to the Improved Arterial Street Network or to a street for which funds have been appropriated to fund improvement as an arterial street as more specifically required in Section 5.4.2, Development Improvements, (F) Off-site Public Access Improvements.

(b) Except as provided in Subsection (E)(1) below, all development shall meet or exceed the following transportation level of services standards:

(I) The vehicular level of service standards for overall intersection level of service standards contained in Table 4-2 of the Larimer County Urban Area Street Standards (LCUASS). Alternative mitigation strategies are provided in LCUASS Section 4.6.8.

(II) The bicycle and pedestrian level of service standards are contained in Part II of the City of Fort Collins Multi-modal Transportation Level of Service Manual. Variances for levels of service that do not meet the standards are provided in LCUASS Section 4.6.7.

(III) No transit level of service standards contained in Part II of the Multi-modal Transportation Manual will be applied for the purposes of this Section.

(c) If any off-site improvements are required by the standards contained in this Section, repayments for the costs of such improvements shall be provided to the developer in accordance with the provisions of Section 5.4.2(F).

(2) **Water.** All development shall provide adequate and functional lines and stubs to each lot as required by the current City or special district, as applicable, design criteria and construction standards.

(3) **Wastewater.** All development shall provide adequate and functional mains and stubs to each lot as required by the current City or special district, as applicable, design criteria and construction standards.

(4) **Storm Drainage**. All development shall provide storm drainage facilities and appurtenances as required by Sections 26-544 and 10-37 of the Municipal Code and by all current City storm drainage master plans, design criteria and construction standards.

(5) **Fire and Emergency Services.** All development shall provide sufficient fire suppression facilities as required by the Fire Code.

(6) **Electrical Power Service**. All development shall have service provided as described in the Electric Construction Policies, Practices, and Procedures, and the Electric Service Rules and Regulations of the Fort Collins Electric Utility.

(E) **Minimum Requirements for APF**

(1) The City's APF management system shall ensure that public facilities and services to support development are available concurrently with the impacts of development. In this regard, the following standards shall be used to determine whether a development meets or exceeds the minimum requirements for adequate public facilities:

(a) For transportation facilities, at a minimum, the City shall require that, at the time of issuance of any Building Permit issued pursuant to a site specific development plan, all necessary facilities and services, as described in Section (D)(1) above, are either:

(I) In place and available to serve the new development in accordance with the development agreement; or

(II) Funding for such improvements has been appropriated by the City or provided by the developer in the form of either cash, non-expiring letter of credit, or escrow in a form acceptable to the City.

(b) Notwithstanding the foregoing, with respect to improvements required to maintain the applicable transportation facilities' level of service where, as determined by the Director, such improvements are not reasonably related to and proportional to the impacts of the development or currently desired by the City, a Building Permit may be issued pursuant to a site specific development plan provided the developer has:

(I) Agreed in the development agreement to install or fund improvements, or a portion thereof, that are reasonably related and proportional to the impacts of the development on the affected transportation facility or facilities; or

(II) Obtained a variance regarding the affected transportation facility or facilities under LCUASS Section 4.6.7; or

(III) Agreed in the development agreement to implement an alternative mitigation strategy as defined by LCUASS Section 4.6.8, or portion thereof, to adequately mitigate the reasonably related and proportional impacts of the development on the affected transportation facility or facilities; or

(IV) Funding for such improvements has been appropriated by the City or provided by the developer in the form of either cash, non-expiring letter of credit, or escrow in a form acceptable to the City.

(c) For water and wastewater facilities, at a minimum, the City shall require that, at the time of issuance of any building permit issued pursuant to a site-specific development plan, all necessary facilities and services, as described in Section (D)(2)-(3) above, are in place and available to serve the new development in accordance with the approved utility plan and development agreement.

(d) For storm drainage facilities, the City shall require that all necessary facilities and services, as described in Section (D)(4) above, are in place and available to serve the new development in accordance with the approved drainage and erosion control report, utility plans and development

agreement for such development. The timing of installation of such facilities and service shall be as follows:

(I) Where multiple building permits are to be issued for a project, twenty-five (25) percent of the building permits and certificates of occupancy may be issued prior to the installation and acceptance of the certification of the drainage facilities. Prior to the issuance of any additional permits, the installation and acceptance of the certification of the drainage facilities shall be required.

(II) For projects involving the issuance of only one (1) building permit and certificate of occupancy, the installation and acceptance of the certification of the drainage facilities shall be required prior to the issuance of the certificate of occupancy.

(e) For fire and emergency services, at a minimum, the City shall require that, at the time of issuance of any building permit issued pursuant to a site-specific development plan, all necessary facilities and services, as required by the Fire Code, are in place and available to serve the site within the new development where the building is to be constructed in accordance with the Fire Code and the development agreement.

(f) For electric power facilities, the following minimum requirements shall apply:

(I) For residential development: The developer must coordinate the installation of the electric system serving the development with the City's electric utility. In addition, each application for a building permit within the development must show the name of the development, its address, each lot or building number to be served, and the size of electric service required. The size of electric service shall not exceed that originally submitted to the electric utility for design purposes. Costs for installation of the electric service line to the meter on the building will be payable upon the issuance of each building permit.

(II) For Commercial/Industrial Development: The following documents/information shall be provided to the City's electric utility with each application for a building permit:

(i) an approved and recorded final plat;
(ii) the final plan (two [2] copies);
(iii) the utility plan;
(iv) a one-line diagram of the electric main entrance;
(v) a Commercial Service Information Form (C-1 form) completed by the developer/ builder for each service, and approved by the electric utility (Blank forms are available at the Electric Utility Engineering Department, 970-221-6700);
(vi) the transformer location(s), as approved by the electric utility;
(vii) the name and address of the person responsible for payment of the electric development charges; and
(viii) the name, of the development, building address and lot or building number.

(III) Compliance with Administrative Regulations: The developer shall also comply with all other administrative regulations and policies of the electric utility, including, without

limitation, the *Electric Construction Policies, Practices and Procedures,* and the *Electric Service Rules and Regulations*, copies of which may be obtained from the electric utility.

(F) **Transportation APF Exception.** *Nominal Impact.* For the purpose of the transportation APF requirements contained in this Section, a proposed development shall be deemed to have a nominal impact and shall not be subject to the APF requirements for transportation if the development proposal is not required to complete a Traffic Impact Study per the requirements in Chapter 4 - Transportation Impact Study of the Larimer County Urban Area Street Standards.

(G) **Water Supply Adequacy.** The determination required by C.R.S. § 29-20-301, et seq., whether the proposed water supply for development is adequate and is not addressed in this Section but is set forth in section 5.17.

### 5.7.4 LOTS

(A) **Area and Dimension**. No part of an area or dimension required for a lot to comply with the provisions of this Code shall be included as an area or dimension required for another lot, nor shall such required area or dimension be burdened by any easement for an abutting private street or private drive that provides access to the lot or to any other lot. Private driveways on the lot may be included in the lot area where a minimum lot area square footage is otherwise required by this Code, said minimum lot area shall be required for each principal building located on any one (1) lot.

(B) **Reduction for Public Purpose**. When an existing lot is reduced as a result of conveyance to a federal, state or local government for a public purpose and the remaining area is at least seventy-five (75) percent of the required minimum lot size for the district in which it is located, then that remaining lot shall be deemed to comply with the minimum lot size standards of this Code.

(C) **Utility Facilities**. Utility facilities using land or a building used only for equipment purposes (and not for human occupation) and requiring less than one thousand (1,000) square feet of site are exempt from the minimum lot size standards of all zone districts.

## DIVISION 5.8 HISTORIC

### 5.8.1 HISTORIC, LANDMARK PRESERVATION AND CULTURAL RESOURCES

(A) **Purpose.**

(1) The purpose of this Section is to ensure that proposed development is compatible with and protects historic resources by ensuring that:

(a) historic resources on a development site are preserved, adaptively reused, and incorporated into the proposed development;

(b) development does not adversely affect the integrity of historic resources on nearby property within the area of adjacency surrounding a development site; and

(c) the design of new structures and site plans are compatible with and protect the integrity of historic resources located within a development site and within the area of adjacency surrounding a development site.

(2) To accomplish its purpose, this Section provides:

(a) the requirements for the treatment of historic resources located on a development site;

(b) the standards for design compatibility between proposed development and historic resources on a development site and within the delineated area of adjacency surrounding a development site; and

(c) this Section is intended to work in conjunction with the standards for the treatment of historic resources set forth in Chapter 14 of the Fort Collins Municipal Code and any relevant adopted standards for historic resources.

(B) **Jurisdiction of the Historic Preservation Commission (HPC)**

When Chapter 14 of the Code of the City of Fort Collins designates the HPC or City Staff as the decision maker, the proposed development must ultimately meet the requirements of Chapter 14 of the City Code. This includes jurisdiction over properties inside a Landmarked District or Landmarked properties. After the Code of the City for Fort Collins Chapter 14 standards are met, the proposed development project may then proceed through this Code's review procedures to ensure compliance with the criteria herein.

(C) **Historic Resources on the Development Site and within the Area of Adjacency.**

(1) As used in this Section, the area of adjacency shall mean an area, the outer boundary of which is two hundred (200) feet in all directions from the perimeter of the development site. Any lot or parcel of property shall be considered within the area of adjacency if any portion of such lot or parcel is within the two hundred (200) foot outer boundary.

(2) Historic preservation staff shall identify as expeditiously as possible the historic resources on the development site and within the area of adjacency to be used for application of the design standards contained in below Subsection (F), *Design Requirements for a Proposed Development,* and provide a list of such resources to the applicant. The procedure for identifying the relevant historic resources shall be as follows:

(a) The location of the following shall be identified within the area of adjacency:

(I) Any historic resource; and

(II) Any building, site, structure, and object that requires evaluation as to whether it is eligible for Fort Collins landmark designation and, therefore, qualifies as a historic resource.

(b) All historic resources on the development site shall be identified and the procedure in below Subsection (D)(1) shall be completed if necessary.

(c) Any building, site, structure, or object requiring evaluation shall be reviewed for eligibility for Fort Collins landmark designation pursuant to below Subsection (D)(2).

(d) Any historic resource identified in above steps (a), (b), or (c) shall be the historic resources utilized as the basis for applying Subsection (F). Identified historic resources on the development site and within the area of adjacency shall be classified as follows for purposes of applying the design standards set forth in the below Subsection (F):

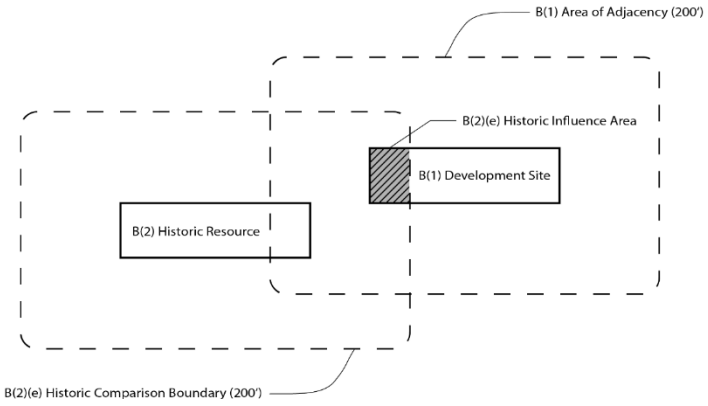
(I) Historic resources on the development site, or abutting or on the other side of a side alley that abuts the development site; and

(II) All other historic resources.

(e) The historic comparison boundary shall be established at two hundred (200) feet in all directions from the perimeter of each identified historic resource except those located on the development site. The historic influence area formed by the overlapping area between the outer boundary of the development site and the historic comparison boundary is the area within which the standards in below Subsection (F) apply to any new construction proposed within such area.

(f) The historic influence area for any historic resource located on the development site shall be the entire development site.

**Example of Area of Adjacency, Historic Comparison Boundary, and Historic Influence Area**




(3) The historic preservation staff determination pursuant to this Section of the historic resources relevant to the application of the design standards set forth in below Subsection (F) is not subject to appeal. Notwithstanding, eligibility determinations pursuant to below Subsection (D)(1) are subject to appeal pursuant to Fort Collins Municipal Code Section 14-23.

(D) **Determination of Eligibility for Designation as Fort Collins Landmark.** The review of proposed development pursuant to this Section may require the determination of the eligibility of buildings, sites, structures, and objects located both on the development site and in the area of adjacency for designation as Fort Collins landmarks. The determination of eligibility for designation as a Fort Collins landmark shall be made pursuant to the standards and procedures set forth in Sections 14-22 and 14-23 of the Fort Collins Municipal Code except as varied in below Subsections (D)(1)-(2).

(1) **Buildings, Sites, Structure, and Objects on a Development Site**. If any buildings, sites, structures, or objects on a development site are fifty (50) years of age or older and lack an official determination of eligibility for Fort Collins landmark designation made within the last five (5) years, the applicant must request an official eligibility determination for each such building, site, structure, or object pursuant to Sections 14-22 and 14-23 of the Fort Collins Municipal Code. A current intensive-level Colorado Cultural Resource Survey Form is required for each building, site, structure, and object and the applicant is responsible for reimbursing the City for the cost of having such a property survey generated by a third-party expert selected by the City.

(2) **Buildings, Sites, Structures, and Objects Within the Area of Adjacency.** If any buildings, sites, structures, or objects outside of a development site but within the area of adjacency are fifty (50) years of age or older and lack an official determination of eligibility for Fort Collins landmark designation established within the last five (5) years, the applicant must request a non-binding determination of eligibility for each such building, site, structure, or object pursuant to Sections 14-22 and 14-23 of the Fort Collins Municipal Code. Notwithstanding Sections 14-22 and 14-23, any such eligibility determination shall not be appealable pursuant to Section 14-23 and shall not be valid for any purpose other than the evaluation of the proposed development pursuant to this Section. A current architectural-level property survey is required for each building, site, structure, and object and the applicant is responsible for reimbursing the City for the cost of having such a property survey generated by a third-party expert selected by the City. The Director, in consultation with historic preservation staff, may waive the required eligibility determination for any building, site, structure, or object if the Director determines that such eligibility determination would be unnecessarily duplicative of information provided by existing historic resources or would not provide relevant information.

(E) **Treatment of Historic Resources on Development Sites - Design Review.**

(1) Proposed alterations, as such alterations are described in Fort Collins Municipal Code Chapter 14, Article III, to any Fort Collins landmark on a development site or to any portion of the development site located within a Fort Collins historic district must comply with the design review requirements in Chapter 14, Article III, of the Fort Collins Municipal Code. The applicant must obtain a certificate of appropriateness for all proposed alterations pursuant to Chapter 14 before receiving a HPC recommendation pursuant to below Subsection (G).

(2) Proposed alterations to any building, site, structure, or object located on the development site that is not a Fort Collins landmark but is designated on the Colorado State Register of Historic Properties, either individually or contributing to a district, or the National Register of Historic Places, either individually or contributing to a district, must comply with the design review requirements in Chapter 14, Article III, of the Fort Collins Municipal Code. The applicant must obtain a report pursuant to Chapter 14 regarding all proposed alterations before receiving a HPC recommendation pursuant to below Subsection (G). Additionally, to the maximum extent feasible, the development plan and building design shall provide for the preservation and adaptive use of any such building, site, structure, or object.

(3) The development plan and building design shall provide for the preservation and adaptive use pursuant to the Secretary of the Interior *Standards for the Treatment of Historic Properties* of any building, site, structure, or object located on the development site and determined to be eligible for Fort Collins landmark designation either through a binding or non-binding determination pursuant to Land Use Code Section 5.8.1(C). This requirement shall apply to development applications including building permit applications for partial or total demolition of, or work that may have an adverse effect on, any building, site, structure, or object located on the development site and determined to be eligible for Fort Collins landmark designation.

(F) **Design Requirements for a Proposed Development.**

(1) **Design Compatibility**. Proposed development may represent the architecture and construction standards of its own time but must also convey a standard of quality and durability appropriate for infill in a historic context and protect and complement the historic character of historic resources both on the development site and within the area of adjacency. The design of development on development sites containing historic resources or with historic resources located within the area of adjacency shall meet the requirements in below Table 1 in addition to applicable Land Use Code requirements. The Table 1 requirements shall apply to the development of buildings or structures, other than those addressed in above Subsection (E), on the development site located within a historic influence area, as such term is defined in above Subsection (C)(4), as follows:

(a) If one (1) or more historic influence areas exist that are associated with historic resource(s) on the development site, or which abut or are on the other side of a side alley that abuts the development site, then all historic influence areas shall be considered to be associated with such historic resource(s) and the standards set forth in Table 1, Column A, shall apply. If two (2) or more historic influence areas exist that are associated with historic resources on the development site, or which abut or are on the other side of a side alley that abuts the development site, the applicant may satisfy the standards set forth in Table 1, Column A, by choosing characteristics from one (1) or more of such historic resources.

(b) If no historic influence areas exist that are associated with historic resources on the development site, or which abut or are on the other side of a side alley that abuts the development site, the standards set forth in Table 1, Column B, shall apply to all historic influence areas.

(c) Table 1: Requirements for New Construction Near Historic Resources.

| | Purpose | Column A<br><br>Standards for Compatibility with Historic Resources on the Development Site, Abutting, Or Across a Side Alley | Column B<br><br>Standards for compatibility with Historic Properties Within the Area of Adjacency but Not On or Abutting the Development Site or Across a Side Alley |
|---|---|---|---|

| | | | |
|---|---|---|---|
| *Massing and Building Articulation* | Integrate new construction into existing context and use massing options that respect historic buildings. | 1. New construction shall be similar in width or, if larger, be articulated into massing reflective or the mass and scale of historic resources on the development site, abutting, or across a side alley.<br>2. In all zone districts, step-backs must be located on new building(s) to create gradual massing transitions at the same height or one story above the height of historic resources on the development site, abutting, or across a side alley. Additionally, in the Downtown zone district, the widest portions of step-backs required by the Downtown zone district step-back standard shall be on building portions closest to historic resources. | Review the identified historic properties within the area of adjacency and identify any predominate typologies and primary character-defining design and architectural features. With those key buildings, features, or patterns in mind, apply at least two of the Standards for Compatibility with Historic Resources on the Development Site, Abutting, Or Across a Side Alley (those numbered 1 to 6). |
| *Building Materials* | Create visual connection between modern building materials and historic building materials. | 3. The lower story facades until any step-backs (required or otherwise) must be constructed of authentic, durable, high-quality materials (brick, stone, glass, terra cotta, stucco (non EFIS), precast concrete, wood, cast iron, architectural metal) installed to industry standards.<br>4. New construction shall reference one or more of the predominate material(s) on historic resources on the development site, abutting, or across a side alley, by using at least two of the following to select the primary material(s) for any one to three story building or the lower story facades until any step-backs (required or otherwise):<br>1) Type;<br>2) Scale;<br>3) Color;<br>4) Three-dimensionality;<br>5) Pattern. | |
| *Facade Details* | Create visual connection between modern building design and historic building design. | 5. Use at least one of the following:<br>1) Similar window pattern<br>2) Similar window proportion of height to width<br>3)Similar solid-to-void pattern as found on historic resources on the development site, abutting, or across a side alley.<br>6. Use select horizontal or vertical reference lines or elements (such as | |

| | | | |
|---|---|---|---|
| | | rooflines, cornices, and belt courses) to relate the new construction to historic resources on the development site, abutting or across a side alley. | |
| *Visibility of Historic Features* | Protect visibility of historic architecture and details. | New construction shall not cover or obscure character-defining architectural elements, such as windows or primary design features, of historic resources on the development site, abutting or across a side alley. | None |

(2) **Old Town Historic District.** Proposed development within the Old Town Historic District shall comply with the Old Town Historic District Standards adopted by Ordinance 094, 2014, Chapter 14 of the Fort Collins Municipal Code and as amended, and the U.S. Secretary of the Interior Standards for the Treatment of Historic Properties and as amended in lieu of the requirements set forth in this Section except Subsections (E) and (G).

(3) **Plan of Protection**. A plan of protection shall be submitted prior to the HPC providing a recommendation pursuant to below Subsection (G) that details the particular considerations and protective measures that will be employed to prevent short-term and long-term material damage and avoidable impact to identified historic resources on the development site and within the area of adjacency from demolition, new construction, and operational activities.

(G) **Historic Preservation Commission (HPC) Recommendation.**

**Recommendation to Decision Maker for Development Proposal**. HPC shall provide a written recommendation to the decision maker for development sites containing or adjacent to historic resources, or both. The written recommendation shall address compliance of the proposed development with this Section and applicable Municipal Code Chapter 14, Article III requirements and the decision maker shall consider such recommendation in making its final decision. Notwithstanding, the Director may waive the requirement for a HPC recommendation if the Director, after considering the recommendation of historic preservation staff, has issued a written determination that the development plan would not have an adverse effect on any historic resource on the development site or within the proposed development's area of adjacency and that the development plan is compatible with the existing character of such historic resources. A recommendation made under this Subsection is not appealable to the City Council under Chapter 2 of the Fort Collins Municipal Code.

# DIVISION 5.9 BUILDING PLACEMENT AND SITE DESIGN

## 5.9.1 ACCESS, CIRCULATION AND PARKING

(A) **Purpose.** This Section is intended to ensure that the parking and circulation aspects of all developments are well designed with regard to safety, efficiency and convenience for vehicles, bicycles, pedestrians, mobility assistance devices, and transit, both within the development and to and from surrounding areas. Sidewalk or bikeway extensions off-site may be required based on needs created by the proposed development.

This Section sets forth parking requirements in terms of numbers and dimensions of parking stalls, landscaping and shared parking. It also addresses the placement of drive-in facilities and loading zones.

(B) **General Standard**. The parking and circulation system within each development shall accommodate the movement of vehicles, bicycles, pedestrians, mobility assistance devices and transit, throughout the proposed development and to and from surrounding areas, safely and conveniently, and shall contribute to the attractiveness of the development. The on-site pedestrian system must provide adequate directness, continuity, street crossings, visible interest and security as defined by the standards in this Section. The on-site bicycle system must connect to the City's on-street bikeway network. Connections to the off-road trail system shall be made, to the extent reasonably feasible.

(C) **Development Standards. All developments shall meet the following standards:**

(1) **Safety Considerations.** Pedestrians and those utilizing mobility assisted devices shall be separated from vehicles and bicycles.

(a) Where complete separation of people and vehicles and bicycles is not possible, potential hazards shall be minimized by the use of techniques such as special paving, raised surfaces, pavement marking, signs or striping, bollards, median refuge areas, traffic calming features, landscaping, lighting or other means to clearly delineate pedestrian areas, for both day and night use.

(b) Where individuals and bicyclists share walkways, the pedestrian/ assisted mobility devices/bicycle system shall be designed to be wide enough to easily accommodate the amount of individuals and bicycle traffic volumes that are anticipated. A minimum width of eight (8) feet shall be required and shall meet American Association of State Highway and Transportation Officials (AASHTO) guidelines, Guide for Development of Bicycle Facilities, August 1991, or any successor publication. Additional width of up to four (4) feet may be required to accommodate higher volumes of bicycle and pedestrian traffic within and leading to Community Commercial Districts, Neighborhood Commercial Districts, schools and parks.

(2) **Curbcuts and Ramps.** Curbcuts and ramps shall be located at convenient, safe locations for the individuals, for bicyclists and for people pushing strollers or carts. The location and design of curbcuts and ramps shall meet the requirements of the International Building Code and the Americans With Disabilities Act ramp standards and shall avoid crossing or funneling traffic through loading areas, drive-in lanes and outdoor trash storage/collection areas.

(3) **Site Amenities**. Development plans shall include site amenities that enhance safety and convenience and promote walking or ease of use for of assisted mobility devices, or bicycling. Site amenities may include bike racks, drinking fountains, canopies and benches as described in the Fort Collins Bicycle Program Plan and Pedestrian Plan as adopted by the City.

(4) **Bicycle Facilities**. Commercial, industrial, civic, employment and multi-unit residential uses shall provide bicycle facilities to meet the following standards:

(a) Required Types of Bicycle Parking. To meet the minimum bicycle parking requirements, the development must provide required bicycle parking for both Enclosed Bicycle Parking and Fixed Bicycle Racks.

(b) Bicycle Parking Space Requirements. The minimum bicycle parking requirements are set forth in the table below. For uses that are not specifically listed in the table, the number of bicycle parking spaces required shall be the number required for the most similar use listed. Enclosed bicycle parking spaces may not be located on balconies.

(c) **Minimum Bicycle Requirements Table:**

| *Use Categories* | *Bicycle Parking Space Minimums* | *% Enclosed Bicycle Parking/ % Fixed Bicycle Racks* |
|---|---|---|
| **Residential and Institutional Parking Requirements** | | |
| Multi-Unit Residential | 1 per bedroom | 60%/40% |
| Fraternity and Sorority Houses | 1 per bed | 60%/40% |
| Group Homes | No requirement | n/a |
| Recreational Uses | 1/2,000 sq. ft., minimum of 4 | 0%/100% |
| Schools/Places of Worship or Assembly and Child Care Centers | 1/3,000 sq. ft., minimum of 4 | 0%/100% |
| Small Scale Reception Centers in the U-E, Urban Estate District | 1/4,000 sq. ft., minimum of 4 | 0%/100% |
| Extra Occupancy | 1 per occupant | 0%/100% |
| **Nonresidential Parking Requirements** | | |
| Restaurants | | |
| a. Fast food | 1.5/1,000 sq. ft., minimum of 4 | 0%/100% |
| b. Standard | 1/1,000 sq. ft., minimum of 4 | 0%/100% |
| Bars, Taverns and Nightclubs | 1/500 sq. ft., minimum of 4 | 0%/100% |
| Commercial Recreational | 1/2,000 sq. ft., minimum of 4 | 20%/80% |
| Theaters | 1/30 seats, minimum of 4 | 0%/100% |
| General Retail | 1/4,000 sq. ft., minimum of 4 | 20%/80% |
| Personal Business and Service Shop | 1/4,000 sq. ft., minimum of 4 | 20%/80% |
| Shopping Center | 1/4,000 sq. ft., minimum of 4 | 20%/80% |
| Medical Office | 1/4,000 sq. ft., minimum of 4 | 20%/80% |
| Financial Services | 1/4,000 sq. ft., minimum of 4 | 20%/80% |
| Grocery Store, Supermarket | 1/3,000 sq. ft., minimum of 4 | 20%/80% |
| General Office | 1/4,000 sq. ft., minimum of 4 | 20%/80% |
| Vehicle Servicing and Maintenance | 4 | n/a |
| Low Intensity Retail, Repair Service, Workshop and Custom Small Industry | 4 | n/a |
| Lodging Establishments | 1 per 4 units | 60%/40% |
| Health Facilities | 1/5,000 sq. ft., minimum of 4 | 20%/80% |
| Industrial: Employee Parking | 4 | n/a |

(d) Alternative Compliance. Upon written request by the applicant, the decision maker may approve an alternative number of bicycle parking spaces that may be substituted in whole or in part for the number that would meet the standards of this Section.

(l) *Procedure*. The alternative bicycle parking plan shall be prepared and submitted in accordance with the submittal requirements for bicycle parking plans. Each such plan shall clearly identify and discuss the modifications and alternatives proposed and the ways in which the plan will better accomplish the purposes of this Section than would a plan that complies with the standards of this Section.

(II) *Review Criteria*. To approve an alternative plan, the decision maker must find that the proposed alterative plan accomplishes the purposes of this Section equally well or better than would a plan that complies with the standards of this Section.

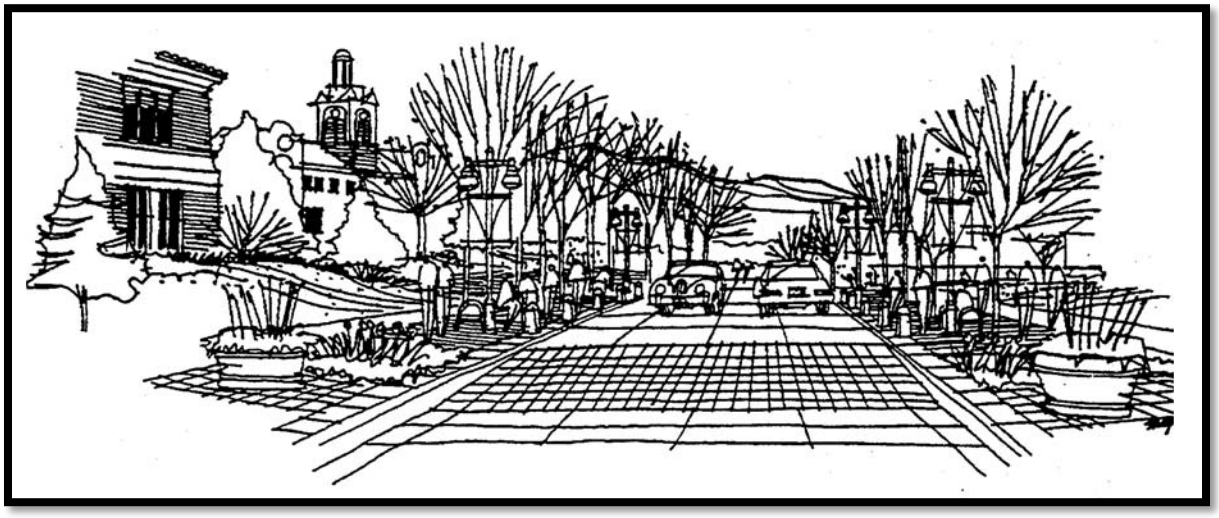
(III) In reviewing a request for an alternative number of bicycle parking spaces, the decision maker must consider whether the proposed land use will likely experience a lower-than-normal amount of bicycle traffic. Factors to be taken into consideration in making this determination may include but need not be limited to: (i) the nature of the proposed use; (ii) its location in relation to existing or planned bicycle facilities or infrastructure; and (iii) its proximity to natural features that make the use of bicycles for access to the project infeasible.

(5) **Walkways.**

(a) Directness and Continuity. Walkways within the site shall be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination and shall not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access. Walkways shall be unobstructed by vertical curbs, stairs, raised landscape islands, utility appurtenances or other elements that restrict access and shall link street sidewalks with building entries through parking lots. Such walkways shall be raised or enhanced with a paved surface not less than six (6) feet in width. Drive aisles leading to main entrances shall have walkways on both sides of the drive aisle.

(b) Street Crossings. Where it is necessary for the primary crossing of drive aisles or internal roadways, the crossing shall emphasize and place priority on individuals' access and safety. The material and layout of the access shall be continuous as it crosses the driveway, with a break in continuity of the driveway paving and not in the pedestrian access way. The crossings must be well-marked using pavement treatments, signs, striping, signals, lighting, traffic calming techniques, median refuge areas and landscaping. (See Figure 3.)

Figure 3: Street Crossings



(6) **Direct On-Site Access to Individual and Bicycle Destinations.** The on-site pedestrian and bicycle circulation system must be designed to provide, or allow for, direct connections to major individual and

bicycle destinations including, but not limited to, trails, parks, schools, Neighborhood Centers, Neighborhood Commercial Districts and transit stops that are located either within the development or adjacent to the development as required, to the maximum extent feasible. The on-site individual and bicycle circulation system must also provide, or allow for, on-site connections to existing or planned off-site pedestrian and bicycle facilities at points necessary to provide direct and convenient pedestrian and bicycle travel from the development to major individual destinations located within the neighborhood. In order to provide direct pedestrian connections to these destinations, additional sidewalks or walkways not associated with a street, or the extension of street sidewalks, such as from the end of a cul-de-sac, or other walkways within the development, to another street or walkway, may be required as necessary to provide for safety, efficiency and convenience for bicycles and individuals both within the development and to and from surrounding areas.

(7) **Off-Site Access to Individual and Bicycle Destinations**. Off-site individual or bicycle facility improvements may be required in order to comply with the requirements of Section 5.9.1(E) (Parking Lot Layout), Section 5.4.10 (Transportation Level of Service Requirements), or as necessary to provide for safety, efficiency and convenience for bicycles and pedestrians both within the development and to and from surrounding areas.

(8) **Transportation Impact Study (TIS)**. In identifying those facilities that may be required in order to comply with these standards, all development plans must submit a TIS approved by the Traffic Engineer, which study shall be prepared in accordance with the TIS guidelines maintained by the City.

(D) **Access and Parking Lot Requirements.** All vehicular use areas in any proposed development shall be designed to be safe, efficient, convenient and attractive, considering use by all modes of transportation that will use the system, (including, without limitation, cars, trucks, buses, bicycles and emergency vehicles).

(1) **Individual/Vehicle Separation**. To the maximum extent feasible, individuals and vehicles shall be separated through provision of a sidewalk or walkway. Where complete separation of individuals and vehicles is not feasible, potential hazards shall be minimized by using landscaping, bollards, special paving, lighting and other means to clearly delineate pedestrian areas.

(2) **Access.** Unobstructed vehicular access to and from a public street shall be provided for all off-street parking spaces. Vehicular access shall be provided in such manner as to protect the safety of persons using such access or traveling in the public street from which such access is obtained and, in such manner, as to protect the traffic-carrying capacity of the public street from which such access is obtained. Notwithstanding the forgoing required off-street parking for both an ADU and extra occupancy use are allowed one (1) tandem space to count towards minimum parking requirement.

(3) **Location.** In a zone district predominated by residential uses, only off-street parking will be allowed to serve non-residential uses.

(a) Required off-street parking spaces shall be located on the same lot or premises as the building or use for which they are required unless:

(I) such spaces are provided collectively by two (2) or more buildings or uses on abutting lots in a single parking area located within the boundaries of those abutting lots, and the total number of parking spaces supplied collectively is equal to the number of spaces required by this subdivision for each use considered separately; or

(II) an alternative location is approved by the Director provided that the Director must have determined that such location is permanent and provides close and easy access to users.

(b) Guest Parking. Off-street guest parking spaces in multi-unit developments shall be distributed proportionally to the dwelling unit locations that they are intended to serve. Such parking shall not be located more than two hundred (200) feet from any dwelling unit that is intended to be served.

(c) Pavement. All open off-street parking and vehicular use areas shall be surfaced with asphalt, concrete or other material in conformance with City specifications with the exception of off-street parking and vehicular use areas for a park or trail connection point that may be surfaced with gravel or another similar inorganic material.

(d) Lighting. Light fixtures provided for any off-street parking area adjacent to a residential use or residentially zoned lot shall shield the source of light from sight and prevent the spillover of direct light onto the residential use, while still providing security to motorists, individuals and bicyclists.

(e) Maintenance. The property owner shall be responsible for maintaining any vehicular use area in good condition and free of refuse and debris and all landscaping in a healthy and growing condition, replacing it when necessary as determined by the City Forester.

(E) **Parking Lot Layout.**

(1) **Circulation Routes.** Parking lots shall provide well-defined circulation routes for vehicles, bicycles, and individuals and pedestrians

(2) **Traffic Control Devices.** Standard traffic control signs and devices shall be used to direct traffic where necessary within a parking lot.

(3) **Orientation.** Parking bays shall be perpendicular to the land uses they serve to the maximum extent feasible. Large parking lots shall include walkways that are located in places that are logical and convenient for pedestrians.

(4) **Landscaped Islands.** Landscaped islands with raised curbs shall be used to define parking lot entrances, the ends of all parking aisles and the location and pattern of primary internal access drives, and shall provide pedestrian refuge areas and walkways.

(5) **Points of Conflict.** The lot layout shall specifically address the interrelation of pedestrian, vehicular and bicycle circulation in order to provide continuous, direct pedestrian access with a minimum of driveway and drive aisle crossings. Remedial treatment such as raised pedestrian crossings, forecourts and landings, special paving, signs, lights and bollards shall be provided at significant points of conflict.

(6) **Lot Size/Scale.** Large surface parking lots shall be visually and functionally segmented into several smaller lots according to the following standards:

(a) Large parking lots shall be divided into smaller sections by landscape areas. Each section shall contain a maximum of two hundred (200) parking spaces.

(b) Parking bays shall be landscaped in accordance with the requirements contained in subsection 5.10.1(E)(5).

(F) **User Needs**. Layout and design shall anticipate the needs of users and provide continuity between vehicular circulation, parking, pedestrian and bicycle circulation. Pedestrian drop-off areas shall be provided where needed, especially for land uses that serve children or the elderly.

(G) **Shared Parking.** Where a mix of uses creates staggered peak periods of parking demand, shared parking calculations shall be made to reduce the total amount of required parking. Retail, office, institutional and entertainment uses may share parking areas.

(H) **Drive-in Facilities.** Any drive-in facilities, if permitted by the zone district regulations set forth in Article 2, shall be secondary in emphasis and priority to any other access and circulation functions. Such facilities shall be located in side or rear locations that do not interrupt direct pedestrian access along connecting pedestrian frontage. The design and layout of drive-in facilities for restaurants, banks, or other uses shall:

(1) avoid potential individual/vehicle conflicts;

(2) provide adequate stacking spaces for automobiles before and after use of the facility;

(3) provide adequate directional signage to ensure a free-flow through the facility; and

(4) provide a walk-up service option as well as drive-in.

(I) **Truck Traffic.** All developments that generate truck traffic that is anticipated to adversely affect a neighborhood by creating noise, dust or odor problems shall avoid or mitigate those impacts either through physical design or operational procedures.

(J) **Setbacks.** Any vehicular use area containing six (6) or more parking spaces or one thousand eight hundred (1,800) or more square feet shall be set back from the street right-of-way and the side and rear yard lot line (except a lot line between buildings or uses with collective parking) consistent with the provisions of this Section, according to the following table:

(1) Landscape Setback Table:

| | *Minimum Average of Entire Landscaped Setback Area (feet)* | *Minimum Width of Setback at Any Point (feet)* |
|---|---|---|
| Along an arterial street | 15 | 5 |
| Along a nonarterial street | 10 | 5 |
| Along an interior lot line* | 5 | 5 |

*Setbacks along interior lot lines for vehicular use areas may be increased by the decision maker in order to enhance compatibility with the abutting use or to match the contextual relationship of adjacent or abutting vehicular use areas.

(K) **Parking Lots - Required Number of Off-Street Spaces for Type of Use.**

(1) **Residential and Institutional Parking Requirements**. Residential and institutional uses shall provide a ***minimum*** number of parking spaces as defined by the standards below.

(a) Attached Dwellings: for each single-unit attached, two-unit, and multi-unit dwelling there shall be parking spaces provided as indicated by the following table:

| *Number of Bedrooms/Dwelling Unit* | *Parking Spaces Per Dwelling Unit*, ** | *Affordable Housing (Section 5.2) Parking Spaces Per Dwelling Unit*, **, **** |
|---|---|---|
| One or less | 1 | .75 |
| Two | 1.5 | 1 |
| Three | 2.0 | 1.25 |
| Four and above | 3.0 | 1.5 |
| * Spaces that are located in detached residential garages (but not including parking structures) or in attached residential garages, which attached garages do not provide direct entry into an individual dwelling unit, may be credited toward the minimum requirements contained herein only if such spaces are made available to dwelling unit occupants at no additional rental or purchase cost (beyond the dwelling unit rental rate or purchase price). | | |
| ** When public streets abutting the perimeter of the development site do not provide on-street parking then the percentage of garage parking spaces provided for the development site shall not exceed eighty (80) percent of the parking total. | | |
| ***Only applies to developments with seven (7) or more units. | | |

(l) Multi-unit dwellings and mixed-use dwellings within the Transit-Oriented Development (TOD) Overlay Zone shall provide a minimum number of parking spaces as shown in the following table:

| *Number of Bedrooms/Dwelling Unit* | *Parking Spaces Per Dwelling Unit** |
|---|---|
| One or less | 0.75 |
| Two | 1 |
| Three | 1.25 |
| Four and above | 1.5 |
| *Rent-by-the Bedroom* | *Parking Spaces Per Bedroom* |
| All bedrooms | 0.75 |
| *Maximum of 115% of minimum requirement unless provided in a structure | |

(i) Multi-unit dwellings and mixed-use dwellings within the Transit-Oriented Development (TOD) Overlay Zone may reduce the required minimum number of parking spaces by providing demand mitigation elements as shown in the following table:

| *Demand Mitigation Strategy*** | *Parking Requirement Reduction**** |
|---|---|
| Affordable Housing Dwelling Unit for Sale or for Rent (equal to or less than 60% Area Median Income). | 50% |
| Transit Passes for each tenant. | 10% |
| Car Share. | 5 spaces/1 car share |

| | |
|---|---|
| Within 1,000 feet walking distance of MAX Station. (Walking distance shall mean an ADA-compliant, contiguous improved walkway measured from the most remote building entrance to the transit station and contained within a public ROW or pedestrian easement.) | 10% |
| Bicycle & Pedestrian Level of Service A. | 10% |
| Off-Site Parking. | 1:1 |
| Shared Parking. | Based on Approved Alternative Compliance. |
| Parking Impact Study. | Based on Approved Alternative Compliance. |
| Participation in the City's Bike Share Program. | Based on Approved Alternative Compliance. |
| Transportation Demand Management (TDM). | Based on Approved Alternative Compliance. |
| **All demand mitigation strategies shall be shown on the site plan and in the Development Agreement and shall be subject to audit for the duration of the project. | |
| *** Maximum of 50% reduction without provision of a Parking Impact Study or Transportation Demand Management. | |

(II) **Alternative Compliance.** Upon written request by the applicant, the decision maker may approve an alternative parking ratio, other than the minimum required in Section 2.6.1, TOD Overlay Zone, per subparagraph 5.9.1.(K)(1)(a)(I), that may be substituted in whole or in part for a ratio meeting the standards of this Section.

(ii) **Procedure.** Alternative compliance parking ratio plans shall be prepared and submitted in accordance with the submittal requirements for plans as set forth in this Section. The request for alternative compliance must be accompanied by a Parking Impact Study, Transportation Demand Management proposal, or Shared Parking Study which addresses issues identified in the City's submittal requirements for such studies.

(iii) **Review Criteria.** To approve an alternative plan, the decision maker must find that the proposed alternative plan accomplishes the purposes of this Section and Section 2.6.1, TOD Overlay Zone equally well or better than would a plan which complies with the standards of these Sections. In reviewing the request for an alternative parking ratio plan in order to determine whether it accomplishes the purposes of this Section, the decision maker shall take into account the objective and verifiable results of the Parking Impact Study, Transportation Demand Management proposal, or Shared Parking Study together with the proposed plan's compatibility with surrounding neighborhoods in terms of potential spillover parking.

(b) **Multi-Unit**. Parking on an internal street fronting (streets only serving one development) on a lot or tract containing multi-unit, attached or two-unit dwellings (except for mixed-use dwellings and single-unit detached dwellings) may be counted to meet the parking requirements for the development.

(c) **Single-Unit**. For each Detached House there shall be one (1) parking space on lots with greater than forty (40) feet of street frontage or two (2) parking spaces on lots with forty (40) feet or less of street frontage.

(d) **Single Unit and Two-Unit.** Parking of any vehicle in the front yard of a lot on which exists a Detached House or Duplex shall be prohibited unless such vehicle is parked on an improved area having a surface of asphalt, concrete, rock, gravel or other similar inorganic material, and such improved area has a permanent border.

(e) **Accessory Dwelling Unit**. One (1) additional parking space required.

(f) **Manufactured Homes.** For each manufactured home in a manufactured home community there shall be one (1) parking spaces per dwelling unit.

(g) **Fraternity and Sorority Houses**. For each fraternity or sorority house, there shall be two (2) parking spaces per three (3) beds. The alternative compliance provisions Section 5.9.1(K)(1)(a)(II) may be applied to vary this standard.

(h) **Group Homes**. For each group home there shall be two (2) parking spaces for every three (3) employees, and in addition, one (1) parking space for each four (4) adult residents, unless residents are prohibited from owning or operating personal automobiles.

(i) **Recreational Uses** For each recreational use located in a residential district there shall be one (1) parking space per four (4) persons maximum rated capacity.

(j) **Schools, Places of Worship or Assembly and Child Care Centers**. For each school, place of worship or assembly and child care center, there shall be one (1) parking space per four (4) seats in the auditorium or place of worship or assembly, or two (2) parking spaces per three (3) employees, or one (1) parking space per one thousand (1,000) square feet of floor area, whichever requires the greatest number of parking spaces. In the event that a school, place of worship or assembly, or child care center is located adjacent to uses such as retail, office, employment or industrial uses, and the mix of uses creates staggered peak periods of parking demand, and the adjacent landowners have entered into a shared parking agreement, then the maximum number of parking spaces allowed for a place of worship or assembly shall be one (1) parking space per four (4) seats in the auditorium or place of worship or assembly, and the maximum number of parking spaces allowed for a school or child care center shall be three (3) spaces per one thousand (1,000) square feet of floor area. When staggered peak periods of parking demand do not exist with adjacent uses such as retail, office, employment or industrial uses, then the maximum number of parking spaces allowed for a place of worship or assembly shall be one (1) parking space per three (3) seats in the auditorium or place of worship or assembly, and the maximum number of parking spaces allowed for a school or child care center shall be four (4) spaces per one thousand (1,000) square feet of floor area.

(k) **Small Scale Reception Centers in the UE, Urban Estate District**. For each reception center there shall be one (1) parking space per four (4) persons maximum rated occupancy as determined by the building code.

(l) **Extra Occupancy**. For each extra occupancy, there shall be 0.75 (¾) parking space per occupant, rounded up to the nearest whole parking space. If the lot upon which such parking spaces are to be

situated has more than sixty-five (65) feet of street frontage length on any one (1) street or abuts an alley, then each such parking space shall have direct access to the abutting street or alley and shall be unobstructed by any other parking space. If such lot has less than sixty-five (65) feet of street frontage length on any one (1) street and does not abut an alley. then one (1) of the required parking spaces may be aligned in a manner that does not provide direct access to the abutting street.

(m) **Short term non-primary rentals and short term primary rentals**. The minimum number of off-street parking spaces required are as follows:

| *Number of Bedrooms Rented* | *Number of Off-Street Parking Spaces* |
|---|---|
| 1—2 | 1 |
| 3—4 | 2 |
| 5—6 | 3 |

(I) The number of additional off-street parking spaces required for more than six (6) bedrooms rented shall be calculated in the same manner used in the above chart (e.g., 7-8 bedrooms rented requires four (4) off-street parking spaces).

(II) Short term rentals licensed pursuant to the Code of the City of Fort Collins Section 15-646 and for which the license application was submitted prior to October 31, 2017, are exempt from compliance with these parking requirements so long as such license remains continuously valid. Subsequent licenses issued pursuant to Section 15-646 shall comply with these parking requirements.

(2) **Nonresidential Parking Requirements**. Nonresidential uses shall provide a **minimum** number of parking spaces, and will be limited to a **maximum** number of parking spaces as defined by the standards defined below.

(a) The table below sets forth the number of minimum required and maximum allowed parking spaces based on the square footage of the gross leasable area and of the occupancy of specified uses. In the event that on-street or shared parking is not available on land adjacent to the use, then the maximum parking allowed may be increased by twenty (20) percent.

(b) Parking Requirements for Nonresidential Uses:

| *Use* | *Minimum Parking Spaces* | *Maximum Parking Spaces* |
|---|---|---|
| Restaurants | | |
| a. Fast Food | 7/1000 sq. ft. | 15/1000 sq. ft. |
| b. Standard | 5/1000 sq. ft. | 10/1000 sq. ft. |
| Bars, Taverns, and Nightclubs | 5/1000 sq. ft. | 10/1000 sq. ft. |
| Commercial Recreational | | |
| a. Limited Indoor Recreation | 3/1000 sq. ft. | 6/1000 sq. ft. |
| b. Outdoor | .1/person cap | .3/person cap |
| c. Bowling Alley | 2.5/1000 sq. ft. | 5/1000 sq. ft. |
| Theaters | 1/6 seats | 1/3 seats |
| General Retail | 2/1000 sq. ft. | 4/1000 sq. ft. |
| Personal Business and Service Shop | 2/1000 sq. ft. | 4/1000 sq. ft. |
| Shopping Center | 2/1000 sq. ft. | 5/1000 sq. ft. |
| Medical Office | 2/1000 sq. ft. | 4.5/1000 sq. ft. |

| | | |
|---|---|---|
| Financial Services | 2/1000 sq. ft. | 3.5/1000 sq. ft. |
| Grocery Store, Supermarket | 3/1000 sq. ft. | 6/1000 sq. ft. |
| General Office | 1/1000 sq. ft. | 3/1000 sq. ft. or .75/employee on the largest shift or 4.5/1000 sq. ft. if all additional parking spaces gained by the increased ratio (over 3/1000 sq. ft.) are contained within a parking garage/structure |
| Vehicle Servicing & Maintenance | 2/1000 sq. ft. | 5/1000 sq. ft. |
| Low Intensity Retail, Repair Service, Workshop and Custom Small Industry | 1/1000 sq. ft. | 2/1000 sq. ft. |
| Lodging Establishments | 0.5/unit | 1/unit |
| Health Facilities | | |
| a. Hospitals | 0.5/bed | 1/bed |
| b. Long-Term Care Facilities | | .33/bed plus 1/two employees on major shift |
| Industrial: Employee Parking | 0.5/employee | .75/employee |

(c) Existing Buildings Exemption. Change in use of an existing building shall be exempt from minimum parking requirements. For the expansion or enlargement of an existing building which does not result in the material increase of the building by more than twenty-five (25) percent, but not to exceed five thousand (5,000) square feet in the aggregate, shall be exempt from minimum parking requirements. For the redevelopment of a property which includes the demolition of existing buildings, the minimum parking requirement shall be applied to the net increase in the square footage of new buildings.

(d) TOD Overlay Zone Exemption. If new development is proposed within the Transit-Oriented Development (TOD) Overlay zone, twenty-five (25) percent of the square footage of gross leasable area of such new development, but not to exceed five thousand (5,000) square feet in the aggregate, shall be exempt from minimum parking requirements. The exemption shall be distributed proportionally among the uses contained in a mixed-use development.

(e) For uses that are not specifically listed in subsections 5.9.1(K)(1) or (2), the number of parking spaces permitted shall be the number permitted for the most similar use listed.

(f) For non-residential uses within the Transit-Oriented Development (TOD) Overlay Zone the required minimum number of parking spaces may be reduced by providing demand mitigation strategies as shown in the following table:

| *Demand Mitigation Strategy*** | *Parking Requirement Reduction* |
|---|---|
| Transit Passes for every employee within the development. | 10% |
| Car Share. | 5 spaces/1 car share |
| Within 1,000 feet walking distance of MAX Station. (Walking distance shall mean an ADA-compliant, contiguous improved walkway measured from the most remote building entrance to the transit station | 10% |

| | |
|---|---|
| and contained within a public ROW or pedestrian easement.) | |
| Off-Site Parking. | 1:1 |
| Bicycle & Pedestrian Level of Service A. | 10% |
| Shared Parking. | Based on approved alternative compliance. |
| Parking Impact Study. | Based on approved alternative compliance. |
| Transportation Demand Management (TDM). | Based on approved alternative compliance. |
| **All demand mitigation strategies shall be shown on the site plan and in the Development Agreement and shall be subject to audit for the duration of the project. | |

(3) **Alternative Compliance**. Upon written request by the applicant, the decision maker may approve an alternative parking ratio (as measured by the number of parking spaces based on the applicable unit of measurement established in the table contained in Section 5.9.1(K)(2) for nonresidential land uses or the number of parking spaces based on use in Section 5.9.1(K)(1) for residential and institutional land uses) that may be substituted in whole or in part for a ratio meeting the standards of this Section.

(a) Procedure. Alternative compliance parking ratio plans shall be prepared and submitted in accordance with the submittal requirements for plans as set forth in this Section. Each such plan shall clearly identify and discuss the modifications and alternatives proposed and the ways in which the plan will better accomplish the purpose of this Section than would a plan which complies with the standards of this Section. The request for alternative compliance must be accompanied by a Parking Impact Study, Transportation Demand Management analysis, or Shared Parking Study which addresses issues identified in the City's submittal requirements for such studies.

(b) Review Criteria. To approve an alternative plan, the decision maker must find that the proposed alternative plan accomplishes the purposes of this Section equally well or better than would a plan which complies with the standards of this Section. In reviewing the request for an alternative parking ratio plan in order to determine whether it accomplishes the purposes of this Section, as required above, the decision maker shall take into account the number of employees occupying the building or land use, the number of expected customers or clients, the availability of nearby on-street parking (if any), the availability of shared parking with abutting, adjacent or surrounding land uses (if any), the provision of purchased or leased parking spaces in a municipal or private parking lot meeting the requirements of the City, trip reduction programs (if any), or any other factors that may be unique to the applicant's development request. The decision maker shall not approve the alternative parking ratio plan unless it:

(I) does not detract from continuity, connectivity and convenient proximity for pedestrians between or among existing or future uses in the vicinity;

(II) minimizes the visual and aesthetic impact along the public street by placing parking lots to the rear or along the side of buildings, to the maximum extent feasible;

(III) minimizes the visual and aesthetic impact on the surrounding neighborhood;

(IV) creates no physical impact on any facilities serving alternative modes of transportation;

(V) creates no detrimental impact on natural areas or features;

(VI) maintains handicap parking ratios; and

(VII) for projects located in D, LMN, MMN and CC zone districts, conforms with the established street and alley block patterns, and places parking lots across the side or to the rear of buildings.

(c) For recreational and institutional land uses that are required to provide a **minimum** amount of parking, a request for alternative compliance to provide parking below the required minimum must follow the same procedure and be held to the same review criteria as described in Section 5.9.1(K)(3)(a) and 5.9.1(K)(3)(b), and in addition, must demonstrate:

(I) that there will be no dispersal of spillover parking onto surrounding, adjacent or abutting land uses, and

(II) that there will be no dispersal of spillover parking onto surrounding, adjacent or abutting public streets (or private streets not under legal ownership of the applicant) where parking is prohibited.

Notwithstanding the spillover parking prohibitions above, spillover parking may be allowed pursuant to this subsection for "Special Event Parking," meaning parking associated with a recreational facility, activity or institution expected to occur no more than four (4) times per year for school assemblies, pageants, graduations, religious celebrations or other ceremonies or events that occur so infrequently that the public can reasonably be expected to accept the inconvenience of spillover parking on such infrequent occasions.

(4) **Exception to the General Office Parking Standard**. An exception to the general office parking standard as established in the table contained in Section 5.9.1(K)(2) shall be permitted for the purpose of ensuring that the parking provided is adequate but not in excess of the users' needs. Requests for exceptions to the general office parking standard shall be reviewed according to the procedure and criteria contained in subparagraphs (I) and (II) below. Exceptions shall be available to those projects where the number of anticipated employees can be reasonably estimated, and such exceptions shall apply only to the ratio between the number of parking spaces and the number of employees, and not to the ratio between the number of parking spaces and the gross leasable area.

(I) **Procedure.** All requests for exceptions to the general office parking standard shall be submitted in accordance with the submittal requirements for plans as set forth in this subsection. Each such request shall clearly identify and discuss the proposed project and the ways in which the plan will accomplish the general purpose of this subsection. The request for an exception to the standard must be accompanied by an estimated number of employees. In addition, a traffic impact study containing a trip generation analysis or other relevant data describing the traffic and parking impacts of any proposed general office land use or activity shall be submitted.

(II) **Review Criteria**. To approve an exception to the standard, the decision maker must find that the proposed project accomplishes the general purpose of this Section. In reviewing the request for an exception to the standard parking ratio and in order to determine whether such request is consistent with the purposes of this subsection, as required above, the decision maker shall take into account the anticipated number of employees occupying the building, the number and frequency of expected customers or clients, the

availability of nearby on-street parking (if any), the availability of shared parking with abutting, adjacent or surrounding land uses (if any), the provision of purchased or leased parking spaces in a municipal or private parking lot meeting the requirements of the City, travel demand management programs(if any), or any other factors that may be unique to the applicant's development request. The decision maker shall not approve an exception to the general office parking standard unless it:

(i) does not detract from continuity, connectivity and convenient proximity for pedestrians between or among existing or future uses in the vicinity;

(ii) minimizes the visual and aesthetic impact along the public street of the proposed increased parking by placing parking lots to the rear or along the side of buildings, to the maximum extent feasible;

(iii) minimizes the visual and aesthetic impact of such additional parking on the surrounding neighborhood;

(iv) creates no physical impact on any facilities serving alternative modes of transportation;

(v) creates no detrimental impact on natural areas or features;

(vi) maintains handicap parking ratios;

(vii) for projects located in D, LM-N, M-M-N and C-C zone districts, conforms with the established street and alley block patterns, and places parking lots across the side or to the rear of buildings;

(viii) results in a ratio that does not exceed one-space-per-employee (1:1), and

(ix) is justified by a travel demand management program which has been submitted to and approved by the City.

(5) **Accessible Parking.**

(a) **Accessible spaces**. Parking spaces for those living with a disability shall have a stall width of thirteen (13) feet unless the space is parallel to a pedestrian walk. Other dimensions shall be the same as those for standard vehicles. Any such spaces shall be designated as being for the handicapped with a raised standard identification sign.

(b) **Location**. Accessible parking spaces shall be located next the nearest accessible building entrance, using the shortest possible accessible route of travel., the accessible route of travel shall not cross lanes for vehicular traffic. When crossing vehicle traffic lanes is deemed necessary by the City and acceptable under the federal standards, the route of travel shall be designated and marked as a crosswalk.

(c) **Marking.** Every accessible parking space shall be identified by a sign, centered between three (3) feet and five (5) feet above the parking surface, at the head of the parking space. The sign shall include the international symbol of accessibility and state RESERVED, or equivalent language.

(d) **Amount.** Each parking lot shall contain at least the minimum specified number of accessible spaces as provided in the table below. Regardless of the number of accessible spaces required, at least one (1) such space shall be designated as a van-accessible space, and must be a minimum of eight (8) feet wide and adjoin a minimum eight-foot-wide access aisle.

(I) Accessibility Parking Spaces Minimum Requirement Table:

| *NUMBER OF ACCESSIBLE PARKING SPACES* | |
|---|---|
| *Total Parking Spaces in Lot* | *Minimum Required Number of Accessible Spaces* |
| 1-25 | 1 |
| 26-50 | 2 |
| 51-75 | 3 |
| 76-100 | 4 |
| 101-150 | 5 |
| 151-200 | 6 |
| 201-300 | 7 |
| 301-400 | 8 |
| 401-500 | 9 |
| 501-1,000 | 2% of total spaces |
| Over 1,000 | 20 spaces plus 1 space for every 100 spaces, or fraction thereof, over 1,000 |

(6) **Loading Zones.** All development shall provide loading zones and service areas adequately sized to accommodate the types of vehicles that use them. Such loading zones and service areas shall be indicated on the development plan.

(L) **Parking Stall Dimensions.** Off-street parking areas for automobiles shall meet the following minimum standards for long- and short-term parking of standard and compact vehicles:

(1) **Standard Spaces.** Parking spaces for standard vehicles shall conform with the standard car dimensions shown on Table A.

(2) **Compact Vehicle Spaces in Long-term Parking Lots and Parking Structures.** Those areas of a parking lot or parking structure that are approved as long-term parking have the option to include compact parking stalls. Such approved long-term parking areas may have up to forty (40) percent compact car stalls using the compact vehicle dimensions set forth in Table B, except when no minimum parking is required for a use pursuant to Subsection 5.9.1(K), in which event the number of compact car stalls allowed may be greater than forty (40) percent. No compact spaces shall be designated as accessible parking spaces.

Table A – Standard Parking Dimensions

| *Standard Vehicle* | | | *Dimensions in feet* | | | |
|---|---|---|---|---|---|---|
| A | B | C | D | E | F | G |
| 0º | 8 | 23 | 8 | 23 | 20 | 12 |
| 30º | 8.5 | 20 | 17.4 | 17 | 20 | 15 |
| 45º | 8.5 | 20 | 20.2 | 12 | 20 | 15 |
| 60º | 9 | 19 | 21 | 10.4 | 24 | 20 |
| 90º | 9 | 19 | 19 | 9 | 24* | 20** |

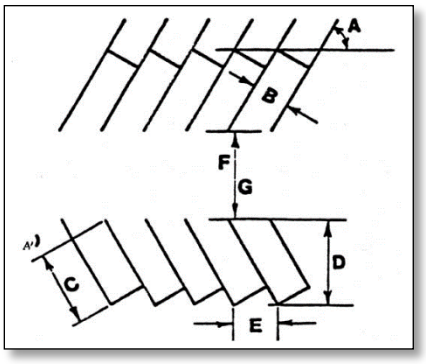
Table B – Compact Parking Dimensions

| *Compact Vehicle* | | | *Dimensions in feet* | | | |
|---|---|---|---|---|---|---|
| A | B | C | D | E | F | G |
| 0º | 7.5 | 19 | 7.5 | 19 | 20 | 12 |
| 30º | 7.5 | 16.5 | 14.8 | 15 | 20 | 15 |
| 45º | 7.5 | 16.5 | 17 | 10.6 | 20 | 15 |
| 60º | 8 | 16 | 17.9 | 9.2 | 24 | 20 |
| 90º | 8 | 15 | 15 | 8 | 24* | 20** |

Table C

| |
|---|
| A-Angle of Parking |
| B-Stall Width |
| C-Stall Length |
| D-Stall Depth |
| E-Curb Length |
| F-Two-Way Drive Aisle Width |
| G-One-Way Drive Aisle Width |
| ** When garages are located along a driveway and are opposite other garages or buildings, the two-way drive aisle width (F) must be increased to 28 feet.* |
| *** When an overhang is allowed to reduce stall depth, the one-way drive aisle width (G) must be increased to 22 feet.* |
| (See Figure 4) |

Figure 4
Parking Stall Dimensions



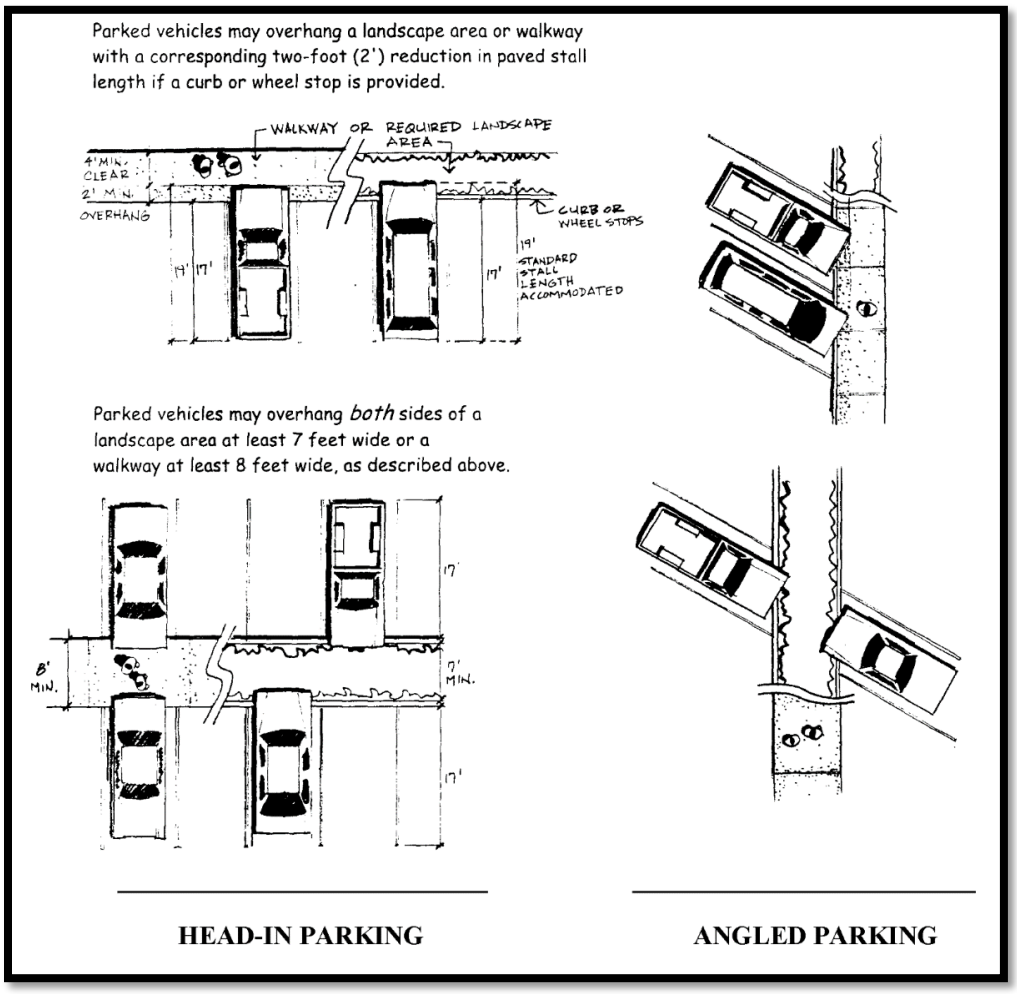

(3) **Long-Term Parking Stalls.** As an option in long-term parking areas, all long-term parking stalls may be designated using the following stall dimensions:

**Long Term Parking Dimensions**

| *Parking Angle* | *Stall Width* | *Stall Length* |
|---|---|---|
| 0 | 8 | 21 |
| 30 | 8 | 19 |
| 45 | 8 | 19 |
| 60 | 8.5 | 18 |
| 90 | 8.5 | 18 |

(4) **Vehicular Overhang.** The stall dimensions indicated above may be modified with respect to vehicular overhang as indicated in Figure 5, except that compact vehicle spaces may not be reduced in depth to a dimension that is less than the required depth indicated above.

(II) Figure 5 – Vehicular Overhang for Standard-Size Parking Stalls:




# DIVISION 5.10 LANDSCAPING AND TREE PROTECTION

## 5.10.1 LANDSCAPING AND TREE PROTECTION

(A) **Applicability.** This Section shall apply to all development (except for development on existing lots for single-unit detached dwellings) within the designated "limits of development" ("LOD") and natural habitat buffer zones established according to Section 5.6.1 (Natural Habitats and Features).

(B) **Purpose.** The intent of this Section is to require preparation of landscape and tree protection plans that ensure significant canopy cover is created, diversified and maintained so that all associated social and environmental benefits are maximized to the extent reasonably feasible. These benefits include reduced erosion and stormwater runoff, improved water conservation, air pollution mitigation, reduced glare and heat build-up, increased aesthetics, and improved continuity within and between developments. Trees planted in appropriate spaces also provide screening and may mitigate potential conflicts between activity areas and other site elements while enhancing outdoor spaces, all of which add to a more resilient urban forest.

(C) **General Standard.** All developments shall submit a landscape and tree protection plan, and, if receiving water service from the City, an irrigation plan, that: (1) reinforces and extends any existing patterns of

outdoor spaces and vegetation where practicable, (2) supports functional purposes such as spatial definition, visual screening, creation of privacy, management of microclimate or drainage, (3) enhances the appearance of the development and neighborhood, (4) protects significant trees, natural systems and habitat, (5) enhances the pedestrian environment, (6) identifies all landscape areas, (7) identifies all landscaping elements within each landscape area, and (8) meets or exceeds the standards of this Section.

(D) **Tree Planting Standards**. All developments shall establish groves and belts of trees along all city streets, in and around parking lots, and in all landscape areas that are located within fifty (50) feet of any building or structure in order to establish at least a partial urban tree canopy. The groves and belts may also be combined or interspersed with other landscape areas in remaining portions of the development to accommodate views and functions such as active recreation and storm drainage.

(1) **Minimum Plantings/Description**. These tree standards require at least a minimum tree canopy but are not intended to limit additional tree plantings in any remaining portions of the development. Groves and belts of trees shall be required as follows:

(a) parking lot landscaping in accordance with the parking lot landscaping standards as set forth in this Section and in Section 5.9.1, Access, Circulation and Parking;

(b) street tree planting in accordance with the *Larimer County Urban Area Street Standards* or other street tree planting as defined in subsection (2)(b) or (c) below;

(c) "full tree stocking" shall be required in all landscape areas within fifty (50) feet of any building or structure as further described below. Landscape areas shall be provided in adequate numbers, locations and dimensions to allow full tree stocking to occur along all high use or high visibility sides of any building or structure. Such landscape areas shall extend at least seven (7) feet from any building or structure wall and contain at least fifty-five (55) square feet of nonpaved ground area, except that any planting cutouts in walkways shall contain at least sixteen (16) square feet. Planting cutouts, planters or other landscape areas for tree planting shall be provided within any walkway that is twelve (12) feet or greater in width adjoining a vehicle use area that is not covered with an overhead fixture or canopy that would prevent growth and maturity.

(I) Full tree stocking shall mean formal or informal groupings of trees planted according to the following spacing dimensions:

| *Tree Type* | *Minimum/Maximum Spacing* |
|---|---|
| Canopy shade trees | 30′—40′ spacing |
| Coniferous evergreens | 20′—40′ spacing |
| Ornamental trees | 20′—40′ spacing |

(II) Exact locations and spacings may be adjusted at the option of the applicant to support patterns of use, views and circulation as long as the minimum tree planting requirement is met. Canopy shade trees shall constitute at least fifty (50) percent of all tree plantings. Trees required in subparagraphs (a) or (b) above may be used to contribute to this standard.

(2) **Street Trees**. Planting of street trees shall occur in the adjoining street right-of-way, except as described in subparagraph (b) below, in connection with the development by one (1) or more of the methods described in subparagraphs (a) through (d) below:

(a) Wherever the sidewalk is separated from the street by a parkway, canopy shade trees shall be planted at thirty-foot to forty-foot spacing (averaged along the entire front and sides of the block face) in the center of all such parkway areas. If two (2) or more consecutive residential lots along a street each measure between forty (40) and sixty (60) feet in street frontage width, one (1) tree per lot may be substituted for the thirty-foot to forty-foot spacing requirement. Such street trees shall be placed at least eight (8) feet away from the edges of driveways and alleys, and forty (40) feet away from any streetlight and to the extent reasonably feasible, be positioned at evenly spaced intervals.

(b) Wherever the sidewalk is attached to the street in a manner that fails to comply with the *Larimer County Urban Area Street Standards*, canopy shade trees shall be established in an area ranging from three (3) to seven (7) feet behind the sidewalk at the spacing intervals as required in subsection (a) above. Wherever the sidewalk is attached to the street and is ten (10) feet or more in width, or extends from the curb to the property line, canopy shade trees shall be established in planting cutout areas of at least sixteen (16) square feet at thirty-foot to forty-foot spacing.

(c) Ornamental trees shall be planted in substitution for the canopy shade trees required in subsection (D)(2)(a) and (b) above where overhead lines and fixtures prevent normal growth and maturity. Ornamental trees shall be placed at least fifteen (15) feet away from any streetlight.

(d) Wherever existing ash trees (*Fraxinus* species) are in the adjoining street right-of-way, the applicant shall coordinate and obtain an onsite analysis with the City Forester to determine replacement canopy shade trees either through shadow planting or other emerald ash borer mitigation methods.

(3) **Minimum Species Diversity**. To prevent uniform insect or disease susceptibility and eventual uniform senescence on a development site or in the adjacent area or the district, species diversity is required, and extensive monocultures are prohibited. The following minimum requirements shall apply to any development plan.

(a) Species Diversity Table:

| *Number of trees on site* | *Maximum percentage of any one species* |
|---|---|
| 10—19 | 50% |
| 20—39 | 33% |
| 40—59 | 25% |
| 60 or more | 15% |

(4) **Tree Species and Minimum Sizes**. The City Forester shall provide a recommended list of trees which shall be acceptable to satisfy the requirements for landscape plans, including approved canopy shade trees that may be used as street trees. The following minimum sizes shall be required (except as provided in subparagraph (5) below):

(a) *Minimum Size Table:*

| *Type* | *Minimum Size* |
|---|---|
| | |
| Canopy Shade Tree | 2.0″ caliper balled and burlapped or equivalent |
| Evergreen Tree | 6.0′ height balled and burlapped or equivalent |
| Ornamental Tree | 1.5″ caliper balled and burlapped or equivalent |
| Shrubs | 5 gallon or adequate size consistent with design intent or 1 gallon may be permitted if planting within the Critical Root Zone of existing trees |

(I) Any tree plantings that are in addition to those that are made as part of the approved landscape plan are exempt from the foregoing size requirements.

(5) **Reduced Minimum Sizes for Affordable Housing Projects**. In any affordable housing project, the following minimum sizes shall be required:

(a) *Affordable Housing Minimum Tree Size Table:*

| *Type* | *Minimum Size* |
|---|---|
| Canopy Shade Tree | 1.0″ caliper container or equivalent |
| Evergreen Tree | 4.0′ height container or equivalent |
| Ornamental Tree | 1.0″ caliper container or equivalent |
| Shrubs | 1 gallon |
| Canopy Shade Tree as a street tree on a Local or Collector street only | 1.25″ caliper container or equivalent |

(E) **Landscape Standards**. All development applications shall include landscape plans that meet the following minimum standards:

(1) **Buffering Between Incompatible Uses and Activities.** In situations where the Director determines that the arrangement of uses or design of buildings does not adequately mitigate conflicts reasonably anticipated to exist between dissimilar uses, site elements or building designs, one (1) or more of the following landscape buffering techniques shall be used to mitigate the conflicts:

(a) Separation and screening with plant material: planting dense stands of evergreen trees, canopy shade trees, ornamental trees or shrubs;

(b) Integration with plantings: incorporating trees, vines, planters or other plantings into the architectural theme of buildings and their outdoor spaces to subdue differences in architecture and bulk and avoid harsh edges;

(c) Establishing privacy: establishing vertical landscape elements to screen views into or between windows and defined outdoor spaces where privacy is important, such as where larger buildings are proposed next to side or rear yards of smaller buildings;

(d) Visual integration of fences or walls: providing plant material in conjunction with a screen panel, arbor, garden wall, privacy fence or security fence to avoid the visual effect created by unattractive screening or security fences; and/or

(e) Landform shaping: utilizing berming or other grade changes to alter views, subdue sound, change the sense of proximity and channel pedestrian movement.

(2) **Landscape Area Treatment.** Landscape areas shall include all areas on the site that are not covered by buildings, structures, paving or impervious surface, or other outdoor areas including play areas, plaza spaces, patios, and the like. Landscape areas shall consist only of landscaping. The selection and location of turf, ground cover (including shrubs, grasses, perennials, flowerbeds and slope retention), and pedestrian paving and other landscaping elements shall be used to prevent erosion and meet the functional and visual purposes such as defining spaces, accommodating and directing circulation patterns, managing visibility, attracting attention to building entrances and other focal points, and visually integrating buildings with the landscape area and with each other.

(a) Turf grass. High-use areas shall be planted with irrigated turf grass. Nonirrigated shortgrass prairie grasses or other adapted grasses that have been certified as Xeriscape landscaping may be established in remote, low-use, low visibility areas.

(b) Planting beds. Shrub and ground cover planting beds shall be separated from turf grass with edging and shall have open surface areas covered with mulch.

(c) Slopes. Retaining walls, slope revetment or other acceptable devices integrated with plantings shall be used to stabilize slopes that are steeper than 3:1. If soil tests performed on the subject soils indicate steeper slopes are stable without the above required protection, then the maximum slope allowed without the above required protection may be increased to the maximum stated in the soils report or 2:1, whichever is less steep.

(d) Foundation Plantings. Exposed sections of building walls that are in high-use or high-visibility areas of the building exterior shall have planting beds at least five (5) feet wide placed directly along at least fifty (50) percent of such walls, except where pedestrian paving abuts a commercial building with trees and/or other landscaping in cutouts or planting beds along the outer portion of the pedestrian space away from the building.

(e) Parkways. All adjoining street parkways shall be landscaped in connection with the development in accordance with the *Larimer County Urban Area Street Standards*.

(f) Agricultural Use. If outdoor space is maintained in active agricultural use, the landscape surfaces and ground cover standards above shall not apply.

(3) **Water Conservation.** Landscape plans shall be designed to incorporate water-efficient techniques.

(a) Landscape designs shall be designed according to the xeriscape landscaping principles described as follows:

(I) Plan and design. Plan for how people will use and interact with the landscape. Group landscape materials accordingly based upon hydrozone.

(II) Landscape arrangement. Provide a cohesive arrangement of turf, plants, mulch, boulders and other landscape elements that support the criteria in Section 5. 10.1(H).Landscape

elements shall be arranged to provide appropriate plant spacing and grouping and to avoid a disproportionate and excessive use of mulch areas.

(III) Appropriate use of turf. Limit high water-use turf to high-traffic areas where turf is functional and utilized.

(IV) Appropriate plant selection. Selected plants shall be well-adapted to the Fort Collins climate and site conditions. Plants shall be grouped according to water and light requirements.

(V) Efficient irrigation. Design, operate and maintain an efficient irrigation system. Select equipment appropriate to the hydrozone. Water deeply and infrequently to develop greater drought tolerance.

(VI) Soil preparation. Incorporate soil amendments appropriate to the soil and the plant material. Soil preparation must be in accordance with City of Fort Collins Municipal Code 3..2.1.

(VII) Mulch. Maintain a minimum depth of three inches of mulch in planting beds to conserve soil moisture and control weeds, with careful placement and adjustment of depth near plant stems as needed to allow unimpeded plant establishment and vigorous growth.

(VIII) Maintenance. Provide regular maintenance including but not limited to weeding, pruning, mowing to an appropriate height, deadheading, replacement of dead plant material, and replenishment of mulch surfaces.

(IX) Xeriscape principles do not include or allow artificial turf or plants; paving of areas not used for walkways, patios or parking; excessive bare ground or mulch; weed infestations; or any landscaping that does not comply with the standards of this section.

(b) Landscape plans shall include:

(I) A water budget chart that shows the total annual water use, which shall not exceed an average of fifteen (15) gallons/square foot/year for each water tap.

- Accurate and clear identification of all applicable hydrozones using the following categories:

| | |
|---|---|
| High Hydrozone | 18 gallons/square feet/year |
| Moderate Hydrozone | 14 gallons/square feet/year |
| Low Hydrozone | 8 gallons/square feet/year |
| Very Low Hydrozone | 3 gallons/square feet/year |

(4) **Parking Lot Perimeter Landscaping**. Parking lot perimeter landscaping (in the minimum setback areas required by Section 5.9.1(J)(Access, Circulation and Parking) shall meet the following minimum standards:

(a) Trees shall be provided at a ratio of one (1) tree per twenty-five (25) lineal feet along a public street and one (1) tree per forty (40) lineal feet along a side lot line parking setback area. Trees may be spaced irregularly in informal groupings or be uniformly spaced, as consistent with larger overall planting patterns and organization. Perimeter landscaping along a street may be located in and should be integrated with the streetscape in the street right-of-way.

(b) Screening. Parking lots with six (6) or more spaces shall be screened from abutting uses and from the street. Screening from residential uses shall consist of a fence or wall six (6) feet in height in combination with plant material and of sufficient opacity to block at least seventy-five (75) percent of light from vehicle headlights. Screening from the street and all nonresidential uses shall consist of a wall, fence, planter, earthen berm, plant material or a combination of such elements, each of which shall have a minimum height of thirty (30) inches. Such screening shall extend a minimum of seventy (70) percent of the length of the street frontage of the parking lot and also seventy (70) percent of the length of any boundary of the parking lot that abuts any nonresidential use. Openings in the required screening shall be permitted for such features as access ways or drainage ways. Where screening from the street is required, plans submitted for review shall include a graphic depiction of the parking lot screening as seen from the street. Plant material used for the required screening shall achieve required opacity in its winter seasonal condition within three (3) years of construction of the vehicular use area to be screened.

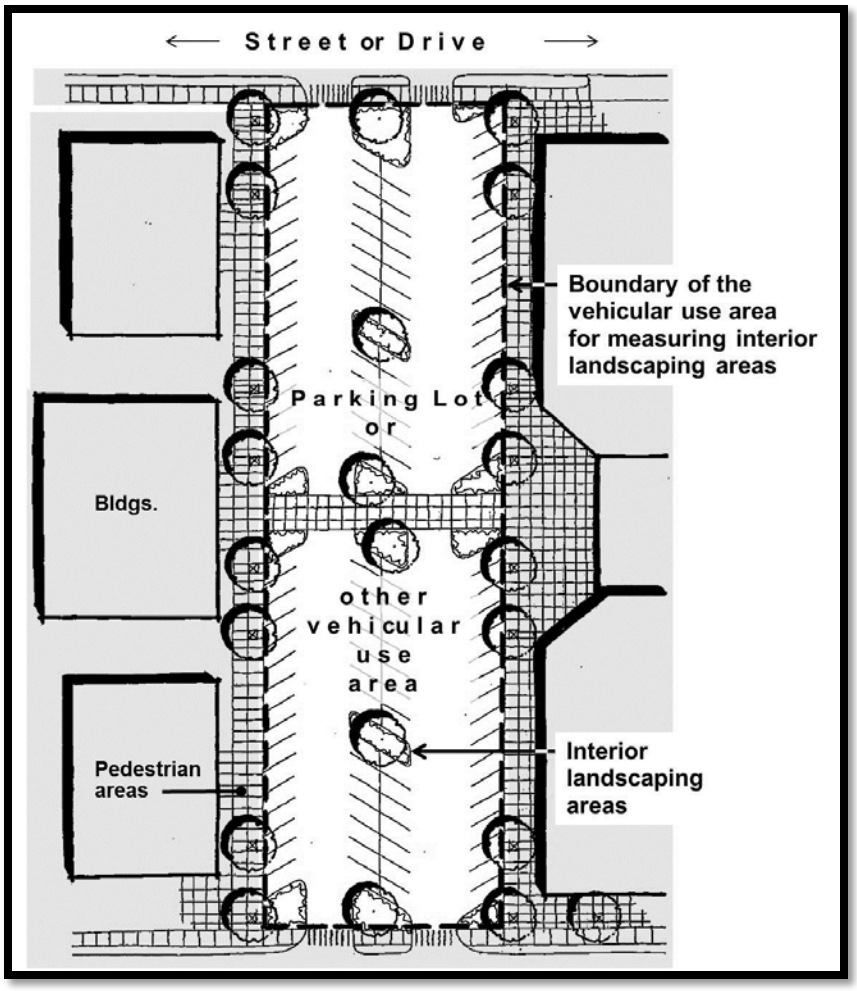
(5) **Parking Lot Interior Landscaping.** Six (6) percent of the interior space of all parking lots with less than one hundred (100) spaces, and ten (10) percent of the interior space of all parking lots with one hundred (100) spaces or more shall be landscape areas. (See Figure 1). All parking lot islands, connecting walkways through parking lots and driveways through or to parking lots shall be landscaped according to the following standards:

(a) Visibility. To avoid landscape material blocking driver sight distance at driveway-street intersections, no plant material greater than twenty-four (24) inches in height shall be located within fifteen (15) feet of a curbcut.

(b) Maximized Area of Shading. Landscaped islands shall be evenly distributed to the maximum extent feasible. At a minimum, trees shall be planted at a ratio of at least one (1) canopy shade tree per one hundred fifty (150) square feet of internal landscaped area with a landscaped surface of turf, ground cover perennials or mulched shrub plantings.

(c) Landscaped Islands. In addition to any pedestrian refuge areas, each landscaped island shall include one (1) or more canopy shade trees, be of length greater than eight (8) feet in its smallest dimension, include at least eighty (80) square feet of ground area per tree to allow for root aeration, and have raised concrete curbs.

(d) Figure 1 – Interior Landscaping for Vehicular Use Areas:




(e) Walkways and Driveways. Connecting walkways through parking lots, as required in subsection 5.9.1(C)(5)(a) (Walkways) shall have one (1) canopy shade tree per forty (40) lineal feet of such walkway planted in landscape areas within five (5) feet of such walkway. Driveways through or to parking lots shall have one (1) canopy shade tree per forty (40) lineal feet of and along each side of such driveway, in landscape areas within five (5) feet of such driveway.

(f) Parking bays shall extend no more than fifteen (15) parking spaces without an intervening tree, landscape island or landscape peninsula.

(g) Engineering. Detailed specifications concerning parking lot surfacing material and parking lot drainage detention are available from the City Engineer.

(6) **Screening.** Landscape and building elements shall be used to screen areas of low visual interest or visually intrusive site elements (such as trash collection, open storage, service areas, loading docks and blank walls) from off-site view. Such screening shall be established on all sides of such elements except where an opening is required for access. If access is possible only on a side that is visible from a public street, a removable or operable screen shall be required. The screen shall be designed and established so that the area or element being screened is no more than twenty (20) percent visible through the screen.

- Screening Materials. Required screening shall be provided in the form of new or existing plantings, walls, fences, screen panels, topographic changes, buildings, horizontal separation or a combination of these techniques.

(7) **Landscaping of Vehicle Display Lots**. Vehicle display lots for vehicle sales and leasing (as those terms are defined in Article 7) that abut an arterial or collector street shall feature landscaped islands along the street at an interval not to exceed every fifteen (15) vehicles or one hundred thirty-five (135) feet, whichever is less. Each landscaped island shall comply with the requirements of 5.10.1(E)(5)(c).

(F) **Tree Preservation and Mitigation.** Existing significant trees (six (6) inches and greater in diameter) within the LOD and within natural habitat buffer zones shall be preserved to the extent reasonably feasible and may help satisfy the landscaping requirements of this Section as set forth above. Such trees shall be considered "protected" trees within the meaning of this Section, subject to the exceptions contained in subsection (2) below. Streets, buildings and lot layouts shall be designed to minimize the disturbance to significant existing trees. All required landscape plans shall accurately identify the locations, species, size and condition of all significant trees, each labeled showing the applicant's intent to either remove, transplant or protect.

Where the City determines it is not feasible to protect and retain significant existing tree(s) or to transplant them to another on-site location, the applicant shall replace such tree(s) according to the following requirements and shall satisfy the tree planting standards of this Section. To the extent reasonably feasible, replacement trees shall be planted on the development site or, if not reasonably feasible, in the closest available and suitable planting site on public or private property. The closest available and suitable planting site shall be selected within one-half (½) mile (2,640 feet) of the development site, subject to the following exceptions. If suitable planting sites for all of the replacement trees are not available within one-half (½) mile (2,640 feet) of the development, then the City Forester shall determine the most suitable planting location within the City's boundaries as close to the development site as feasible. If locations for planting replacement trees cannot be located within one-half (½) mile of the development site, the applicant may, instead of planting such replacement trees, submit a payment in lieu to the City of Fort Collins Forestry Division to be used to plant replacement trees to plant replacement trees as close to the development site as possible. The payment in lieu mitigation fee per tree is determined by the City Forester and may be adjusted annually based on market rates. Payment must be submitted prior to the Development Construction Permit issuance or other required permits.

(1) A significant tree that is removed shall be replaced with not less than one (1) or more than six (6) replacement trees sufficient to mitigate the loss of contribution and value of the removed significant tree(s). The applicant shall coordinate with the City Forester to determine such loss based upon an onsite tree assessment, including, but not limited to, shade, canopy, condition, size, aesthetic, environmental and ecological value of the tree(s) to be removed. Replacement trees shall meet the following minimum size requirements unless otherwise determined by the City Forester:

(a) Canopy Shade Trees: 2.0″ caliper balled and burlap or equivalent.

(b) Ornamental Trees: 2.0″ caliper balled and burlap or equivalent.

(c) Evergreen Trees: 8′ height balled and burlap or equivalent.

(2) Trees that meet one (1) or more of the following removal criteria shall be exempt from the requirements of this subsection unless they meet mitigation requirements in Section 5.6.1(E)(1) of this Code:

(a) dead, dying or naturally fallen trees, or trees found to be a threat to public health, safety or welfare;

(b) trees that are determined by the City to substantially obstruct clear visibility at driveways and intersections;

(c) Siberian elm less than eleven (11) inches DBH and Russian-olive or ash (*Fraxinus* species) less than eight (8) inches DBH.

(3) All existing street trees that are located on City rights-of-way abutting the development shall be accurately identified by species, size, location and condition on required landscape plans, and shall be preserved and protected in accordance with the standards of subsection (G).

(G) **Tree Protection Specifications.** The following tree protection specifications shall be followed for all projects with protected existing trees. Tree protection methods shall be delineated on the demolition plans and development plans.

(1) Within the drip line of any protected existing tree, there shall be no cut or fill over a four-inch depth unless a qualified arborist or forester has evaluated and approved the disturbance.

(2) All protected existing trees shall be pruned to the City of Fort Collins Forestry Division standards.

(3) Prior to and during construction, barriers shall be erected around all protected existing trees with such barriers to be of orange construction or chain link fencing a minimum of four (4) feet in height, secured with metal T-posts, no closer than six (6) feet from the trunk or one-half (½) of the drip line, whichever is greater. Concrete blankets, or equivalent padding material, wrapped around the tree trunk(s) is recommended and adequate for added protection during construction. There shall be no storage or movement of equipment, material, debris or fill within the fenced tree protection zone. A tree protection plan must be submitted to and approved by the City Forester prior to any development occurring on the development site.

(4) During the construction stage of development, the applicant shall prevent the cleaning of equipment or material or the storage and disposal of waste material such as paints, oils, solvents, asphalt, concrete, motor oil or any other material harmful to the life of a tree within the drip line of any protected tree or group of trees.

(5) No damaging attachment, wires, signs or permits may be fastened to any protected tree.

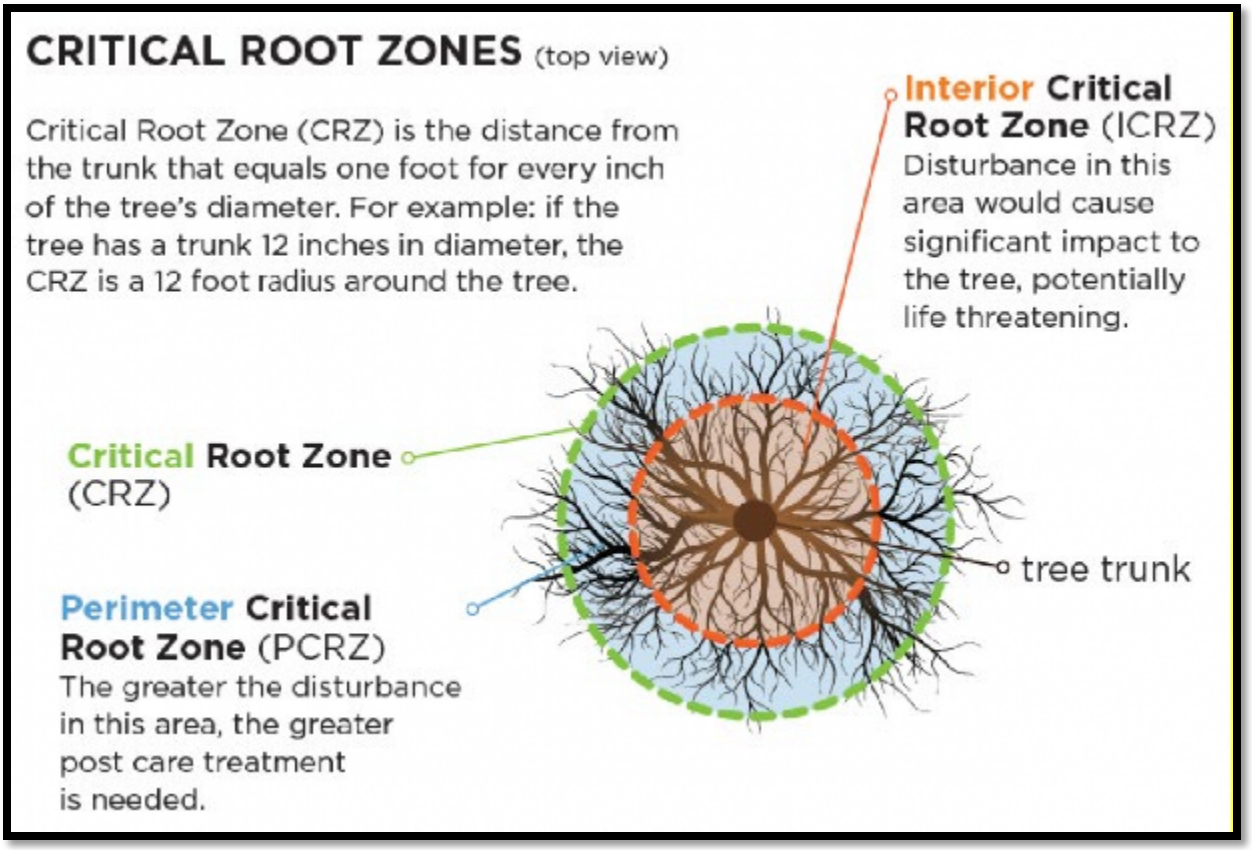
(6) Large property areas containing protected trees and separated from construction or land clearing areas, road rights-of-way and utility easements may be "ribboned off," rather than erecting protective fencing around each tree as required in subsection (G)(3) above. This may be accomplished by placing metal t-post stakes a maximum of fifty (50) feet apart and tying ribbon or rope from stake-to-stake along the outside perimeters of such areas being cleared.

(7) The installation of utilities, irrigation lines or any underground fixture requiring excavation deeper than six (6) inches shall be accomplished by boring under the root system of protected existing trees at a minimum depth of twenty-four (24) inches. The auger distance is established from the face of the tree (outer bark) and is scaled from tree diameter at breast height as described in the chart below. Low pressure hydro excavation, air spading or hand digging are additional tools/practices that will help reduce impact to the tree(s) root system when excavating at depths of twenty-four (24) inches or less. Refer to the Critical Root Zone (CRZ) diagram, Figure 2, for root protection guidelines. The CRZ shall be incorporated into and shown on development plans for all existing trees to be preserved.

(a) Auger Distance Table:

| *Tree Diameter at Breast Height (inches)* | *Auger Distance From Face of Tree (feet)* |
|---|---|
| 0-2 | 1 |
| 3-4 | 2 |
| 5-9 | 5 |
| 10-14 | 10 |
| 15-19 | 12 |
| Over 19 | 15 |

(b) Figure 2 - Critical Root Zone Diagram.




(H) **Placement and Interrelationship of Required Landscape Plan Elements**. In approving the required landscape plan, the decision maker shall have the authority to determine the optimum placement and interrelationship of required landscape plan elements such as trees, vegetation, turf, irrigation, screening, buffering and fencing, based on the following criteria:

(1) protecting existing trees, natural areas and features;

(2) enhancing visual continuity within and between neighborhoods;

(3) providing tree canopy cover;

(4) creating visual interest year-round;

(5) complementing the architecture of a development;

(6) providing screening of areas of low visual interest or visually intrusive site elements;

(7) establishing an urban context within mixed-use developments;

(8) providing privacy to residents and users;

(9) conserving water;

(10) avoiding reliance on excessive maintenance;

(11) promoting compatibility and buffering between and among dissimilar land uses; and

(12) establishing spatial definition.

(I) **Landscape Materials, Maintenance and Replacement.**

(1) **Topsoil.** To the maximum extent feasible, topsoil that is removed during construction activity shall be conserved for later use on areas requiring revegetation and landscaping. Organic soil amendments shall also be incorporated in accordance with the requirements of Section 5.5.5.

(2) **Plant Materials**. Plant material shall be selected from the *City of Fort Collins Plant List* created by Fort Collins Utilities Customer Connections Department and adopted by the Director. The *Plant List* contains plants determined by local resources to be appropriate for local conditions. The Director may approve plants not included on the list upon a determination that such plants are well suited for the local climate.

(3) **Plant Quality.** All plants shall be A-Grade or No. 1 Grade, free of any defects, of normal health, height, leaf density and spread appropriate to the species as defined by American Association of Nurserymen standards.

(4) **Installation.** All landscaping shall be installed according to sound horticultural practices in a manner designed to encourage quick establishment and healthy growth. All landscaping in each phase shall either be installed or the installation shall be secured with a letter of credit, escrow or performance bond for one hundred twenty-five (125) percent of the value of the landscaping prior to the issuance of a certificate of occupancy for any building in such phase.

(5) **Maintenance**. Trees and vegetation, irrigation systems, fences, walls and other landscape elements shall be considered as elements of the project in the same manner as parking, building materials and other site details. The applicant, landowner or successors in interest shall be jointly and severally responsible for the regular maintenance of all landscaping elements in good condition. All landscaping shall be maintained free from disease, pests, weeds and litter, and all landscape structures such as fences and walls shall be repaired and replaced periodically to maintain a structurally sound condition.

(6) **Replacement.** Any landscape element that dies, or is otherwise removed, shall be promptly replaced based on the requirements of this Section.

(7) **Mitigation**. Healthy, mature trees that are removed by the applicant or by anyone acting on behalf of or with the approval of the applicant shall be replaced with not less than one (1) or more than six (6) replacement trees sufficient to mitigate the loss of value of the removed tree. The applicant shall select either the City Forester or a qualified landscape appraiser to determine such loss based upon an appraisal of the removed tree, using the most recent published methods established by the Council of Tree and Landscape Appraisers. Larger than minimum sizes (as set forth in subsection (D)(4) above) shall be required for such replacement trees.

(8) **Restricted Species.** City Forestry Division shall provide a list of specified tree species that shall not be planted within the limits of development and adjoining street right-of-way. For example, no ash trees (Fraxinus species) shall be planted due to the anticipated impacts of the emerald ash borer.

(9) **Prohibited species**. For prohibited species reference Chapter 27, Article II, Division 1, Sec. 27-18 of the Fort Collins Municipal Code.

(J) **Irrigation.**

(1) Provision shall be made for permanent, automatic irrigation of all plant material, with the following exceptions:

(a) Plantings that do not require any irrigation beyond establishment.

(b) Trees and other plants used to landscape a residential local street parkway abutting lots for detached single-unit dwellings.

(2) For any development provided water within the City, a final irrigation plan shall be submitted to and approved by the Director prior to the issuance of the building permit, or if no building permit is required, then prior to commencement of construction. As determined by the Director, minor redevelopment or change of use projects may not be required to submit an irrigation plan; in such cases, a written statement shall be submitted describing the type of irrigation system proposed. The irrigation plan shall incorporate the City of Fort Collins Irrigation System Standards for Water Conservation set forth below. In addition, the irrigation system must be inspected for compliance with the approved irrigation plan before the issuance of a Certificate of Occupancy.

(3) The City of Fort Collins Irrigation System Standards for Water Conservation are as follows:

(a) Irrigation Methods and Layout.

(I) The irrigation system shall be designed according to the hydrozones shown on the landscape plan.

(II) Each zone shall irrigate a landscape with similar site, soil conditions and plant material having similar water needs. To the extent reasonably feasible, areas with significantly different solar exposures shall be zoned separately.

(III) Turf and non-turf areas shall be irrigated on separate zones.

(IV) On steep grades, an irrigation method with a lower precipitation rate shall be used in order to minimize runoff, and, to the extent reasonably feasible, these areas shall be zoned separately.

(V) Drip, micro-sprays, sprayheads and rotors shall not be combined on the same zone.

(VI) The irrigation method shall be selected to correlate with the plant density. Drip irrigation or bubblers shall be used for sparsely planted trees and shrubs, and rotors, sprayheads and multi-jet rotary nozzles shall be used for turfgrass.

(b) Equipment Selection.

(I) To reduce leakage of water from the irrigation system, a master shut-off valve shall be installed downstream of the backflow device to shut off water to the system when not operating.

(II) For irrigation systems that are on a combined-use tap, with a water meter installed upstream to measure total water use, the installation of an irrigation-only submeter should be considered. The purpose of the submeter would be to enable the owner and landscape maintenance contractor to monitor water use for irrigation. The submeter would not be used for billing purposes. The cost of installation and maintenance of a submeter, if used, would be borne by the owner of the property and not by the City. All such submeters would have to be installed in accordance with the specifications established by the City.

(III) Irrigation controllers shall be "smart" controllers, using climate-based or soil moisture-based technology, selected from the WaterSense labeled irrigation controllers list issued by the United States Environmental Protection Agency from time-to-time and available at the City of Fort Collins Utilities Water Conservation Department. Controllers shall be installed and programmed according to manufacturer's specifications.

- A data input chart for the Smart Controller, including the precipitation rate from the audit, shall be posted at each irrigation controller.

- Within six (6) weeks of the installation of new landscaping, the irrigation system Smart Controllers shall be reset to the normal seasonal watering schedule.

(IV) An evapotranspiration (ET) sensor or weather monitor shall be installed on each irrigation controller and installed according to manufacturer's specifications in a location to receive accurate weather conditions.

(V) Sprinklers and nozzles shall meet the following requirements:

- The type of sprinkler and associated nozzles shall be selected to correlate with the size and geometry of the zone being irrigated.

- Sprinklers shall be spaced no closer than seventy-five (75) percent of the maximum radius of throw for the given sprinkler and nozzle. Maximum spacing shall be head-to-head coverage.

- Coverage arcs and radius of throw for turf areas shall be selected and adjusted to water only turf areas and minimize overspray onto vegetated areas, hard surfaces, buildings, fences or other non-landscaped surfaces.

- Sprinklers, bubblers or emitters on a zone shall be of the same manufacturer.

- Sprayheads in turf areas shall have a minimum three-and-one-half-inch pop-up riser height.

- Sprayheads on a zone shall have matched precipitation nozzles. Variable Arc Nozzles (VAN) are not acceptable for ninety (90), one hundred eighty (180) and three hundred sixty (360) degree applications. High-Efficiency Variable Arc Nozzles (HE-VAN) are acceptable only in odd shaped areas where ninety (90), one hundred eighty (180) and three hundred sixty (360) are not applicable.

- Nozzles for rotors shall be selected to achieve an approximate uniform precipitation rate throughout the zone.

- All sprayheads and rotors shall be equipped with check valves. Sprayheads shall also have pressure-regulating stems.

(VI) Pressure-compensating emitters shall be used for drip irrigation. For sloped areas, a check valve shall be installed, and the drip line shall be parallel to the slope.

(VII) Remote control valves shall have flow control.

(VIII) A backflow prevention assembly shall be installed in accordance with local codes. All backflow assemblies shall be equipped with adequately sized winterization ports downstream of the backflow assembly.

(IX) Properties with single or combined point of connection flows of two hundred (200) gpm or greater shall have a control system capable of providing real-time flow monitoring and the ability to shut down the system in the event of a high-flow condition.

(c) Sleeving.

(I) Separate sleeves shall be installed beneath paved areas to route each run of irrigation pipe or wiring bundle. The diameter of sleeving shall be twice that of the pipe or wiring bundle.

(II) The sleeving material beneath sidewalks, drives and streets shall be PVC Class 200 pipe with solvent welded joints.

(d) Water Pressure.

(I) The irrigation system designer shall verify the existing available water pressure.

(II) The irrigation system shall be designed such that the point-of-connection design pressure, minus the possible system pressure losses, is greater than or equal to the design sprinkler operating pressure.

(III) All pop-up spray sprinkler bodies equipped with spray nozzles shall operate at no less than twenty (20) psi and no more than thirty (30) psi.

(IV) All rotary sprinklers and multi-stream rotary nozzles on pop-up spray bodies shall operate at the manufacturer's specified optimum performance pressure.

(V) If the operating pressure exceeds the manufacturer's specified maximum operating pressure for any sprinkler body, pressure shall be regulated at the zone valve or sprinkler heads.

(VI) Booster pumps shall be installed on systems where supply pressure does not meet the manufacturer's minimum recommended operating pressure for efficient water distribution.

(e) Sprinkler Performance Audit.

(I) A sprinkler performance audit shall be performed by a landscape irrigation auditor who is independent of the installation contractor, and who is certified by the Irrigation Association (a nonprofit industry organization dedicated to promoting efficient irrigation). Sprinkler systems that are designed and installed without turf areas are exempt from this requirement.

(II) The audit shall include measurement of distribution uniformity. Minimum acceptable distribution uniformities shall be sixty (60) percent for spray head zones and seventy (70) percent for rotor zones. Sprinkler heads equipped with multi-stream rotary nozzles are considered rotors.

(III) Audit results below the minimum acceptable distribution uniformity as set for the subsection (e)(II) above require adjustments and/or repairs to the irrigation system. These corrections will be noted on the irrigation as-builts and the test area re-audited until acceptable efficiency/results.

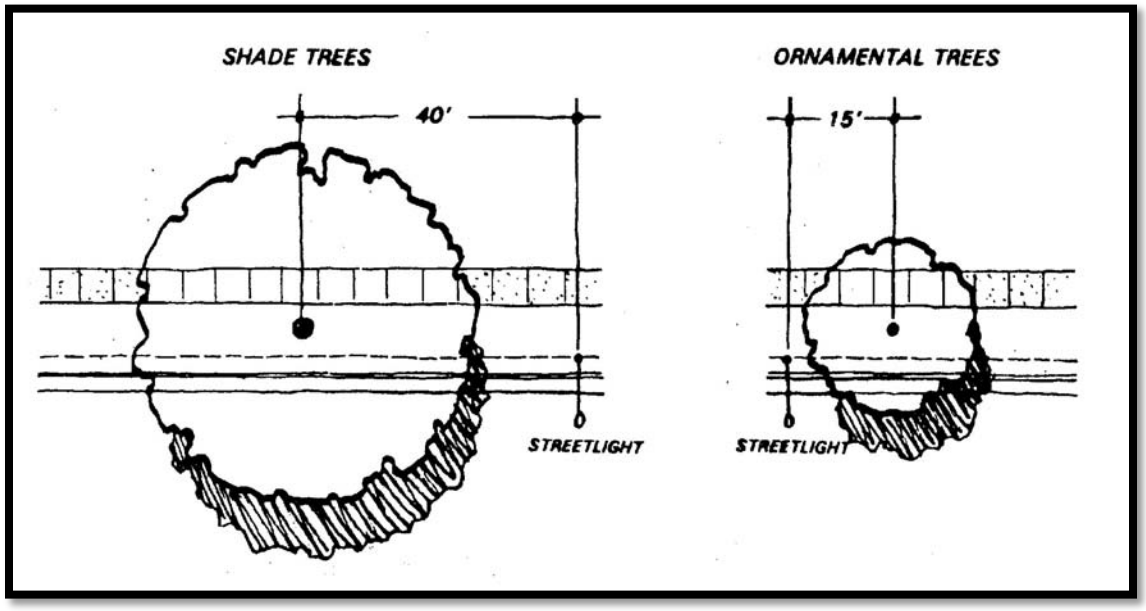
(IV) The audit shall measure the operating pressure for one (1) sprinkler on each zone to determine whether the zone meets the above pressure requirements.

(V) A copy of the sprinkler performance audit shall be submitted to and approved by the City before issuance of a certificate of occupancy.

(K) **Utilities and Traffic.** Landscape, utility and traffic plans shall be coordinated. The following list sets forth minimum dimension requirements for the most common tree/utility and traffic control device separations. Exceptions to these requirements may occur where utilities or traffic control devices are not located in their standard designated locations, as approved by the Director. Tree/utility and traffic control device separations shall not be used as a means of avoiding the planting of required street trees.

(1) Forty (40) feet between shade trees and streetlights. Fifteen (15) feet between ornamental trees and streetlights. (See Figure 3.)

(a) Figure 3 – Tree/Streetlight Separations:




(2) Twenty (20) feet between shade and/or ornamental trees and traffic control signs and devices.

(3) Ten (10) feet between trees and water or sewer mains.

(4) Six (6) feet between trees and water or sewer service lines.

(5) Four (4) feet between trees and gas lines.

(6) Street trees on local streets planted within the eight-foot-wide utility easement may conflict with utilities. Additional conduit may be required to protect underground electric lines.

(L) **Visual Clearance or Sight Distance Triangle**. Except as provided in subparagraphs (1) and (2) below, a visual clearance triangle, free of any structures or landscape elements over twenty-four (24) inches in height, shall be maintained at street intersections and driveways in conformance with the standards contained in the Larimer County Urban Area Street Standards.

(1) Fences shall not exceed forty-two (42) inches in height and shall be of an open design.

(2) Deciduous trees may be permitted to encroach into the clearance triangle provided that the lowest branch of any such tree shall be at least six (6) feet from grade.

(M) **Revegetation**. When the development causes any disturbance within any natural area buffer zone, revegetation shall occur as required in paragraph 5.6.1(E)(2) (Development Activities Within the Buffer Zone) and subsection 5.10.1(F) (Tree Preservation and Mitigation).

(N) **Alternative Compliance**. Upon request by an applicant, the decision maker may approve an alternative landscape and tree protection plan that may be substituted in whole or in part for a landscape plan meeting the standards of this Section.

(1) Procedure. Alternative landscape plans shall be prepared and submitted in accordance with submittal requirements for landscape plans. Each such plan shall clearly identify and discuss the modifications and alternatives proposed and the ways in which the plan will better accomplish the purposes of this Section than would a plan which complies with the standards of this Section.

(2) Review Criteria. To approve an alternative plan, the decision maker must find that the proposed alternative plan accomplishes the purposes of this Section equally well or better than would a plan which complies with the standards of this Section.

(3) In reviewing the proposed alternative plan for purposes of determining whether it accomplishes the purposes of this Section as required above, the decision maker shall take into account whether the alternative accomplishes the functions listed in Subsection (C)(1) through (7) and Subsection (H) of this Section and demonstrates innovative design and use of plant materials and other landscape elements.

(O) **Soil Amendments.** For any development project, prior to installation of any plant materials, including but not limited to grass, seed, flowers, shrubs or trees, the soil in the area to be planted shall be loosened and amended in a manner consistent with the requirements of City Code Section 12-132(a), regardless of whether a building permit is required for the specific lot, tract or parcel in which the area is located. A certification consistent with the requirements of City Code Section 12-132(b) shall be required for the area to be planted. This requirement may be temporarily suspended or waived for the reasons and in the manner set forth in City Code Sections 12-132(c) and (d).

## 5.10.2 BUFFERING BETWEEN RESIDENTIAL AND INUDSTRIAL USES

(A) **Applicability.** These standards apply only to applications that include residential uses proposed to be located in proximity to existing industrial uses. Buffering between buildings containing occupiable space and oil and gas facilities is addressed in section 5.10.3.

(B) **Purpose.** The purpose of this Section is to provide standards to separate residential land uses from existing industrial uses in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, air pollutants, hazardous materials or site contamination, or danger from fires or explosions.

(C) **Buffer standards.** Buffer yards shall be located on the outer perimeter of a lot or parcel and may be required along all property lines for buffering purposes and shall meet the standards as provided in this Section.

(1) Only those structures used for buffering and/or screening purposes shall be located within a buffer yard. The buffer yard shall not include any paved area, except for pedestrian sidewalks or paths or vehicular access drives which may intersect the buffer yard at a point which is perpendicular to the buffer yard and which shall be the minimum width necessary to provide vehicular or pedestrian access. Fencing and/or walls used for buffer yard purposes shall be solid, with at least seventy-five (75) percent opacity.

(2) There are four (4) types of buffer yards which are established according to land use intensity as described in Chart 1 below. Buffer yard distances are established in Chart 2 below and specify

deciduous or coniferous plants required per one hundred (100) linear feet along the affected property line, on an average basis.

(3) The buffer yard requirements shall not apply to temporary or seasonal uses or to properties that are separated by a major collector street, arterial street, or highway.

**Chart 1**

**Land Use Intensity Categories**

| *Land Use* | *Intensity Category* | *Buffer Yard* |
|---|---|---|
| Airports/airstrips | Very High | C |
| Composting facilities | High | B |
| Dry cleaning plants | Very High | C |
| Feedlots | Very High | C |
| Heavy industrial uses | Very High | C |
| Light industrial uses | High | B |
| Junkyards | High | B |
| Outdoor storage facilities | High | B |
| Recreation vehicle, boat, truck storage | Medium | A |
| Recycling facilities | High | B |
| Agricultural research laboratories | High | B |
| Resource extraction | Very High | C |
| Transportation terminals (truck, container storage) | High | B |
| Warehouse & distribution facilities | High | B |
| Workshops and custom small industry | Medium | A |

**Chart 2**

**Buffer Yard Types**

| *Type - Base Standard (plants per 100 linear feet along affected property line)** | *Option Width* | *Plant Multiplier*** | *Option: Add 6' Wall* | *Option: Add 3' Berm or 6' Fence* |
|---|---|---|---|---|
| **Buffer Yard A:** | **15 feet** | **1.00** | | |
| | 20 feet | .90 | | |
| 3 Shade Trees | 25 feet | .80 | | |
| 2 Ornamental Trees or Type 2 Shrubs*** | 30 feet | .70 | .65 | .80 |
| 3 Evergreen Trees | 35 feet | .60 | | |
| 15 Shrubs (33% Type 1, 67% Type 2) | 40 feet | .50 | | |

| | | | | |
|---|---|---|---|---|
| **Buffer Yard B:** | 15 feet | 1.25 | | |
| | **20 feet** | **1.00** | | |
| | 25 feet | .90 | | |
| 4 Shade Trees | 30 feet | .80 | .75 | .85 |
| 4 Ornamental Trees or Type 2 Shrubs*** | 35 feet | .70 | | |
| 3 Evergreen Trees | 40 feet | .60 | | |
| 25 Shrubs (Type 2) | 45 feet | .50 | | |
| **Buffer Yard C:** | **20 feet** | **1.25** | | |
| | 25 feet | 1.00 | | |
| | 30 feet | .90 | | |
| 5 Shade Trees | 35 feet | .80 | .75 | .85 |
| 6 Ornamental Trees or Type 2 Shrubs*** | 40 feet | .70 | | |
| 4 Evergreen Trees | 45 feet | .60 | | |
| 30 Shrubs (Type 2) | 50 feet | .50 | | |

* "Base standard" for each type of buffer yard is that width which has a plant multiplier.

** "Plant multipliers" are used to increase or decrease the amount of required plants based on providing a buffer yard of reduced or greater width or by the addition of a wall, berm or fence.

*** Shrub types: Type 1: 4′ - 8′ High Type 2: Over 8′ High.

### 5.10.3 BUFFERING BETWEEN BUILDINGS WITH OCCUPIABLE SPACE AND OIL AND GAS

(A) ***Applicability.*** These standards apply to all applications to construct buildings containing occupiable space and existing buildings containing occupiable space within the oil and gas buffer of an existing oil and gas facility regardless of whether such oil and gas facility is located within or outside of the City limits. These standards also apply to common outdoor areas within an oil and gas buffer.

(1) Any applicant that submitted an application prior to September 29, 2023, to construct a building containing occupiable space may construct such building within an oil and gas buffer upon satisfying all applicable Code requirements for approval. However, any lot upon which such building is placed is subject to the restriction described in Subsection (E)(3) and disclosures in Subsection (F).

(2) Any building containing occupiable space already constructed within an oil and gas buffer prior to September 29, 2023, is exempt from the restriction on such building in an oil and gas buffer. However, any lot upon which the building is placed is subject to the restriction described in Subsection (E)(3) and disclosures in Subsection (F).

(B) ***Purpose.*** The purpose of this Section is to protect public health and safety by providing spacing and regulating certain uses within oil and gas buffers to reduce adverse impacts of noise, odor, air pollutants, soil-gas contaminants, groundwater contaminants, hazardous materials, or danger from fires or explosions.

(C) ***General Standard.*** Proposed development shall ensure that the risk to public health and safety is sufficiently mitigated from all extended exposure to the main pollutants resulting from oil and gas production, including but not limited to heavy metals, salts, oil and grease (O&G), benzene, toluene, ethylbenzene and xylene (BTEX), total petroleum hydrocarbon (TPH), and polycyclic aromatic hydrocarbon (PAHs). Proposed

development must ensure that any potential contaminants associated with existing oil and gas facilities and located on the development site are within the acceptable limits of applicable local, state and federal soil-gas, groundwater, and air quality regulations and standards, including, but not limited to, those regulating odor, dust, fumes, or gases which are noxious, toxic or corrosive, and suspended solid or liquid particles.

(D) ***Oil and Gas Buffers.*** This Subsection establishes oil and gas buffers for different oil and gas facilities, and applicable development standards within such buffers are set forth in Subsection (E).

(1) ***Oil and Gas Buffer—Well Not Abandoned.*** The oil and gas buffer for an oil and gas facility whose well is not abandoned shall extend from the outer edge of the oil and gas location for two thousand (2,000) feet in all directions. The Planning and Zoning Commission may grant a modification of standards pursuant to Division 2.8 to reduce the two thousand (2,000) foot distance to no less than five hundred (500) feet provided the applicant provides a *Phase II Environmental Site Assessment* as part of the modification request showing that levels of oil and gas contaminants, if any, are within Federal Environmental Protection Agency or State health department standards, whichever ensures greater public health protections. Any approved modification shall require as a condition that the applicant annually provide a *Phase II Environmental Site Assessment* for five (5) years from the issuance of a development construction permit. Initial baseline samples and subsequent monitoring samples shall be collected within one-half (½) mile radius of the existing well location. If the main pollutants resulting from oil and gas production described in Subsection (C) are identified at the time of assessment, such pollutants must be remediated by the development applicant per Federal Environmental Protection Agency or State health department standards, whichever ensures greater public health protections.

(2) ***Oil and Gas Buffer—Abandoned Well, Not Reclaimed.*** For oil and gas facilities consisting of an abandoned well that have not been reclaimed pursuant to Section 4.3.4(F), the oil and gas buffer shall extend five hundred (500) feet in all directions as measured from the center of the well bore. Development plans that include an abandoned well that has not been reclaimed must provide a *Phase II Environmental Site Assessment* as part of the application showing that levels of oil and gas contaminants, if any, are within Federal Environmental Protection Agency or State health department standards, whichever ensures greater public health protections. The approved application shall require as a condition that the applicant annually provide a *Phase II Environmental Site Assessment* for five (5) years from the issuance of a development construction permit. Initial baseline samples and subsequent monitoring samples shall be collected within one-half (½) mile radius of the existing well location. If the main pollutants resulting from oil and gas production described in Subsection (C) are identified at the time of assessment, such pollutant must be remediated by the development applicant per Federal Environmental Protection Agency or State health department standards, whichever ensures greater public health protections. This buffer is not subject to the modification of standards process.

(3) ***Oil and Gas Buffer—Abandoned Well, Reclaimed.*** For oil and gas facilities consisting of abandoned wells that have been reclaimed pursuant to Section 4.3.4(F), the oil and gas buffer shall extend one hundred and fifty (150) feet in all directions as measured from the center of the well bore. Development plans that include an abandoned well that has been reclaimed must provide a *Phase II Environmental Site Assessment* as part of the application and a second Phase II Environmental Site Assessment must be provided five (5) years after a Development Construction Permit is issued. If the main pollutants resulting from oil and gas production described in Subsection (C) are identified at the time of assessment, such pollutants must be remediated by the development applicant per Federal Environmental Protection Agency or State health department standards, whichever ensures greater public health protections. This buffer is not subject to the modification of standards process.

(E) ***Oil and Gas Buffer Standards.***

(1) Except as stated in (E)(3) below, no portion of a building that contains occupiable space may be located within an oil and gas buffer.

(2) After September 29, 2023, permanent playgrounds, play structures, recreational fields, or permanent community gathering spaces may not be placed within any portion of a homeowner's association owned or maintained common area located within an oil and gas buffer.

(3) Exceptions to Restriction on Buildings Containing Occupiable Space Within an Oil and Gas Buffer.

(a) Any applicant that submitted an application prior to September 29, 2023, to construct a building containing occupiable space may construct such building within an oil and gas buffer upon satisfying all applicable Code requirements for approval. However, no additional building containing occupiable space for which an application was submitted after September 29, 2023, may be constructed on any portion of the same lot located within an oil and gas buffer.

(b) Any building containing occupiable space already constructed within an oil and gas buffer prior to September 29, 2023, is exempt from the restriction on such building within an oil and gas buffer. However, no additional building containing occupiable space for which an application was submitted after September 29, 2023, may be constructed on any portion of the same lot located within an oil and gas buffer.

(F) ***Disclosure.*** The following disclosure requirements shall apply to any real property upon which a building containing occupiable space is or may be located within any oil and gas buffer described in Subsection (D):

(1) At such time as the real property to be developed is platted or replatted, the plat shall show the oil and gas buffer on the property and shall contain a note informing subsequent property owners that certain lots shown on the plat are within an oil and gas buffer.

(2) For residential developments requiring a declaration pursuant to the Colorado Common Interest Ownership Act, a statement shall be included in such declaration specifying the lots within an oil and gas buffer upon which buildings containing occupiable space may be constructed. The approved plat for such development shall be attached to the recorded declaration. Where no such declaration is required, the property owner shall record a statement on the property where the dwelling is located indicating that such property is located within an oil and gas buffer.

(3) Sellers and lessors of any real property within an oil and gas buffer must provide the following written notice of material facts related to oil and gas facilities identified by environmental site assessments the disclosure notice must be provided in at least fourteen (14) point font to any potential purchaser who intends to resell, occupy and/or lease the property prior to or as part of the purchase or rental agreement:

*As required by 5.10.3 of the Fort Collins Land Use Code, notice is hereby given that [insert description of lot] is within [insert buffer standard set forth in Subsection (D) including well status and distance from well]. At the time of [sale or lease], environmental assessments, studies or reports done involving the physical condition of the Property impacted by oil and gas production are within the acceptable Environmental Protection Agency limits. For more information contact the City of Fort Collins Environmental Planner or the Energy and Colorado Carbon Management Commission formerly known as the Colorado Oil and Gas Conservation Commission.*

The above notice shall be provided by the prospective seller or lessor to the prospective buyer or lessee of real property no less than thirty (30) days before closing or such shorter time period agreed to by the parties and shall be provided before the signing of any purchase, sale, or rental agreement for the subject property

# DIVISION 5.11 TRASH AND RECYCLING ENCLOSURES

## 5.11.1 TRASH AND RECYCLING ENCLOSURES

(A) **Purpose.** The purpose of this standard is to ensure the provision of areas, compatible with surrounding land uses, for the collection, separation, storage, loading and pickup of trash, waste cooking oil, compostable and recyclable materials. This standard is supplemented by the Enclosure Design Considerations and Guidance Document issued by the Director and available from the Department.

(B) **Applicability.** The following developments must provide adequately sized, conveniently located, and easily accessible areas to accommodate the specific trash, compostable and recyclable materials and waste cooking oil needs of the proposed use and future uses that are likely to occupy the development:

(1) New commercial structures;

(2) New residential structures using a common collection system for waste disposal;

(3) Commercial structures that are proposed to be enlarged by more than twenty-five (25) percent;

(4) Residential structures using a common collection system for waste disposal that are proposed to be enlarged by more than twenty-five (25) percent;

(5) Commercial structures where a change of use is proposed; and

(6) All newly constructed enclosures.

(C) **General Standards.**

(1) Areas for the collection and storage of trash, waste cooking oil, and compostable, recyclable and other materials (linen service containers, returnable crates and pallets, and other similar containers) must be enclosed so that they are screened from public view. Enclosures must be constructed of durable materials such as masonry and shall be compatible with the structure to which it is associated.

(2) Areas for the collection and storage of trash, waste cooking oil, and compostable, recyclable and other materials must be adequate in size, number and location to readily serve the reasonably anticipated needs of the development's occupants.

(3) Development plans must include labeled drawings of all proposed enclosures, internal trash and recycling rooms, staging areas and the like and include all proposed dumpsters, containers, bins and other receptacles and label the capacity of each. Proposed recycling capacity must be at least fifty (50) percent of the proposed trash capacity.

(4) To provide equal access for trash, compostable and recyclable materials, space allotted for the collection and storage of compostable/recyclable materials must be adequate in size and provided everywhere space for trash is provided in a functional manner.

(5) Areas for the collection and storage of trash, waste cooking oil, and compostable, recyclable and other materials must be designed to allow walk-in access for pedestrians separate from the service opening that is at least thirty-two (32) inches wide and provides unobstructed and convenient access to all dumpsters, containers, bins, and other receptacles. Where possible, pedestrian entrances are encouraged to provide door-less entry unless reasonable circumstances (preventing illicit activities/usage, regulated waste streams, and the like) are demonstrated that would necessitate doors. If doors are used, they must provide safe and efficient access.

(6) Areas for the collection and storage of trash, waste cooking oil, and compostable, recyclable and other materials must provide a service opening that is at least ten (10) feet for haulers to efficiently maneuver dumpsters, containers, bins and other receptacles unless an alternative and functional method is demonstrated on the plan. Enclosures must provide service gates unless an alternative and functional method is demonstrated on the plans that adequately screen the enclosure from view. Service gates must be constructed of metal or other comparable durable material, and must be finished to

complement the enclosure. Service gates must be free of obstructions that would prevent them from opening fully, must have a method to be secured by hardware in both closed and fully open positions, and must be properly maintained so they may be operated easily and smoothly.

(7) Areas for the collection and storage of trash, waste cooking oil, and compostable, recyclable and other materials, must include bollards, angle-iron, curbing, metal framing or other effective method to protect the interior walls of the enclosure from being damaged by dumpsters, containers, bins, and other receptacles.

(8) Areas for the collection and storage of trash, waste cooking oil, and compostable, recyclable and other materials must be designed to provide adequate, safe and efficient accessibility for haulers and service vehicles, including but not limited to front-load, rear-load, side-load, and roll off trucks and trucks used to pump waste cooking oil. Development plans must label the route the hauler will take to service the development and must comply with necessary turning radii, width, and height restrictions for the type of collection vehicles that will service the development.

(9) To ensure wheeled service dumpsters, containers, bins and other receptacles can be rolled smoothly and to prevent damage to the surfaces they will be wheeled over, enclosures must be situated on a service pad that extends beyond the service gates at their fully open position at least the width of the widest proposed dumpster, container, bin and other receptacles plus an additional two (2) feet. If the truck access point is separated from the storage location, a serviceable route that is free of obstructions must be provided and shall not exceed a maximum grade of five (5) percent in the direction of travel and two (2) percent cross slope. Areas for the collection and storage of trash, waste cooking oil, and compostable, recyclable and other materials, service pads and serviceable routes must be constructed of cement concrete. For offsite conditions such as existing public alleyways, this standard will only apply to the extent reasonably feasible.

(10) To provide equal access to trash and recyclable materials, multi-story buildings utilizing trash chutes must include a recycling chute of the same size or larger than the trash chute. Anywhere a trash chute is provided a recycling chute must also be provided adjacent to it. Chutes must be appropriately labeled "Landfill" and "Recycle" as appropriate.

(11) Where proposed uses and future uses that are likely to occupy the development will generate waste cooking oil, internal waste cooking oil collection systems are encouraged. All areas used to store waste cooking oil must include measures to prevent spills and contamination of the stormwater system. Waste cooking oil containers must be secured in place, enclosed separately, or separated from other containers with bollards or another physical barrier. To prevent rain water from carrying residual waste cooking oil into the stormwater system, all areas used to store waste cooking oil must include a roof unless an alternative and functional method is demonstrated on the plans.

# DIVISION 5.12 EXTERIOR SITE LIGHTING

## 5.12.1 EXTERIOR SITE LIGHTING

(A) **Purpose**. The purpose of this Section is to ensure adequate exterior lighting for the safety, security, enjoyment and function of the proposed land use; conserve energy and resources; reduce light trespass,

glare, artificial night glow, and obtrusive light; protect the local natural ecosystem from damaging effects of artificial lighting; and encourage quality lighting design and fixtures.

(B) **General Standard**. All development that includes proposed artificial outdoor lighting, except for development on single-unit detached residential lots, single-unit attached residential lots, and two-unit dwelling residential lots for which an application is submitted after March 26, 2021, subject to below Subsection 5.12.1(D), shall submit for review and approval a proposed lighting plan that complies with the standards in this Section and meets the functional needs of the proposed land use without adversely affecting adjacent properties or the community.

(C) **Design Standards.** The lighting plan shall meet the following requirements and all other applicable requirements set forth in this Section:

(1) Provide a comprehensive plan that clearly calculates the lumens of all exterior lighting being proposed and demonstrates compliance with impacts to adjacent properties, as outlined in subsections (I) and (J) below.

(2) Design different use areas considering nighttime safety, utility, security, enjoyment, and commerce.

(3) Reinforce and extend the style and character of the architecture and land use proposed within the site.

(4) Demonstrate no light trespass onto Natural Areas, Natural Habitat Buffer Zones or River Landscape Buffers as defined in Section 5.6.1(E).

(5) All lighting shall have a nominal correlated color temperature (CCT) of no greater than 3000 Kelvin. Consider high color fidelity lamps relative to the lighting application.

(6) Light poles shall be anodized (or otherwise coated) to minimize glare from the light source.

(D) **Existing Lighting.** Existing lighting shall mean lighting installed or approved prior to March 26, 2021.

(1) The addition of three (3) or more new fixtures in excess of the existing number of fixtures, updating or replacement of three (3) or more existing fixtures, or the updating or replacement of between ten (10) and fifty (50) percent of the existing fixtures requires an approved minor amendment pursuant to Section 6.3.10. Such minor amendment review is limited to meeting Section 5.12(A), *Purpose,* Section 5.12.1(C), *Design Standards*, and Section 5.12.1(I), *Limits of Offsite Impacts.*

(2) The addition of less than three (3) new fixtures in excess of the existing number of fixtures, updating or replacement of less than three (3) existing fixtures, or the update or the replacement of less than ten (10) percent of the existing fixtures requires Director review and approval. The review shall be limited to meeting Section 5.12.1(A), *Purpose*, Section 5.12.1(C), *Design Standards*, and Section 5.12.1(I), *Limits to Offsite Impacts.* The Director may impose conditions of approval to ensure lighting meets the purpose and intent of code requirements. The applicant may appeal the Director's decision in the same manner as a basic development review or minor subdivision decision as set forth in Land Use Code Section 6.3.12(C).

(3) Should the addition of fixtures in excess of the existing number of fixtures or update or replacement of existing fixtures occur incrementally, and the cumulative changes exceed three (3) new fixtures or

replacement of between ten (10) and fifty (50) percent of the existing fixtures, whichever is greater, within a ten (10) year period, the addition or update that exceeds such threshold must be approved through a minor amendment pursuant to Section 6.3.10. Such minor amendment will review the cumulative changes or updates and be limited to meeting Section 5.12.1(A), *Purpose*, Section 5.12.1(C), *Design Standards*, and Section 5.12.1(I), *Limits to Offsite Impacts*.

(4) Applicants for minor amendments and changes of use pursuant to Land Use Code Section 6.3.10(A) that result in the replacement or upgrade of fifty (50) percent or more of the existing outdoor lighting fixtures at one time or incrementally within a ten (10) year period shall submit a lighting plan for the entire development site that meets the requirements of this Section and, if necessary to meet such requirements, complete a site lighting retrofit of the entire development site.

(5) Applicants for major amendments and changes of use pursuant to 6.3.10(B) shall submit a lighting plan for the entire development site that meets the requirements of this Section and, if necessary to meet such requirements, complete a site lighting retrofit for the entire development site.

(E) **Conformance with All Applicable Codes.** All outdoor lighting shall be installed in conformance with this Section 5.12.1 and applicable sections of Chapter 5 of the Code of the City of Fort Collins.

(F) **Exceptions.** The following are not subject to the requirements set forth in this Section:

(1) Temporary lighting for construction sites, special events, holidays, and other events requiring lighting.

(2) Festoon lights installed for less than thirty (30) consecutive days.

(3) Lighting within the public right-of-way. Such lighting is regulated under the Larimer County Urban Area Street Standards.

(4) Lighting for single-unit residential housing and duplexes. Such lighting is regulated by the adopted building codes and amendments.

(G) **Prohibited Lighting**. The following lighting is prohibited:

(1) Site lighting that may be confused with warning, emergency or traffic signals; and

(2) Mercury vapor lamps.

(H) **Lighting Context Areas.** The applicable Lighting Context Area shall determine the limitations for exterior artificial lighting. The Lighting Context Areas are described as follows:

(1) LC0 - No ambient lighting. Areas where the natural environment will be seriously and adversely affected by lighting. Impacts include disturbing the biological cycles of flora and fauna and/or detracting from human enjoyment and appreciation of the natural nighttime environment. The vision of human residents and users is adapted to the darkness, and they expect to see little or no lighting.

(2) LC1 - Low ambient lighting. The vision of human residents and users is adapted to low light levels. Lighting may be used for safety and convenience, but it is not necessarily uniform or continuous. Typical

locations include low and medium density residential areas, commercial or industrial areas with limited nighttime activity, and the developed areas in parks and other natural settings.

(3) LC2 - Moderate ambient lighting. Areas of human activity where the vision of human residents and users is adapted to moderate light levels. Lighting may typically be used for safety and convenience, but it is not necessarily uniform or continuous. Typical locations include high density residential areas, shopping and commercial districts, industrial parks and districts, City playfields and major institutional uses, and mixed-use districts.

(4) LC3 - Moderately high ambient lighting. Lighting is generally desired for safety, security, convenience, and unique site conditions. Lighting is often uniform and/or continuous. Typical locations include select areas in the Downtown Zone District and 24-hour emergency medical sites.

(5) Lighting Context Areas generally correspond to zone districts as provided in Table 5.12.1-1, Lighting Context Area, although the assigned Lighting Context Area may vary from Table 5.12.1-1 if necessary to accomplish the purposes and intent of this Section 5.12.1. The location of the Lighting Context Areas are shown on the "Lighting Context Area Map" on file at the City Clerk's office.

**Table 5.12.1-1 Lighting Context Area**

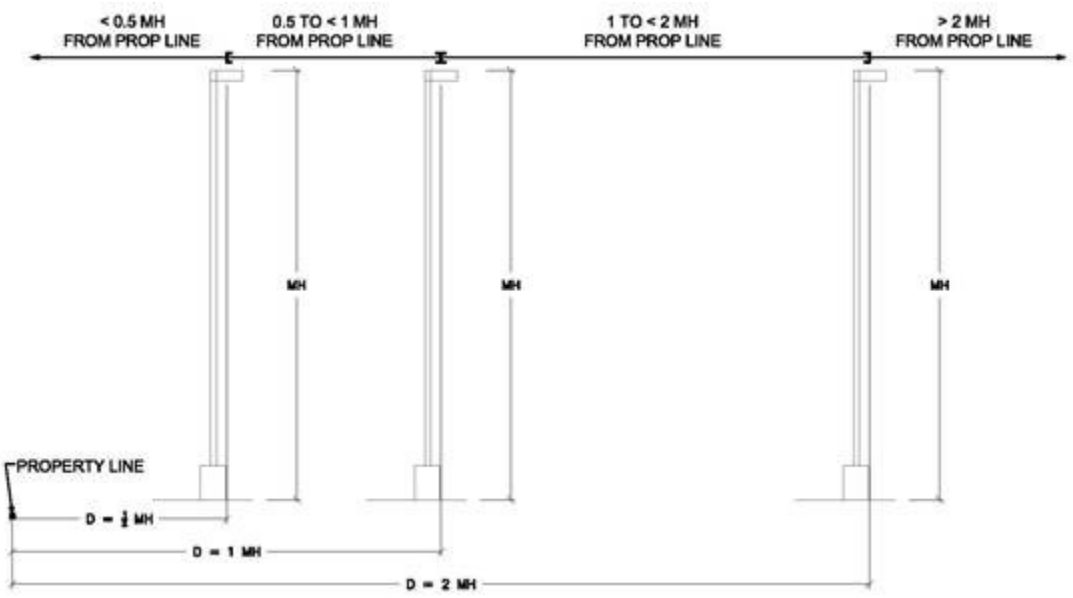
| Lighting Context Area | Land Use | Corresponding Zone Districts |
|---|---|---|
| LC0 | Natural Area/Conservation Easement | POL (City Natural Areas) |
| LC1 | Single-Unit/Multi-Unit/Light Industrial/Employment/ Portions of Harmony District | POL (City Parks); RUL; UE, RF; OT-A, RC; LMN; MMN; I; E; T |
| LC2 | Commercial/Industrial/Portions of Harmony District/High Density Residential | CN; CC; CCN; CCR; CG; CL; HC; I , RDR, D, HMN |
| LC3 | Portions of Downtown,24-Hour Emergency Medical Sites | D, MMN |

(l) **Limits to Off-Site Impacts.** All luminaires shall be rated and installed according to Table 5.12.1-2, Table 5.12.1-3, and Table 5.12.1-4, which outline maximum BUG (Backlight-Uplight-Glare) ratings (see Figure B below) for all individual luminaires installed in a given Lighting Context Area. Luminaires equipped with adjustable mounting devices shall not be permitted unless the total lumen output is one hundred fifty (150) lumens or less.

(1) For property boundaries that abut public rights-of-way, private streets, private drives, public alleys, and public and private parking lots, the backlight rating, glare rating and illuminance values provided in Tables 5.12.1-2, 5.12.1-4 and 5.12.1-5 respectively, shall be measured ten (10) feet from the property boundary. For all other property boundaries, values shall be measured at the property boundary.

(2) For tables 5.12.1-2 and 5.12.1-4 below, to be considered ideally oriented, the luminaire must be mounted with the backlight portion of the light output oriented perpendicular to and towards the property line of concern (see Figure A below).

(3) **Figure A. Ideally Oriented Luminaire and Mounting Conditions.**




(4) Figure B. Backlight, Uplight and Glare.

(5) Table 5.12.1-2 Maximum Allowable Backlight Ratings.

| Table 5.12.1-2 Maximum Allowable Backlight Ratings. | | | | |
|---|---|---|---|---|
| Mounting Condition | LC0 | LC1 | LC2 | LC3 |

| | | | | |
|---|---|---|---|---|
| Greater than 2 mounting heights from the property line or not ideally oriented | B1 | B3 | B4 | B5 |
| 1 to less than 2 mounting heights from the property line and ideally oriented. | B1 | B2 | B3 | B4 |
| 0.5 to less than 1 mounting heights from the property line and ideally oriented. | B0 | B1 | B2 | B3 |
| Less than 0.5 mounting heights from the property line and ideally oriented. | B0 | B0 | B0 | B1 |

(6) **Table 5.12.1-3 Maximum Allowable Uplight Ratings.**

| Table 5.12.1-3 Maximum Allowable Uplight Ratings. | | | | |
|---|---|---|---|---|
| | LC0 | LC1 | LC2 | LC3 |
| Allowed Uplight Rating. | U0 | U0 | U1 | U2 |
| Allowed light emission above 90 degrees for street or area lighting. | 0% | | | |

(7) **Table 5.12.1-4 Maximum Allowable Glare Ratings.**

| Table 5.12.1-4 Maximum Allowable Glare Ratings. | | | | |
|---|---|---|---|---|
| Mounting Condition | LC0 | LC1 | LC2 | LC3 |
| Greater than 2 mounting heights from the property line. | G0 | G1 | G1 | G2 |
| 2 or less mounting heights from the property line and ideally oriented. | | | | |
| 1 to less than 2 mounting heights from the property line and **not** ideally oriented. | G0 | G0 | G1 | G1 |
| 0.5 to less than 1 mounting heights from the property | G0 | G0 | G0 | G1 |

| | | | | |
|---|---|---|---|---|
| line and **not** ideally oriented. | | | | |
| Less than 0.5 mounting heights from the property. line and not ideally oriented | G0 | G0 | G0 | G0 |

(8) **Light Trespass Limitations.** The illuminance levels provided in Table 5.12.1-4 shall be used for enforcement, should concerns of obtrusive lighting or question of compliance arise. Lighting plans shall show horizontal illuminance along all lot lines with calculation points spaced no further than ten (10) feet apart. This provision shall apply to all exterior lighting.

(9) **Maximum Horizontal Illuminance.**

| Lighting Context Area | Maximum Horizontal Illuminance |
|---|---|
| Natural Habitat Buffer Zones and River District Landscape Buffers | 0.0 |
| LC0 | 0.0 |
| LC1 | 0.1 |
| LC2 | 0.3 |
| LC3 | 0.8 |

(J) **Site lumen limit.** The total installed initial luminaire lumens of all outdoor lighting shall not exceed the total site lumen limit. The total site lumen shall be determined using either the Parking Space Method (Tables 5.12.1-5) or the Hardscape Area Method (Tables 5.12.1-6). Only one method shall be used per permit application and the applicable method shall be determined by the applicant. For sites with existing lighting, existing lighting shall be included in the calculation of total installed lumens. The total installed initial luminaire lumens are calculated as the sum of the initial luminaire lumens for all luminaires. Sign lighting shall be exempt from the calculation of total installed lumens.

(1) **Table 5.12.1-6 Allowed Total Initial Luminaire Lumens per Site for Non-Residential Outdoor Lighting, per Parking Space Method.**

| Table 5.12.1-6Allowed Total Initial Luminaire Lumens per Site for Non-Residential Outdoor Lighting, per Parking Space Method. | | | |
|---|---|---|---|
| May only be applied to properties up to ten parking spaces (including handicapped accessible spaces). | | | |
| LC0 | LC1 | LC2 | LC3 |
| 350 lumens per space | 490 lumens per space | 630 lumens per space | 840 lumens per space |

(2) **Table 5.12.1-7Allowed Total Initial Lumens per Site for Non-Residential Outdoor Lighting, Hardscape Area Method.**

| Table 5.12.1-7Allowed Total Initial Lumens per Site for Non-Residential Outdoor Lighting, Hardscape Area Method. |
|---|
| May be used for any project. When lighting intersections of site drives and public streets or roads, a total of 600 square feet for each intersection may be added to the actual site hardscape area to provide for intersection lighting. Top level, exterior parking garage decks are included as Hardscape Areas. |

| | LC0 | LC1 | LC2 | LC3 |
|---|---|---|---|---|
| Base Allowance | 0.5 lumens per square foot of hardscape. | 1.25 lumens per square foot of hardscape. | 2.5 lumens per square foot of hardscape. | 5 lumens per square foot of hardscape. |
| Additional allowances for sales and service facilities. No more than two additional allowances per site. Allowance may only be used to light the specific sales or service area selected and may not be used to light other areas of the site. | | | | |
| **Building Facades.** This allowance is lumen per unit area of building facade that are illuminated. To use this allowance, luminaires must be aimed at the facade. | 0 | | 8 lumens per square foot. | 16 lumens per square foot. |
| **Outdoor Sales Lots.** This allowance is lumens per square foot of uncovered sales lots used exclusively for the display of vehicles or other merchandise for sale, and may not include driveways, parking or other non-sales areas. To use this allowance, luminaires must be within 0.5 mounting heights of the sales lot area. | 0 | 4 lumens per square foot. | 8 lumens per square foot. | 16 lumens per square foot. |
| **Outdoor Dining.** This allowance is lumen per unit area for the total illuminated hardscape of outdoor dining. In order to use this allowance, luminaires must be within 0.5 mounting heights of the hardscape area of outdoor dining. This allowance includes rooftop dining. | 0 | 1 lumen per square foot. | 5 lumens per square foot. | 10 lumens per square foot. |
| **Gasoline Station.** This allowance is lumens per installed fuel pump. Both sides of a two-sided pump qualify as one allowance. | 0 | 4,000 lumens per pump. | 8,000 lumens per pump. | 8,000 lumens per pump. |

(K) **Athletic and Recreational Fields.** The lighting for athletic and recreational fields are exempted from the lumen, BUG and color temperature requirements in this section and shall meet the following requirements:

(1) Lighting shall have a nominal correlated color temperature (CCT) of no greater than 5700 Kelvin.

(2) Off-site impacts shall be limited to the maximum extent practical.

(3) Lighting controls shall provide the following functions:

(I) Lighting shall be dimmable to ten (10) percent to adjust illuminance levels for relative activity (maintenance vs active play).

(II) Local or remote manual control with at least two (2) preset illuminance levels.

(III) Lights shall be automatically extinguished by one (1) hour after the end of play.

(IV) Field lighting aimed upward shall be controlled separately from downward-directed field lighting.

(L) **Alternative Compliance.** Upon request by an applicant, the decision maker may approve an alternative lighting plan that may be substituted in whole or in part for a plan meeting the standards of this Section.

(1) **Procedure.** Alternative compliance lighting plans shall be prepared and submitted in accordance with submittal requirements for lighting plans as set forth in this Section. The plan shall clearly identify and discuss the modifications and alternatives proposed and the ways in which the plan will better accomplish the purpose of this Section than would a plan which complies with the standards of this Section.

(2) **Review Criteria**. To approve an alternative plan, the decision maker must find that the proposed alternative plan accomplishes the purposes of this Section equally well or better than would a lighting plan which complies with the standards of this Section.

(3) In reviewing the proposed alternative plan, the decision maker shall consider the extent to which the proposed design meets the functional safety and security needs, protects natural areas from light intrusion, enhances neighborhood continuity and connectivity, fosters nonvehicular access, and demonstrates innovative design and use of fixtures or other elements.

# DIVISION 5.13 YARDS AND SETBACKS

## 5.13.1 YARDS

All developments shall meet the following yard requirements unless otherwise specified in this Code:

(A) Cornices, eaves or similar architectural features may extend into a required yard not more than three (3) feet. Fire escapes may extend into a required rear yard not more than six (6) feet.

(B) No part of a yard required for a building for the purpose of complying with the provisions of this Code shall be included as a yard for another building.

(C) Solar energy devices, including but not limited to, overhangs, movable insulating walls and roofs, detached solar collectors, sun reflectors and piping, may extend into a required yard not more than three (3) feet.

### 5.13.2 SETBACKS

(A) **Features Allowed Within Setbacks**. The following structures and features may be located within required setbacks:

(1) trees, shrubbery or other features of natural growth;

(2) fences or walls, subject to permit approval, that do not exceed the standards established in Section 4.3.5(H);

(3) driveways and sidewalks;

(4) signs, if permitted by the sign regulations of this Land Use Code;

(5) bay windows and similar sized cantilevered floor areas, and architectural design embellishments of dwellings that do not project more than two (2) feet into the required setback, basement egress windows including the foundation that forms the window well, as long as the window foundation does not exceed the elevation or height of the house foundation, provided none of the foregoing elements shall encroach upon any public easements;

(6) eaves that do not project more than two and one-half (2½) feet into the required setback;

(7) open outside stairways, entrance hoods, terraces, canopies and balconies that do not project more than five (5) feet into a required front or rear setback and/or not more than two (2) feet into a required side setback, provided they do not encroach on public easements;

(8) chimneys, flues and residential ventilating ducts that do not project more than two (2) feet into a required setback and when placed so as not to obstruct light and ventilation, provided they do not encroach on public easements;

(9) utility lines, wires and associated structures, such as power poles; and

(10) decks which are not more than thirty (30) inches above ground.

(B) **Contextual Setbacks**. Regardless of the minimum front setback requirement imposed by the zone district standards of this Land Use Code, applicants shall be allowed to use a "contextual" front setback. A "contextual" front setback may fall at any point between the front setback required in the zone district and the front setback that exists on a lot that abuts, and is oriented to, the same street as the subject lot. If the subject lot is a corner lot, the "contextual" setback may fall at any point between the zone district required front setback and the front setback that exists on the lot that is abutting and oriented to the same street as the subject lot. If lots on either side of the subject lot are vacant, the setback shall be interpreted as the minimum required front setback that applies to the vacant lot. This provision shall not be construed as requiring a greater front setback than that imposed by the underlying zone district, and it shall not be

construed as allowing setbacks to be reduced to a level that results in right-of-way widths below established minimums.

(C) **Front Setbacks on Corner Lots**. In the case of corner lots, only one (1) street line shall be considered as a front line, and the street to which the primary entrance of the principal building faces or to which the building is addressed shall be considered the front line for purposes of determining the front setback.

(D) **Setbacks Reduced for Public Purpose**. When an existing setback is reduced as a result of conveyance for a public use and the remaining setback is at least seventy-five (75) percent of the required minimum setback for the district in which it is located, then that remaining setback shall be deemed to be in compliance with the minimum setback standards of this Land Use Code.

## DIVISION 5.14 OCCUPANCY LIMITS

### 5.14.1 OCCUPANCY LIMITS; INCREASING THE NUMBER OF PERSONS ALLOWED

(A) Except as provided in Subsection (B) below, or pursuant to a certificate of occupancy issued by the City to the owner of the property, the maximum occupancy allowed per dwelling unit in a single- unit, two-unit or multi-unit dwelling shall be:

(1) one (1) family as defined in Section 7.2.2 and not more than one (1) additional person; and

(2) two (2) adults and their dependents, if any, and not more than one (1) additional person.

(B) **Exceptions.** The following shall be exempt from the maximum occupancy limit established in Subsection (A) above:

(1) dwellings regularly inspected or licensed by the state or federal government, including, but not limited to, group homes; and

(2) dwellings owned or operated by a nonprofit organization incorporated under the laws of this state for the purpose of providing housing to victims of domestic violence as such is defined in Section 18-6-800.03, C.R.S.

(C) A violation of this Section shall be proven by a preponderance of the evidence. A person shall be liable for allowing occupancy in excess of this Section if they knew, or through reasonable diligence should have known, that a violation of this Section was occurring.

(D) **Definitions**. The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them below:

(1) **Adult** shall mean any person eighteen (18) years of age or older who is not a dependent.

(2) **Dependent** shall mean the biological child of an adult occupying a dwelling unit, or a person related to an adult by reason of adoption, guardianship or other duly authorized custodial relationship, who receives financial support from the adult and who resides with the adult in the dwelling unit at least three (3) calendar months in a calendar year.

(3) **Occupancy or occupy** shall mean the use of a dwelling unit or any portion thereof for living and sleeping purposes by a person acting in any of the following capacities:

(a) as an owner of the unit;

(b) as a tenant under an express or implied lease or sublease of the unit or of any portion thereof; or

(c) as a guest or invitee of the owner, property manager, lessee or sublessee of the unit, if such guest or invitee stays overnight at the unit for a total of thirty (30) or more days within any twelve (12) month period of time.

(4) **Occupant** shall mean a person who occupies a dwelling unit or any portion thereof for living and sleeping purposes.

(E) **Increasing the Occupancy Limit**.

(1) With respect to single-unit and two-unit dwellings, the number of persons allowed under this Section may be increased by the issuance of a certificate of occupancy allowing extra occupancy in zones allowing such use.

(2) With respect to multiple-unit and single-unit attached dwellings, the decision maker (depending on the type of review, Type 1 or Type 2) may, upon receipt of a written request from the applicant and upon a finding that all applicable criteria of this Code have been satisfied, increase the number of unrelated persons who may reside in individual dwelling units. The decision maker shall not increase said number unless satisfied that the applicant has provided sufficient amenities, either public or private, to sustain the activities associated with multi-family residential development, to adequately serve the occupants of the development and to protect the adjacent neighborhood. Such amenities may include, without limitation, passive open space, buffer yards, on-site management, recreational areas, plazas, courtyards, outdoor cafes, neighborhood centers, limited mixed-use restaurants, parking areas, sidewalks, bikeways, bus shelters, shuttle services or other facilities and services.

(3) With respect to single-unit, owner occupied dwellings, the number of persons allowed under Section 5.14.1(A)(1) may be increased to allow one (1) additional person by the issuance of a "host family permit," provided that the following conditions are met:

(a) Adequate off-street parking is available to accommodate the additional occupant;

(b) There have been no violations of Chapter 17 or 20 of the City Code or this Code at the premises for which the permit is sought within the twelve (12) months immediately preceding the date of the application for the permit; and

(c) At least two (2) months have elapsed since the issuance of any previous host family permit for the same premises.

(4) Host family permits shall be valid for ten (10) months from the date of issuance; provided, however, that in the event that the Municipal Judge or Municipal Court Referee determines, during the term of any such permit, that a violation of Chapter 17 or 20 of the City Code or this Code has occurred at the premises for which the permit was issued, the permit may be revoked. The City may charge a twenty-

five ($25) dollar permit fee, or any greater amount not to exceed the costs of processing the application, which shall be payable at the time of application for the host family permit.

# DIVISION 5.15 BUILDING STANDARDS

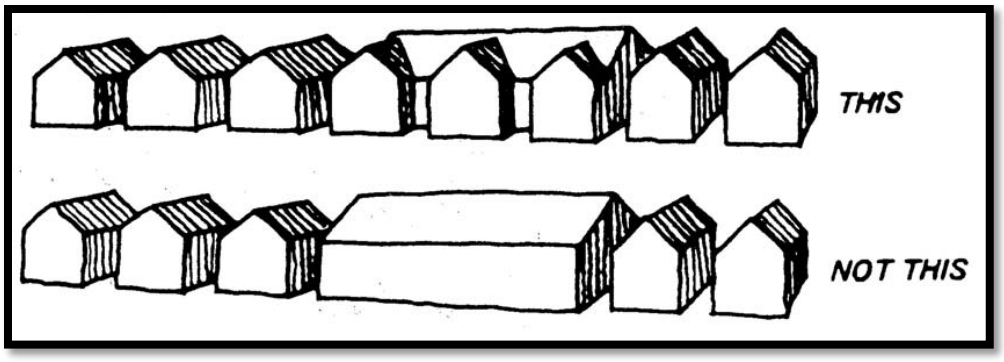
## 5.15.1 BUILDING AND PROJECT COMPATIBILTY

(A) **Purpose.** The purpose of this Section is to ensure that the physical and operational characteristics of proposed buildings and uses are compatible when considered within the context of the surrounding area. They should be read in conjunction with the more specific building standards contained in this Division and 5.3 and the zone district standards contained in Articles 2 and 4. All criteria and regulations contained in this Section that pertain to "developments," "the development plan," "buildings" and other similar terms shall be read to include the application of said criteria and regulations to any determination made by the decision maker of Section 6.9.1 for the purpose of evaluating the authorization of an additional use.

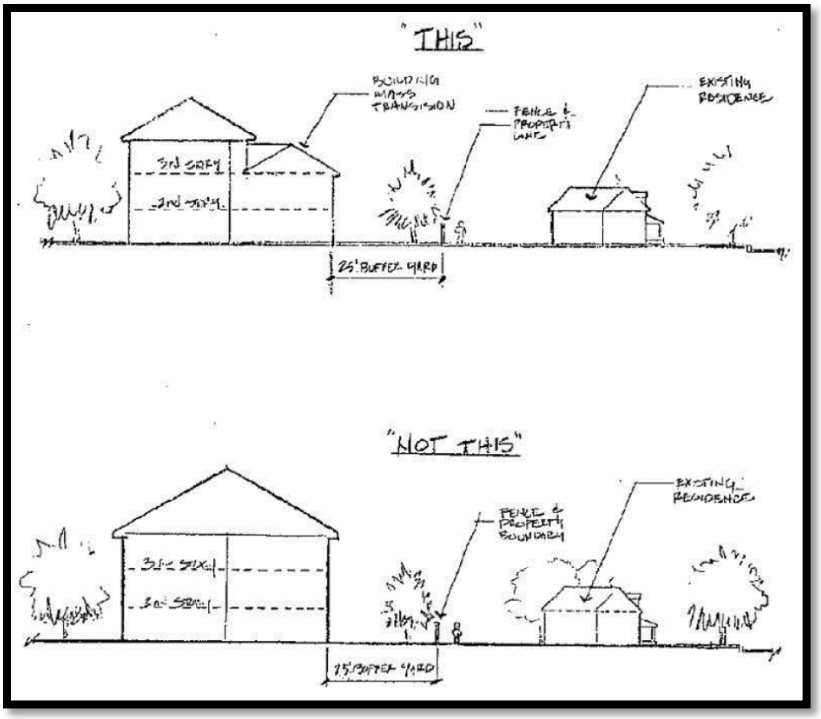
(B) **General Standard.** New developments in or adjacent to existing developed areas shall be compatible with the established architectural character of such areas by using a design that is complementary. In areas where the existing architectural character is not definitively established or is not consistent with the purposes of this Code, the architecture of new development shall set an enhanced standard of quality for future projects or redevelopment in the area. Compatibility shall be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns and/or the use of building materials that have color shades and textures similar to those existing in the immediate area of the proposed infill development. Brick and stone masonry shall be considered compatible with wood framing and other materials. Architectural compatibility (including, without limitation, building height) shall be derived from the neighboring context.

(C) **Building Size, Height, Bulk, Mass, Scale**. Buildings shall either be similar in size and height, or, if larger, be articulated and subdivided into massing that is proportional to the mass and scale of other structures, if any, on the same block face, abutting or adjacent to the subject property, opposing block face or cater-corner block face at the nearest intersection. (See Figures 7a and 7b.)

(1) **Figure 7a – Infill Buildings**



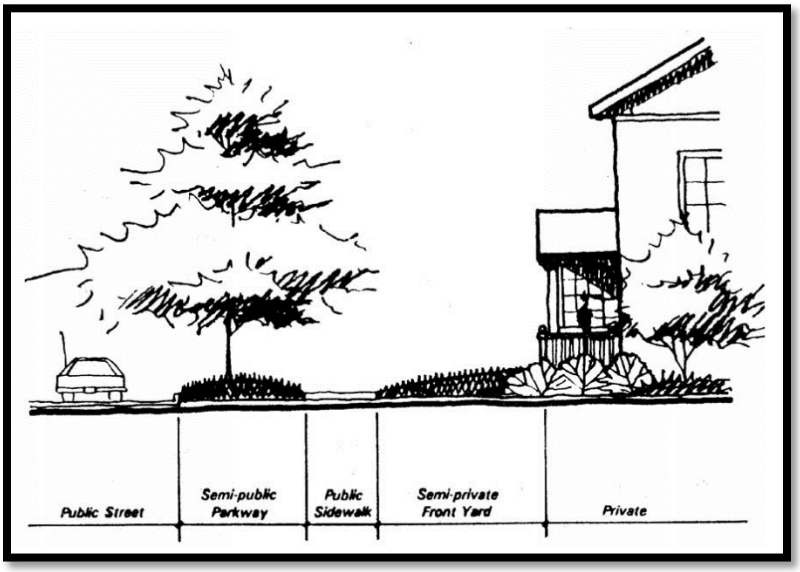

(2) **Figure 7b – Infill Buildings**




(3) New buildings in historic districts should reflect the historic character of the neighborhood through repetition of roof lines, patterns of door and window placement, and the use of characteristic entry features. These buildings are also subject to Chapter 14 of the City Code and Secretary of the Interior Standards as adopted by the City.

(D) **Privacy Considerations**. Elements of the development plan shall be arranged to maximize the opportunity for privacy by the residents of the project and minimize infringement on the privacy of adjoining land uses. Additionally, the development plan shall create opportunities for interactions among neighbors without sacrificing privacy or security. (See Figure 8.)

(a) **Figure 8 Privacy Considerations**




(E) **Building Materials**.

(1) **General**. Building materials shall either be similar to the materials already being used in the neighborhood or, if dissimilar materials are being proposed, other characteristics such as scale and proportions, form, architectural detailing, color and texture, shall be utilized to ensure that enough similarity exists for the building to be compatible, despite the differences in materials.

(2) **Glare.** Building materials shall not create excessive glare. If highly reflective building materials are proposed, such as aluminum, unpainted metal and reflective glass, the potential for glare from such materials will be evaluated to determine whether the glare would create a significant adverse impact on the adjacent property owners, neighborhood or community in terms of vehicular safety, outdoor activities and enjoyment of views. If so, such materials shall not be permitted.

(3) **Windows.**

(a) Mirror glass with a reflectivity or opacity of greater than sixty (60) percent is prohibited.

(b) Clear glass shall be used for commercial storefront display windows and doors.

(c) Windows shall be individually defined with detail elements such as frames, sills and lintels, and placed to visually establish and define the building stories and establish human scale and proportion.

(F) **Building Color**. Color shades shall be used to facilitate blending into the neighborhood and unifying the development. The color shades of building materials shall draw from the range of color shades that already exist on the block or in the adjacent neighborhood.

(G) **Building Height Review**.

(1) **Special Height Review/Modifications.** Purpose. The purpose of this Section is to establish a special process to review buildings or structures that exceed forty (40) feet in height. This section is not intended to supersede the requirements of Chapter 14 of City Code. Its intent is to encourage creativity and diversity of architecture and site design within a context of harmonious neighborhood planning and

coherent environmental design, to protect access to sunlight, to preserve desirable views and to define and reinforce downtown and designated activity centers. All buildings or structures in excess of forty (40) feet in height shall be subject to special review pursuant to this subsection (G).

(a) **Review Standards.** If any building or structure is proposed to be greater than forty (40) feet in height above grade, the building or structure must meet the following special review criteria:

(I) Light and Shadow. Buildings or structures greater than forty (40) feet in height shall be designed so as not to have a substantial adverse impact on the distribution of natural and artificial light on adjacent public and private property. Adverse impacts include, but are not limited to, casting shadows on adjacent property sufficient to preclude the functional use of solar energy technology, creating glare such as reflecting sunlight or artificial lighting at night, contributing to the accumulation of snow and ice during the winter on adjacent property and shading of windows or gardens for more than three (3) months of the year. Techniques to reduce the shadow impacts of a building may include, but are not limited to, repositioning of a structure on the lot, increasing the setbacks, reducing building mass or redesigning a building shape.

(II) Privacy. Development plans with buildings or structures greater than forty (40) feet in height shall be designed to address privacy impacts on adjacent property by providing landscaping, fencing, open space, window size, window height and window placement, orientation of balconies, and orientation of buildings away from adjacent residential development, or other effective techniques.

(III) Neighborhood Scale. Buildings or structures greater than forty (40) feet in height shall be compatible with the scale of the neighborhoods in which they are situated in terms of relative height, height to mass, length to mass and building or structure scale to human scale.

(b) **Submittal Requirements**. All development plans proposing building or structure heights in excess of forty (40) feet shall, at a minimum, include the following information:

(I) a shadow analysis that indicates, on the project development site plan, the location of all shadows cast by the building or structure (with associated dates of the year); and

(II) a summary of the key conclusions of the shadow analysis, and steps to be taken to comply with the review standards set forth above.

(c) **Modification of Height Limits.** To provide flexibility in meeting the height limits contained in Article 4 of this Code, such height limits can be either increased or decreased by the decision maker in the development review process for the following purposes:

(I) preserving the character of existing residential neighborhoods;

(II) allowing architectural embellishments consistent with architectural style, such as peaked roof sections, corner turrets, belvederes or cupolas;

(III) defining and reinforcing the downtown areas the major focal point in the community;

(IV) allowing for maximum utilization of activity centers;

(V) protecting access to sunlight;

(VI) providing conscious direction to the urban form of the City through careful placement of tall buildings or structures within activity centers;

(VII) allowing rooftop building extensions to incorporate HVAC equipment.

(H) **Land Use Transition**. When land uses with significantly different Building Types are proposed abutting each other and where gradual transitions are not possible or not in the best interest of the community, the development plan shall, to the maximum extent feasible, achieve compatibility through the provision of buffer yards and passive open space a minimum of 20 ft. in width to enhance the separation between uses.

(I) **Outdoor Storage Areas/Mechanical Equipment**.

(1) No areas for outdoor storage, trash collection or compaction, loading or other such uses shall be located within twenty (20) feet of any public street, public sidewalk or internal pedestrian way. Notwithstanding the foregoing, areas for trash collection may be located within twenty (20) feet of an internal pedestrian way.

(2) Loading docks, truck parking, outdoor storage (including storage containers), utility meters, HVAC and other mechanical equipment, trash collection, trash compaction and other service functions shall be incorporated into the overall design theme of the building and the landscape so that the architectural design is continuous and uninterrupted by ladders, towers, fences and equipment, and no attention is attracted to the functions by use of screening materials that are different from or inferior to the principal materials of the building and landscape. These areas shall be located and screened so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.

(3) Conduit, meters, vents and other equipment attached to the building or protruding from the roof shall be painted to match surrounding building surfaces.

(4) Outside areas, used on a long-term or regular basis for inventory storage or sale, over-stock, seasonal goods, bulk items and the like shall be located within an area that is permanently screened with walls or fences. Materials, colors and design of screening walls or fences shall conform to those used as predominant materials and colors on the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the building.

(5) Outside areas that are used on a temporary basis for the sale of seasonal inventory only shall be defined by nonpermanent walls or fences. Such an enclosure shall not inhibit fire access to the building or pedestrian and bicycle access to the building entrance. If chain link fencing is used, it must be vinyl-clad or covered with a mesh material. Any such enclosure shall be removed upon the conclusion of the seasonal sale period.

[NOTE: Subsections (4) and (5) shall not apply to temporary vendors who have been issued outdoor vendor licenses as required by Section 15-382 of the City Code, provided that such temporary vendors are not permitted to operate for more than sixty (60) days in any calendar year.]

(6) All rooftop mechanical equipment shall be screened from public view from both above and below by integrating it into building and roof design to the maximum extent feasible.

(7) All satellite dishes that are greater than two (2) meters (78.74 inches) in diameter must be screened and located as required in subsections (1) through (5) of this Section.

(J) **Operational/Physical Compatibility Standards.** Conditions may be imposed upon the approval of development applications to ensure that new development will be compatible with existing neighborhoods and uses. Such conditions may include, but need not be limited to, restrictions on or requirements for:

(1) hours of operation and deliveries;

(2) location on a site of activities that generate potential adverse impacts on adjacent uses such as noise and glare;

(3) placement of trash receptacles;

(4) location of loading and delivery zones;

(5) light intensity and hours of full illumination;

(6) placement and illumination of outdoor vending machines; and

(7) location and number of off-street parking spaces.

## 5.15.2 MIXED-USE, INSTITUTIONAL AND COMMERCIAL BUILDINGS

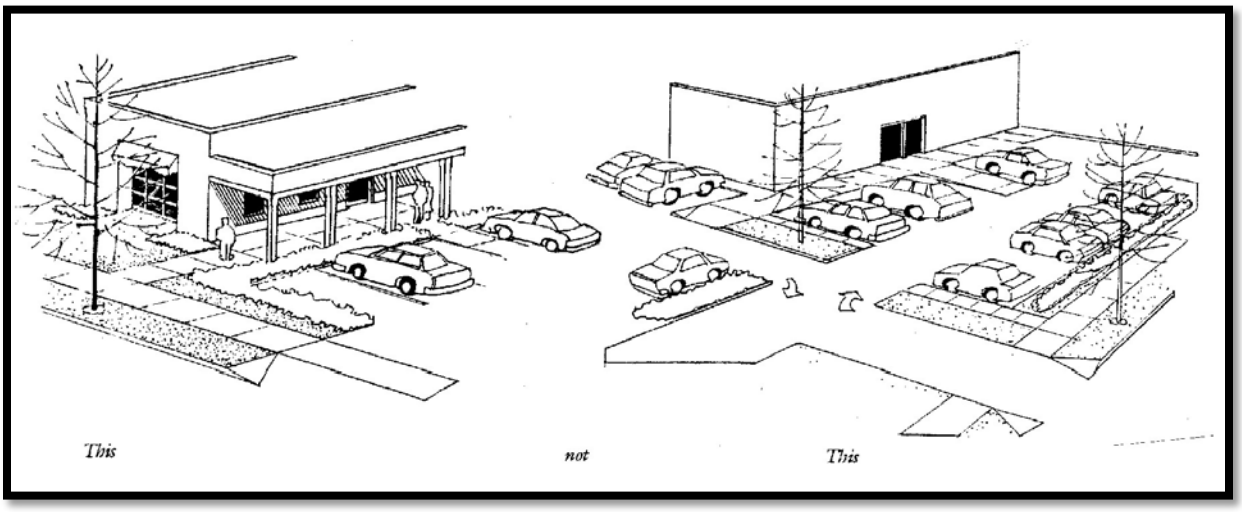
(A) **Purpose**. These standards are intended to promote the design of an urban environment that is built to human scale.

(B) **General Standard**. Mixed-use and nonresidential buildings shall provide significant architectural interest and shall not have a single, large, dominant building mass. The street level shall be designed to comport with a pedestrian scale in order to establish attractive street fronts and walkways. Walkways shall be designed principally for the purpose of accommodating pedestrians and pedestrian connections while secondarily accommodating vehicular movement. Buildings shall be designed with predominant materials, elements, features, color range and activity areas tailored specifically to the site and its context.

(C) **Relationship of Buildings to Streets, Walkways and Parking.**

(1) **Orientation to a Connecting Walkway.** At least one (1) main entrance of any commercial or mixed-use building shall face and open directly onto a connecting walkway with pedestrian frontage. Any building which has only vehicle bays and/or service doors for intermittent/infrequent nonpublic access to equipment, storage or similar rooms (e.g., self-serve car washes and self-serve mini-storage warehouses) shall be exempt from this standard. See Figure 10.

(a) *Figure 10* – Orientation to Walkways.




(2) **Orientation to Build-to Lines for Street front Buildings.** See Article 7 Rules of Measurement Build-to lines.

(D) **Variation in Massing.** A single, large, dominant building mass shall be avoided in new buildings and, to the extent reasonably feasible, in development projects involving changes to the mass of existing buildings.

(1) Horizontal masses shall not exceed a height:width ratio of 1:3 without substantial variation in massing that includes a change in height and a projecting or recessed elements.

(2) Changes in mass shall be related to entrances, the integral structure and/or the organization of interior spaces and activities and not merely for cosmetic effect. False fronts or parapets create an insubstantial appearance and are prohibited.

(E) **Character and Image.** In new buildings and, to the extent reasonably feasible, in development projects involving changes to existing building walls, facades or awnings, the following standards shall apply:

(1) **Site Specific Design**. Building design shall contribute to the uniqueness of a zone district, and/or the Fort Collins community with predominant materials, elements, features, color range and activity areas tailored specifically to the site and its context. In the case of a multiple building development, each individual building shall include predominant characteristics shared by all buildings in the development so that the development forms a cohesive place within the zone district or community. A standardized prototype design shall be modified as necessary to comply with the requirements of this subsection.

(2) **Facade Treatment.** Minimum Wall Articulation. Building bays shall be a maximum of thirty (30) feet in width. Bays shall be visually established by architectural features such as columns, ribs or pilasters, piers and fenestration pattern. In order to add architectural interest and variety and avoid the effect of a single, long or massive wall with no relation to human size, the following additional standards shall apply:

(I) No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding thirty (30) feet without including at least two (2) of the following:

change in plane, change in texture or masonry pattern, windows, treillage with vines, or an equivalent element that subdivides the wall into human scale proportions;

(II) Side or rear walls that face walkways may include false windows and door openings defined by frames, sills and lintels, or similarly proportioned modulations of the wall, only when actual doors and windows are not feasible because of the nature of the use of the building; and

(III) All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear facades shall be prohibited.

(3) **Facades.** Facades that face streets or connecting pedestrian frontage shall be subdivided and proportioned using features such as windows, entrances, arcades, arbors, awnings, treillage with vines, along no less than fifty (50) percent of the facade.

(4) **Entrances.** Primary building entrances shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the summer sun and winter weather.

(5) **Awnings**. Awnings shall be no longer than a single storefront.

(6) **Base and Top Treatments.** All facades shall have:

(a) a recognizable "base" consisting of (but not limited to):

(I) thicker walls, ledges or sills;

(II) integrally textured materials such as stone or other masonry;

(III) integrally colored and patterned materials such as smooth-finished stone or tile;

(IV) lighter or darker colored materials, mullions or panels; and/or

(V) planters.

(b) a recognizable "top" consisting of (but not limited to):

(I) cornice treatments, other than just colored "stripes" or "bands," with integrally textured materials such as stone or other masonry or differently colored materials;

(II) sloping roof with overhangs and brackets; and/or

(III) stepped parapets.

(7) **Encroachments.** Special architectural features, such as bay windows, decorative roofs and entry features may project up to three (3) feet into street rights-of-way, provided that they are not less than nine (9) feet above the sidewalk. Trellises, canopies and fabric awnings may project up to five (5) feet

into front setbacks and public rights-of-way, provided that they are not less than eight (8) feet above the sidewalk. No such improvements shall encroach into alley rights-of-way.

(8) **Drive-through lane width limitation**. No drive-through facility associated with a retail establishment or large retail establishment shall exceed ten (10) feet in width.

(9) **Illumination prohibition**. Exterior-mounted exposed neon/fiber optic/ rope L.E.D. lighting, illuminated translucent materials (except signs), illuminated striping or banding, and illuminated product displays on appurtenant structures (e.g., fuel dispensers) shall be prohibited.

### 5.15.3 LARGE RETAIL ESTABLISHMENTS

(A) **Purpose**. These standards are intended to ensure that large retail building development is compatible with its surrounding area and contributes to the unique community character of Fort Collins. (For expansions/enlargements of large retail establishments, see also Section 6.22.)

(B) **General Standard**. Large retail buildings shall provide a high level of architectural interest by utilizing high quality materials and design and shall be compatible with the character of the surrounding area. Large retail buildings shall have pedestrian and bicycle access and connectivity and shall mitigate negative impacts. Buildings shall be designed with predominant materials, elements, features, color range and activity areas tailored specifically to the site and its context.

(C) **Land Use.** All large retail establishments shall be located in a group of more than four (4) retail establishments located in a complex which is planned, developed, owned or managed as a single unit with off-street parking provided on the property. Indoor recreation facilities are exempt from this requirement.

(D) **Development Standards.**

(1) **Aesthetic Character**.

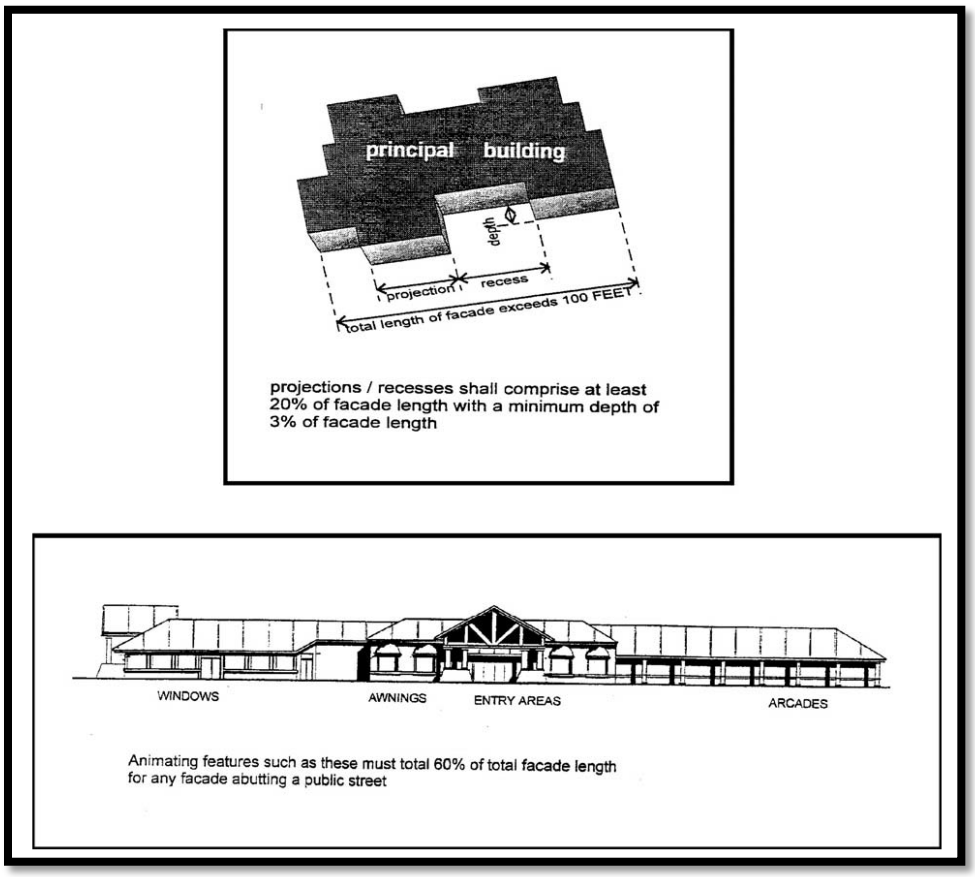
(a) Facades and Exterior Walls:

(I) Facades greater than one hundred (100) feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three (3) percent of the length of the facade and extending at least twenty (20) percent of the length of the facade. No uninterrupted length of any facade shall exceed one hundred (100) horizontal feet; and

(II) Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than sixty (60) percent of their horizontal length. (See Figure 11.)

(b) Small Retail Stores. Where large retail establishments contain additional, separately owned stores that occupy less than twenty-five thousand (25,000) square feet of gross floor area, with separate, exterior customer entrances, the street level facade of such stores shall be transparent between the height of three (3) feet and eight (8) feet above the walkway grade for no less than sixty (60) percent of the horizontal length of the building facade of such additional stores.

(l) Figure 11 – Building.




(c) Detail Features. Building facades must include:

(l) a repeating pattern that includes no less than three (3) of the following elements:

(i) color change;

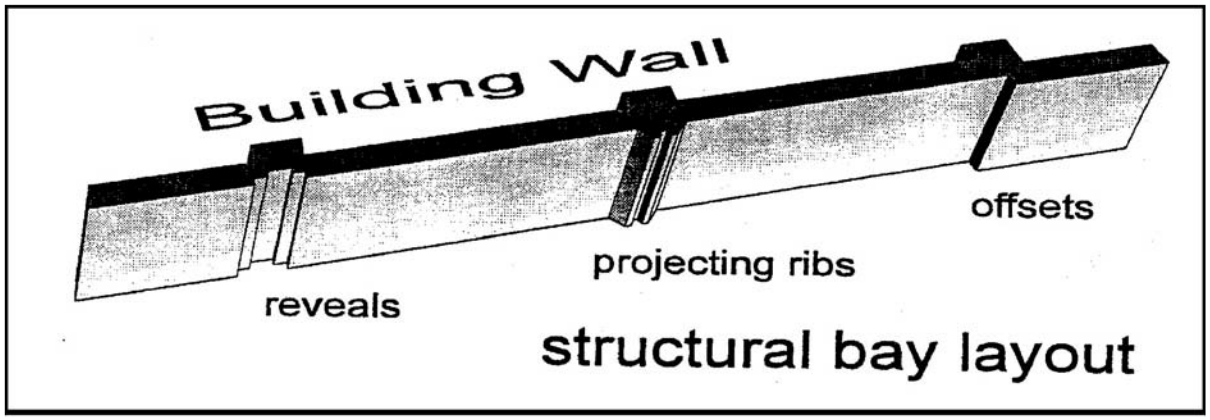
(ii) texture change;

(iii) material module change; and

(iv) an expression of architectural or structural bays through a change in plane no less than twelve (12) inches in width, such as an offset, reveal or projecting rib. (See Figure 12).

Note: At least one (l) of elements (i), (ii) or (iii) shall repeat horizontally. All elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically.

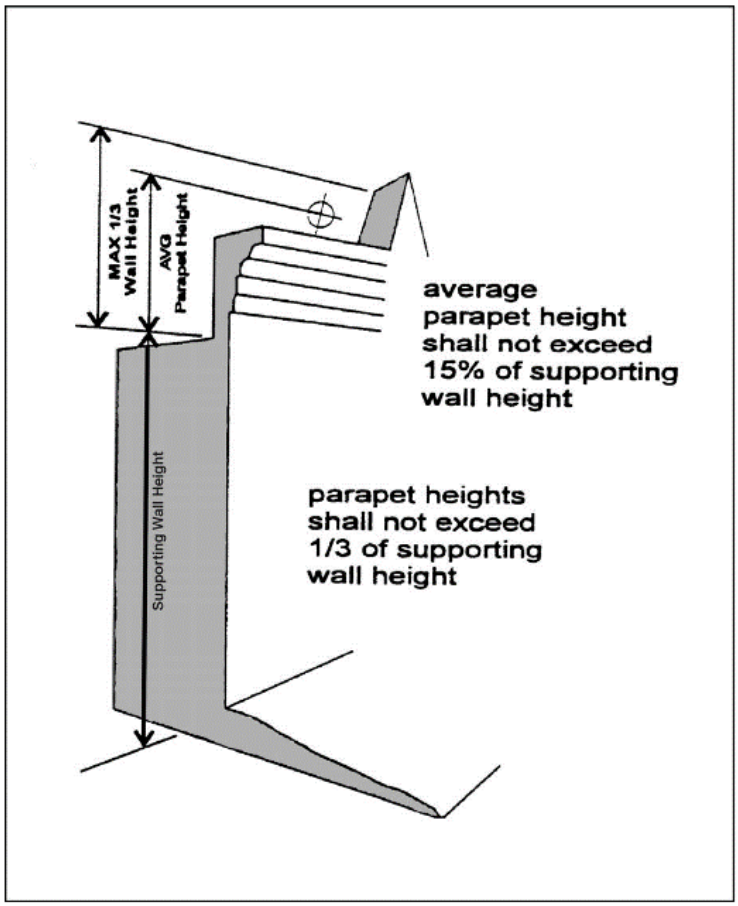
(II) Figure 12 – Expression of Architectural or Structural Bay




(d) Roofs. Roofs shall have no less than two (2) of the following features:

(I) parapets concealing flat roofs and rooftop equipment such as HVAC units from public view. The average height of such parapets shall not exceed fifteen (15) percent of the height of the supporting wall and such parapets shall not at any point exceed one-third (1/3) of the height of the supporting wall. (See Figure 13.) Such parapets shall feature three-dimensional cornice treatment;

(II) Figure 13 – Parapet Standards




(III) overhanging eaves, extending no less than three (3) feet past the supporting walls;

(IV) sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one (1) foot of vertical rise for every three (3) feet of horizontal run and less than or equal to one (1) foot of vertical rise for every one (1) foot of horizontal run; and/or

(V) three (3) or more roof slope planes.

(e) Materials and colors.

(I) Predominant exterior building materials shall be high quality materials, including, but not limited to, brick, sandstone, other native stone and tinted/textured concrete masonry units.

(II) Facade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high-intensity colors, metallic colors, black or fluorescent colors shall be prohibited.

(III) Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.

(IV) Exterior building materials shall not include smooth-faced concrete block, tilt-up concrete panels or prefabricated steel panels.

(2) **Entryways.**

(a) Each large retail establishment on a site shall have clearly defined, highly visible customer entrances featuring no less than three (3) of the following:

(I) canopies or porticos;

(II) overhangs;

(III) recesses/projections;

(IV) arcades;

(V) raised corniced parapets over the door;

(VI) peaked roof forms;

(VII) arches;

(VIII) outdoor patios;

(IX) display windows;

(X) architectural details such as tile work and moldings which are integrated into the building structure and design; and/or

(XI) integral planters or wing walls that incorporate landscaped areas and/or places for sitting.

(b) Where additional stores will be located in the large retail establishment, each such store shall have at least one (1) exterior customer entrance, which shall conform to the above requirements.

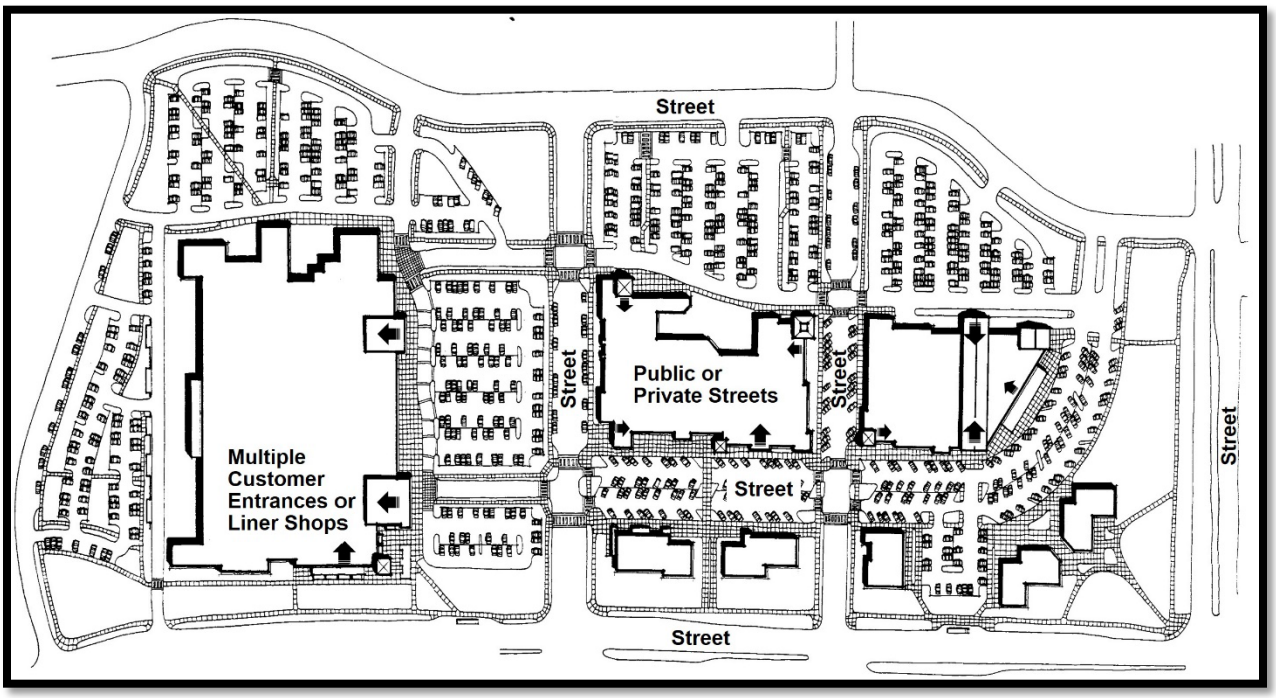
(c) All building facades which are visible from adjoining properties and/or public streets shall comply with the requirements of Article 5.15.3(D)(2) above.

(3) **Site Design and Relationship to Surrounding Community.**

(a) Entrances. At least two (2) sides of a large retail establishment shall feature operational customer entrances. The two (2) required sides shall be those that are planned to have the highest level of public pedestrian activity, one (1) of which shall also be the side that most directly faces a street with pedestrian access. The other of the two (2) sides having an operational customer entrance may face a second street with pedestrian access, and/or a main parking lot area. If the large retail

establishment does not include a second side entrance that is fully operational and open to the public, then this standard shall be met by attaching smaller retail store(s) ("liner stores") to the side of the large retail establishment which is expected to generate the most pedestrian activity or which faces a public street. Such liner store(s) shall, to the extent reasonably feasible, occupy no less than thirty-three (33) percent of the building elevation on which they are located and shall feature distinctive store fronts and entrances that are significantly differentiated from the large retail establishment in order to create strong identifiable entrance features. Entrances to the liner store(s) may, but need not, provide access into the large retail establishment and must be fully operational and open to customers at times that are generally equivalent to the store hours of the large retail establishment to which they are attached. All entrances, including those of the liner store(s), shall be architecturally prominent and clearly visible from the abutting public street. (See Figure 14.) Movie theaters are exempt from this requirement.

(l) Figure 14 – Building Entrances (Example of a development with Customer entrances on all sides which face a public street.)




(b) Parking lot location. No more than fifty (50) percent of the off-street parking area for the lot, tract or area of land devoted to the large retail establishment shall be located between the front facade of the large retail establishment and the abutting streets (the "Front Parking Area"). The Front Parking Area shall be determined by drawing a line from the front corners of the building to the nearest property corners. If any such line, when connected to the plane of the front facade of the building, creates an angle that is greater than one hundred eighty (180) degrees, then the line shall be adjusted to create an angle of one hundred eighty (180) degrees when connected to the plane of the front facade of the building. If any such line, when connected to the plane of the front facade of the building, creates an angle that is less than ninety (90) degrees, then the line shall be adjusted to create an angle of ninety (90) degrees when connected to the plane of the front facade of the building. Parking spaces in the Front Parking Area shall be counted to include all parking spaces within the boundaries of the Front Parking Area, including (i) all partial parking spaces if the part inside the Front Parking Area boundary lines constitutes more than one-half (½) of said parking

space, and (ii) all parking spaces associated with any pad sites located within the Front Parking Area boundaries. Supermarkets are exempt from this requirement.

(c) Back sides. The minimum setback for any building facade shall be thirty-five (35) feet from the nearest property line. Where the facade faces abutting residential uses, an earthen berm, no less than six (6) feet in height, containing at a minimum evergreen trees planted at intervals of twenty (20) feet on center, or in clusters or clumps, shall be provided.

(d) Connectivity. The site design must provide direct connections and safe street crossings to adjacent land uses.

(4) **Pedestrian Circulation.**

(a) Sidewalks at least eight (8) feet in width shall be provided along all sides of the lot that abut a public street.

(b) Continuous internal pedestrian walkways, no less than eight (8) feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all large retail establishments on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers or other such materials for no less than fifty (50) percent of the length of the walkway.

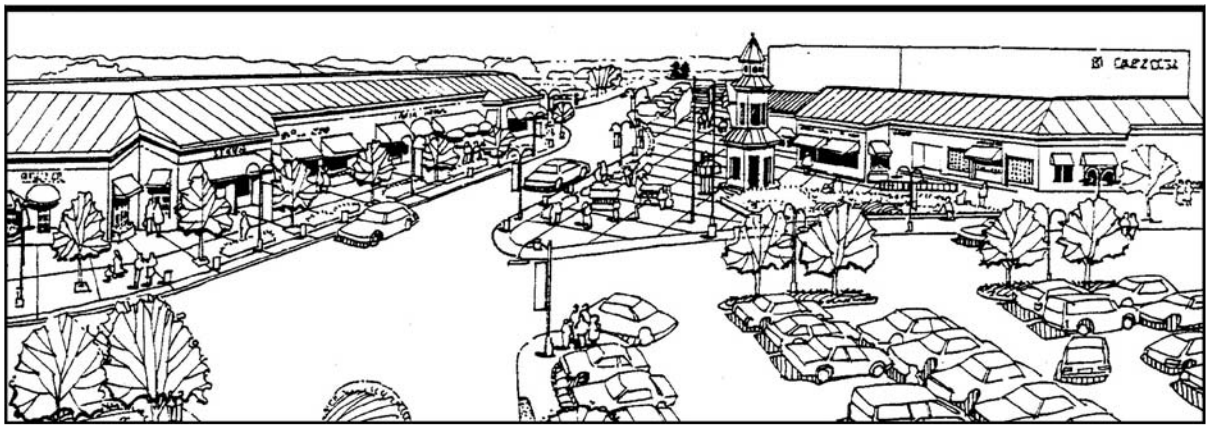
(c) Sidewalks, no less than eight (8) feet in width, shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.

(d) Internal pedestrian walkways provided in conformance with part (b) above shall provide weather protection features such as awnings or arcades within thirty (30) feet of all customer entrances.

(e) All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.

(5) **Central Features and Community Space.** Each retail establishment subject to these standards shall contribute to the establishment or enhancement of community and public spaces by providing at least two (2) of the following: patio/seating area, pedestrian plaza with benches, transportation center, window shopping walkway, outdoor playground area, kiosk area, water feature, clock tower or other such deliberately shaped area and/or a focal feature or amenity that, in the judgment of the appropriate decision maker, adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape. (See Figure 15.)

(a) **Figure 15 – Center with Community Features**



(6) **Delivery/Loading Operations.** No delivery, loading, trash removal or compaction, or other such operations shall be permitted between the hours of 10:00 p.m. and 7:00 a.m. unless the applicant submits evidence that sound barriers between all areas for such operations effectively reduce noise emissions to a level of forty-five (45) dB, as measured at the lot line of any adjoining property.

## 5.15.4 CONVENIENCE SHOPPING CENTER

(A) **Purpose**. Neighborhood convenience shopping centers are intended to provide locations for small scale, everyday shopping and services assembled in an attractive, convenient destination to primarily serve consumer demand from adjacent areas. These standards supplement the general standards for all commercial and mixed-use development, to promote development in which the commercial component is tempered as needed to reflect neighborhood character and minimize the garish or intrusive characteristics of commercial development.

(B) **General Standard**. Neighborhood convenience shopping centers shall be compatible with the character of the surrounding neighborhood utilizing high quality materials and finishes and shall be internally compatible and harmonious with respect to quality design, aesthetics and materials, tailored specifically to the site and its context.

(C) **Land Use.**

(1) **Size of Development.** A convenience shopping center shall be situated on seven (7) or fewer acres with four (4) or more business establishments located in an area that is planned and developed as a whole.

(2) **Permitted Uses**. Permitted uses include retail stores, personal and business services, convenience retail stores (with accessory gas pumps), restaurants without drive-up windows, equipment rental (not including outdoor storage), professional offices, limited banking services such as automated teller machines, multi-unit dwellings, medical offices and clinics, small animal veterinary clinics, and day care services.

(3) **Phasing of Improvements**. If a center is to be built in phases, each phase shall include an appropriate share of the proposed streets and circulation system, landscaping and outdoor spaces, screening and other site and architectural amenities of the entire project. The extent of these improvements shall be determined for each phase of a specific project at the time of project development approval, and may not be based solely upon a proportional or equal share of the entire site. Requirements for a phased project may include off-site improvements.

(D) **Buildings.**

(1) **Architectural Style.** Standardized architecture, recognized as a prototype of a larger chain of establishments, shall be customized as necessary to express a level of quality that enhances the distinctive character of the immediate neighborhood and the City as a whole. Forms and finish materials of buildings, signage, gasoline pump canopies and other accessory structures shall be compatible with the architectural character of the adjacent area through compliance with all of the following standards:

(a) All buildings, including gasoline pump canopies, shall utilize a consistent architectural style, with different buildings, businesses or activities in the center distinguished by variations within the architectural style.

(b) The sides and backs of buildings shall be as visually attractive as the front through the design of roof lines, architectural detailing and landscaping features.

(c) Quality finish materials shall be utilized. Such materials may include, but need not be limited to:

(I) brick masonry or stone;

(II) integrally tinted, textured masonry block;

(III) stucco; or

(IV) wood siding.

(d) Where any sloped roofs and canopies are used, they shall be covered with:

(I) high profile asphalt shingles;

(II) natural clay tiles;

(III) slate;

(IV) concrete tiles - with natural texture and color;

(V) ribbed metal; or

(VI) wood shakes or shingles, provided that the roof includes required fire protection.

(e) Vending machines and other site accessories shall be integrated into the architectural theme of the center.

(2) **Building Placement.** Minimum building setbacks from the property line of any adjoining residential use shall be twenty (20) feet.

(E) **Site Design.**

(1) **Screening.**

(a) Screening walls or fences shall be at least five (5) feet, but not more than eight (8) feet in height.

(b) Fences or walls shall be constructed of material similar to, or compatible with and complementary to, the primary building material and architecture. (Chain link type fences with or without wood slats or other inserts are not acceptable screening devices.) Fencing shall not impair traffic safety by obscuring views.

(c) Long expanses or fences or wall surfaces shall be architecturally designed so as to avoid monotony by use of repeating elements, alternative opaque and transparent sections, or architectural elements including pillars.

(2) **Landscaping/Streetscapes.**

Ground signage, if any, shall be incorporated into the landscape design.

(3) **Site Setbacks.**

(a) Minimum setbacks of parking and drives from public rights-of-way shall be as follows:

(I) twenty-five (25) feet from any arterial right-of-way; and

(II) fifteen (15) feet from any nonarterial right-of-way.

(b) Minimum setbacks of parking and drives from other land uses shall be as follows:

(I) twenty (20) feet from the property line of any residential use; and

(II) five (5) feet from the property line of nonresidential uses, except a property line between buildings or uses with shared parking areas where zero (0) feet is required.

# DIVISION 5.16 SIGNS

## 5.16.1 SIGNS GENERALLY.

(A) **Title; Purpose and Intent.**

(1) **Title.** Sections 5.16.1, 5.16.2, 5.16.3, 5.16.4, and 5.16.5 may be collectively referred to as the "City of Fort Collins Sign Code," or the "Sign Code". Definitions related to the Sign Code are set out in Section 7.1.2, Definitions.

(2) **Purpose and Intent.** The purpose and intent of the Sign Code is to set out reasonable regulations for the design, location, installation, display, operation, repair, maintenance, and removal of signs in a manner that advances the City's legitimate, important, substantial, and compelling interests, while simultaneously safeguarding the constitutionally protected right of free speech.

(B) **Interests.** The City has a legitimate, important, substantial, or compelling interest in:

(1) Preventing the proliferation of signs of generally increasing size, dimensions, and visual intrusiveness (also known as "sign clutter") that tends to result from property owners competing for the attention of passing motorists and pedestrians, because sign clutter:

(a) Creates visual distraction and obstructs views, potentially creating safety hazards for motorists, bicyclists, and pedestrians;

(b) May involve physical obstruction of streets, sidewalks, or trails, creating public negative impacts;

(c) Degrades the aesthetic quality of the City, making the City a less attractive place for residents, business owners, visitors, and private investment; and

(d) Dilutes or obscures messages on individual signs due to the increasing competition for attention.

(2) Maintaining and enhancing the historic character of historic Downtown Fort Collins, a unique historic resource of exceptional quality and vibrancy.

(3) Protecting the health of the City's tree canopy, an important community asset that contributes to the character, environmental quality, and economic health of the City and the region.

(4) Maintaining a high-quality aesthetic environment to protect and enhance property values, leverage public investments in streets, sidewalks, trails, plazas, parks, open space, civic buildings, and landscaping, and enhance community pride.

(5) Protecting minors from speech that is harmful to them according to state or federal law, by preventing such speech in places that are accessible to and used by minors.

(C) **Findings.** The City finds that:

(1) Content-neutrality, viewpoint neutrality, and fundamental fairness in regulation and review are essential to ensuring an appropriate balance between the important, substantial, and compelling interests set out in Section 5.16.1(B) and the constitutionally-protected right to free expression.

(2) The regulations set out in the Sign Code are unrelated to the suppression of constitutionally-protected free expression, do not relate to the content of protected messages that may be displayed on signs, and do not relate to the viewpoint of individual speakers.

(3) The incidental restriction on the freedom of speech that may result from the regulation of signs pursuant to the Sign Code is no greater than is essential to the furtherance of the important, substantial, and compelling interests that are set out in Section 5.16.1(B).

(4) Regulation of the location, number, materials, height, sign area, form, and duration of display of temporary signs is essential to prevent sign clutter.

(5) Temporary signs may be degraded, damaged, moved, or destroyed by wind, rain, snow, ice, and sun, and after such degradation, damage, movement, or destruction, such signs harm the safety and aesthetics of the City's streets if they are not removed.

(6) Certain classifications of speech are not constitutionally protected due to the harm that they cause to individuals or the community.

(D) **Applicability, exemptions, and permit exceptions.**

(1) **Applicability.** The provisions of the Sign Code shall apply to the display, construction, installation, erection, alteration, use, location, maintenance, and removal of all signs within the City that are not specifically exempt from such application.

(2) **Sign Permits.**

(a) No sign shall be displayed, constructed, installed, erected, refaced, or altered within the City limits until the City has issued a sign permit, unless the sign qualifies as an exception to the permit requirements.

(b) No permit is required for routine sign maintenance, painting, or replacing light sources with lighting of comparable intensity (however, the installation of a new manual changeable copy message center or electronic message center does require a permit).

(3) **Sign Regulation Exemptions.** The Sign Code does not apply to:

(a) Signs of any type that are installed or posted (or required to be installed or posted) by the Federal government, the State of Colorado, Larimer County, the City, or a School District (collectively, "Governmental Entities"), on property owned or controlled by a Governmental Entity; and/or

(b) Required signs, posted in accordance with applicable law or regulations.

(4) **Sign Regulation Partial Exemptions**. The following signs are subject only to subsections (E) through (L) of this Section 5.16.1, inclusive, and shall not require a sign permit:

(a) Signs that are not visible from any of the following areas due to the configuration of the building(s) or structure(s) or the topography of the site upon which the signs are located:

(I) Residential lots;

(II) Adjoining property that is not under common ownership;

(III) Public rights-of-way; or

(IV) Property that is located at a higher elevation than the property upon which the sign is displayed.

(b) Signs that are not legible from adjoining property or rights-of-way due to the configuration of the building(s) or structure(s) or the topography of the site upon which the signs are located or the orientation or setback or typeface of the sign, provided that:

(I) One (1) such sign may have a sign area that is not more than thirty five (35) square feet, and if a sign area allowance applies to the site, fifty (50) percent of the sign area of the sign is counted towards the sign area allowance;

(II) Other such signs may have a sign area that is not more than eight (8) square feet, and are not counted towards any applicable sign area allowance.

(c) Horizontal projected light signs that are projected onto private property, provided that they are not projected onto required signs.

(5) **Sign Permit Exceptions.** The following signs may be displayed, constructed, installed, erected, or altered without a sign permit, but are not exempt from other applicable provisions of Section 5.16.2 or Section 5.16.3:

(a) One (1) optional residential sign per street-facing building elevation of a residential building not exceeding four (4) square feet in area;

(b) Flags that are hung from not more than three (3) rigid, straight, building-mounted or ground-mounted flagpoles per one hundred (100) feet of property frontage or fraction thereof, provided that:

(I) No more than three (3) flags are flown from any one (1) flagpole;

(II) No flag obstructs pedestrian, bicycle, or vehicular traffic, or a required sight triangle; and

(III) No flag exceeds thirty-two (32) square feet in area;

(c) Small signs, as follows:

(I) Signs that are affixed to a building or structure, that do not exceed two (2) square feet in sign area, provided that only one (1) such sign is present on each elevation that is visible from public rights-of-way or adjoining property; and

(II) Signs that are less than one (1) square foot in area that are affixed to machines, equipment, fences, gates, walls, gasoline pumps, public telephones, or utility cabinets;

(d) Temporary seasonal decorations;

(e) Temporary signs (except feather flags and attached or detached temporary banners and pennants, all of which require a sign permit); and

(f) Window signs that are less than six (6) square feet in area, provided that:

(I) The total area covered by window signs:

(i) Does not exceed twenty-five (25) percent of the area of the architecturally distinct window in which they are located; and

(ii) Does not exceed twenty-five (25) percent of the sign allowance described in Section 5.16.2(A); and

(II) The window signs are not illuminated.

(E) **Relationship to Other Regulations.**

(1) In addition to the regulations set out in the Sign Code, signs may also be subject to applicable State laws and regulations (e.g., State of Colorado, Department of Highways, "Rules and Regulations Pertaining to Outdoor Advertising," effective January 1, 1984, as may be amended from time to time), Federal laws and regulations, and applicable adopted building and electrical codes. Exceptions to the sign permit requirements do not constitute exemptions to other applicable codes or permit requirements.

(2) Where any provision of the Sign Code covers the same subject matter as other regulations of the City, the more specific regulation shall control the more general one, unless the City determines that the more restrictive regulation is clearly unenforceable as a matter of law.

(3) Where any provision of the Sign Code covers the same subject matter as other regulations of the State of Colorado or the United States, the applicant is advised that nothing in this Chapter shall be construed as a defense to a violation of applicable state or federal law except as may be provided in the state or federal law.

(4) All signs within the Old Town Historic District within the Downtown District must comply with the Old Town Historic District Design Standards except that the Old Town Historic District Design Standards shall not be interpreted to limit the content of the sign.

(5) The Downtown District shall be defined by the boundary exhibited in the 2017 Fort Collins Downtown Plan.

(F) **Measurements.**

(1) **Property Frontage.** Property frontage is measured as the length of each property boundary that abuts a public street right-of-way.

(2) **Sign Area.**

(a) *Generally.* In general, sign area is the area within a continuous polygon with up to eight (8) straight sides that completely encloses the limits of text and graphics of a sign, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign's contents from the background against which they are placed.

(b) *Additions.* The area of all freestanding and ground signs shall include the area of the sign face(s) as calculated in subsection (F)(2)(a), together with any portion of the sign structure which exceeds one and one-half (1½) times the area of the sign face(s).

(c) *Exclusions.* The sign area does not include the structure upon which the sign is placed (unless the structure is an integral part of the display or used to differentiate it), but does include any open space contained within the outer limits of the display face, or between any component, panel, strip, or figure of any kind composing the display face, whether this open space is enclosed by a frame or border or not.

**Figure (F)(2)(c) Sign Area Measurement**

(d) *Multiple Sign Faces.* Freestanding temporary signs may have multiple faces. The area of such signs is measured using the vertical cross-section that represents the sign's maximum projection upon a vertical plane (e.g., for a sign with two (2) opposite faces on the same plane, the total cumulative area of both faces is used for area calculation).

**Figure (F)(2)(d) Multiple Sign Faces**

(e) *Three-Dimensional Sign Faces.* The area of signs that do not have a flat sign face is measured using the vertical cross-section that represents the sign's maximum projection upon a vertical plane.

**Figure (F)(2)(e)**
**Three-Dimensional Sign Faces**

(3) **Sign Clearance.** Sign clearance is the distance between the bottom of a sign or related structural element that is not affixed to the ground and the nearest point on the ground-level surface under it.

Figure (F)(3)
Sign Clearance

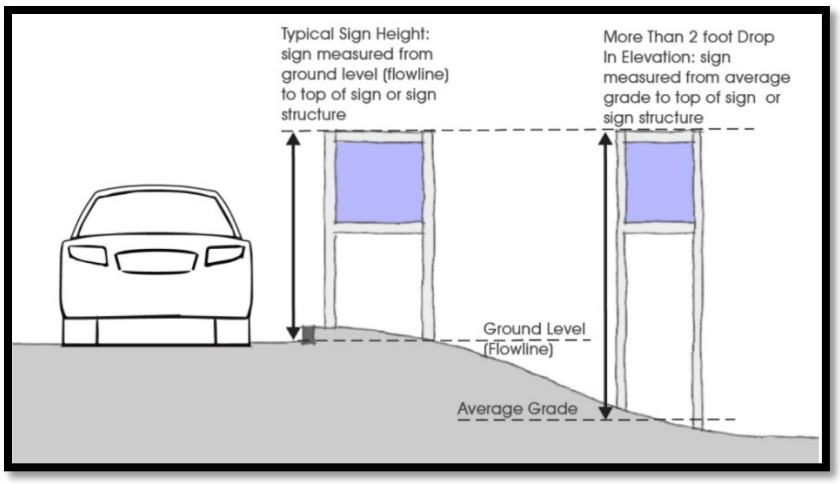
(4) **Sign Height.** Sign height is measured as:

(a) For ground-mounted signs:

(I) The distance between ground level at the base of the sign and the top of the sign or sign structure, whichever is higher; or

(II) If the average grade under the base of the sign is more than two (2) feet lower than the average grade of the nearest adjoining street, then the height of the detached sign shall be measured from the elevation of the flowline of the street to the top of the sign or sign structure.

Figure (F)(4)(a)
Sign Height (Ground-Mounted Signs)

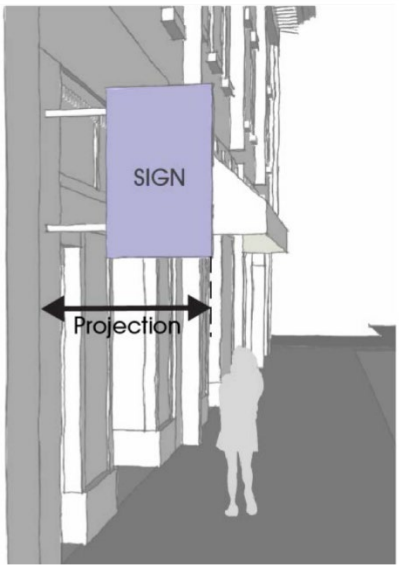


(b) For building-mounted signs, the greatest distance between the lowest part of the sign or sign structure and the highest part of the sign or sign structure.

**Figure (F)(4)(b)**
**Sign Height (Building-Mounted Signs)**

(5) **Projection.** Projection is the horizontal distance between a building wall or fascia to which a sign is mounted and the part of the sign or sign structure that is most distant from the wall or fascia, Measured perpendicular to the vertical plane of the wall or fascia.

**Figure (F)(5) Projection**




(6) **Setbacks.** Sign setbacks are measured perpendicularly from the property line that defines the required setback to the nearest point on the sign or sign structure.

(G) **Prohibited signs and sign elements.**

(1) **Generally.** The prohibitions in this subsection (G) apply to temporary and permanent signs in all areas of the City.

(2) **Prohibited Signs.** The following signs are not allowed, whether temporary or permanent:

(a) Temporary signs, except as specifically permitted in Section 5.16.3, Temporary Signs;

(b) Portable signs, except as permitted in the Code of the City of Fort Collins Chapter 24, Article IV;

(c) Wind-driven signs except flags, feather flags, banners, and pennants in compliance with Section 5.16.3;

(d) Inflatable signs, and signs that are designed to appear as inflatable signs (e.g., plastic balloons);

(e) Revolving or rotating signs;

(f) Permanent off-premises signs;

(g) Billboards; and

(h) Abandoned signs.

(3) **Prohibited Design Elements.** The following elements shall not be incorporated as an element of any sign or sign structure, whether temporary or permanent:

(a) Animated or moving parts, including any moving, swinging, rotating, or spinning parts or flashing, blinking, scintillating, chasing, fluctuating, or otherwise animated light; except as expressly allowed in this Sign Code;

(b) Cardboard, card stock, or paper, except when laminated or used as a window sign located on the interior side of the window;

(c) Motor vehicles, unless:

(I) The vehicles are operational, and either:

(i) Automobile dealer inventory; or

(ii) Regularly used as motor vehicles, with current registration and tags.

(II) The display of signage on the motor vehicle would not interfere with the immediate operation of the motor vehicle (e.g., signs that are held in place by an open hood or trunk are not allowed; signs that cover windows are not allowed; and signs that would fall off of the vehicle if the vehicle were in motion are not allowed); and

(III) The motor vehicle is legally parked in a vehicle use area depicted on an approved site plan.

(d) Semi-trailers, shipping containers, or portable storage units, unless:

(I) The trailers, containers, or portable storage units are:

(i) Structurally sound and capable of being transported;

(ii) Used for their primary purpose (e.g., storage, pick-up, or delivery); and

(iii) If subject to registration, have current registration and tags; and

(II) The display of signage is incidental to the primary purpose; and

(i) The semi-trailer, shipping container, or portable storage unit is parked or placed in a designated loading area or on a construction site in an area that is designated on an approved construction staging plan.

*Exception: This standard does not apply to shipping containers that are used as building cores.*

(e) Stacked products (e.g., tires, soft drink cases, bagged soil or mulch) that are placed in unapproved outdoor storage locations;

(f) Materials with a high degree of specular reflectivity, such as polished metal, installed in a manner that creates substantial glare from headlights, streetlights, or sunlight.

*Exception: This standard does not prohibit retroreflective materials that comply with the standards set forth in the Manual on Uniform Traffic Control Devices.*

(g) Rooftop signs and all other types of signs that project above the roof deck, except that signs are allowed on parapet walls if the parapet wall was constructed as a part of the building and the parapet wall includes a sign band within which the sign is installed.

*Exception: Secondary Roof signs as provided in subsection 5.16.2(F).*

(4) **Prohibited Obstructions**. In no event shall a sign, whether temporary or permanent, obstruct the use of:

(a) Building ingress or egress, including doors, egress windows, and fire escapes;

(b) Operable windows (with regard to movement, not transparency); or

(c) Equipment, structures, or architectural elements that are related to public safety, building operations, or utility service (e.g., standpipes, downspouts, fire hydrants, electrical outlets, lighting, vents, valves, and meters).

(5) **Prohibited Mounts**. No sign, whether temporary or permanent, shall be posted, installed, mounted on, fastened, or affixed to any of the following:

(a) Any tree or shrub;

(b) Any utility pole or light pole, unless:

(I) The sign is a banner or flag that is not more than ten (10) square feet in area;

(II) The owner of the utility pole or light pole consents to its use for the display of the banner or flag;

(III) The banner or flag is mounted on brackets or a pole that extends not more than thirty (30) inches from the utility pole or light pole;

(IV) The banner or flag is either situated above an area that is not used by pedestrians or vehicles, or the bottom of the banner or flag has a sign clearance of at least eight (8) feet; and

(V) Any applicable City encroachment or banner permits are obtained.

(c) Utility cabinets.

(H) **Prohibited Locations.** In addition to applicable setback requirements and other restrictions of this Sign Code, no sign shall be located in any of the following locations:

(1) In or over public rights-of-way (which, in addition to streets, may include other sidewalks, parkways, trails, multi-use pathways, retaining walls, utility poles, traffic calming devices, medians, and center islands that are within public rights-of-way), except:

(a) Signs painted on or affixed to transit shelters and bus benches as authorized by the provider of the shelter or bench, but not extending beyond the physical structure of the shelter or bench;

(b) Signs that are the subject of a revocable license agreement with the City, installed and maintained in accordance with the terms of that agreement;

(c) Portable signs permitted pursuant to the Code of the City of Fort Collins, Chapter 24, Article IV; or

(d) Signs posted by the City or jurisdiction that owns or maintains the right-of-way; or

(2) Within any sight distance triangle, as provided in subsection (I), below.

(I) **Illumination.** The illumination of signs, where permitted, shall comply with the standards of this subsection (I) and Division 5.12, Exterior Site Lighting.

(1) **Generally.**

(a) In general, attached illuminated signs shall be turned off by 11:00 PM if they located within three hundred (300) feet of property that is zoned, used, or approved for residential use. However, signs may be illuminated in Downtown, Commercial/Industrial, and Mixed-Use sign districts after 11:00 PM if:

(I) The operating hours of the use to which the sign relates extend past 10:30 PM, in which case the sign shall be turned off not more than thirty (30) minutes after the end of operating hours each day; and the sign is dimmed by at least thirty (30) percent between midnight and 6:00 AM;

(II) The lighting that illuminates the sign is used primarily for the protection of the premises or for safety purposes; or

(III) The sign is separated from residential uses by an arterial street.

(b) Illuminated signs shall avoid the concentration of illumination. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard or nuisance to adjoining property.

(c) No sign or associated luminaire shall create light spillover of more than one (1) lux at any property line that is zoned or used for single-unit detached, duplex, or townhome purposes.

(d) Every electric sign shall have affixed thereon an approved Underwriters' Laboratories label, and all wiring connected to such sign shall comply with all provisions of the National Electrical Code, as adopted by the City.

(e) Electrical service to freestanding signs shall be installed underground. Electrical service to attached signs shall be provided from the building and concealed from view.

(2) **Internal Illumination.**

(a) No internal sign lighting shall include any exposed light source, except that neon or comparable tube lighting is permitted in locations where internal sign illumination is allowed.

(b) During the time between sunset and the time an illuminated sign must be turned off pursuant to subsection (I)(1)(a), above, internally lit signs (including electronic message centers) shall not exceed six hundred (600) nits of luminance.

(3) **Indirect Lighting.**

(a) All signs that use indirect lighting shall have their lighting directed in such a manner as to illuminate only the face of the sign, and not to create glare or sky glow.

(b) When indirect lighting is used to illuminate detached signs, the light source must be concealed from view from on and off-site vehicular and pedestrian use areas and from within existing buildings.

(c) Indirect lighting of signs shall not exceed the following illuminance:

(I) Commercial/Industrial and Mixed-Use Sign Districts: six hundred (600) lux.

(II) Downtown Sign District: five hundred (500) lux.

(III) All Other Sign Districts: four hundred (400) lux.

(4) *Off-Premises Signage.* No new illumination may be added to existing off-premises signage.

(J) **Message Centers.**

(1) **Manual Copy Message Centers.**

(a) **Design.**

(I) Manual changeable copy message centers shall appear integrated into the sign face of a permanent sign that also includes text and graphics that are not part of the manual changeable copy message center.

(II) No manual changeable copy message center may be constructed using face or screen materials such as expanded metal or other types of mesh; any type of corrugated plastic such as Filon, V3, or Styrene; or other types of materials that are commonly used for "portable" or "homemade" signs.

(b) **Dimensions.** No manual changeable copy message center shall occupy more than eighty (80) percent of the sign area of a sign.

(c) **Operation and Maintenance.**

(I) No changeable copy sign or portion of a sign may have changeable copy that is nailed, pinned, glued, taped, or comparably attached.

(II) If any part of the changeable copy portion of a sign or the track type system or other method of attachment is absent from the sign, or deteriorates so that it is no longer consistent with the style or materials used in the permanent portion of the sign, or is altered in such a way that it no longer conforms to the approved plans and specifications, the sign shall be removed or repaired within fourteen (14) days.

(2) **Electronic Message Centers**. Digital electronic message centers ("EMCs") may be incorporated into signs as provided in this subsection.

(a) **Number, Design, Dimensions.**

(I) Not more than one (1) sign with an EMC component is allowed per street frontage.

(II) EMCs shall appear to be incorporated into the face of a permanent sign that includes text or graphics that are not part of the EMC.

(III) EMCs shall not have a pixel pitch that is greater than twelve (12) mm.

(IV) EMCs shall be integrated harmoniously into the design of the sign face and structure, shall not be the predominant element of the sign, and if located at the top of a sign, the sign must include a substantial cap feature above the EMC, which consists of the same material, form, color, and texture as is found on the sign face or structure.

(V) Not more than fifty (50) percent of the sign area of a permitted sign may be occupied by EMCs.

(b) **Spacing, Prohibitions.**

(I) Signs with EMC components shall be separated from each other and from property used or if the property is vacant but zoned for residential purposes (except multi-unit buildings with more than four [4] units) by a distance of not less than one hundred (100) feet, measured in a straight line.

(II) EMCs are not allowed on a freestanding pole sign.

(III) In the Downtown (D) District, wall signs with electronic message centers are not permitted on properties located within the boundaries of the Portable Sign Placement Area Map, See Section 24-150, et seq., Fort Collins City Code.

(c) **Operations.**

(I) The message displayed on an EMC shall not change more frequently than once per sixty (60) seconds. If a single sign includes multiple EMCs, they shall be considered a single EMC for the purposes of this standard.

(II) EMCs shall contain static messages only, and animated, dissolve, or fade transitions are not allowed.

(III) EMCs shall be controlled by dimming software and sensors to adjust brightness for nighttime viewing and variations in ambient light. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard or is otherwise detrimental to the public health, safety or welfare.

(d) **Certification**. Prior to acceptance of the installation by the City, the permit holder shall schedule an inspection with a Zoning Inspector to verify compliance. The permit holder and the business owner, business manager or property manager shall be in attendance during the inspection.

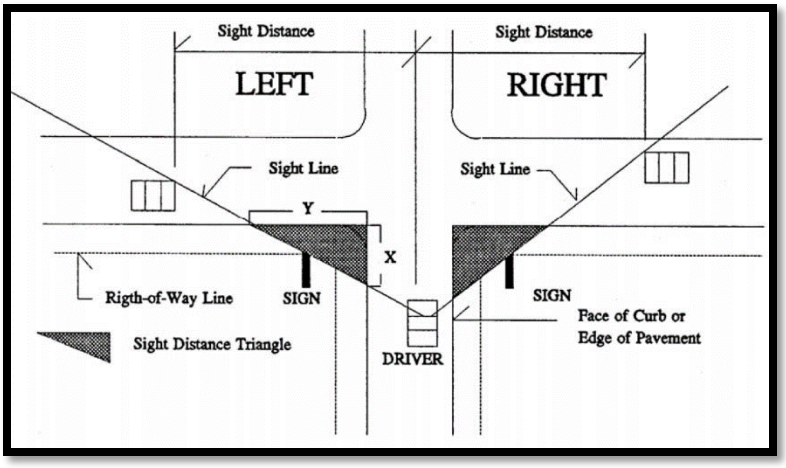
(K) **Sight Distance Triangles.** Signs that obstruct view within an area between forty-two (42) inches and seventy-two (72) inches above the flowline of the adjacent street shall be set back from the right-of-way line a distance as established in Table (K), Sight Distance Triangles.

**Table (K)**
**Sight Distance Triangles[1]**

| Type of street | Y distances (ft.)[2] | X distances (ft.) | Safe sight distance (ft.) |
|---|---|---|---|
| Arterial | Right: 135<br>Left: 270 | 15 | 500 |
| Collector | Right: 120<br>Left: 220 | 15 | 400 |
| Local | Right: 100<br>Left: 150 | 15 | 300 |

**Table Notes:**
[1] These distances are typical sight distance triangles to be used under normal conditions and may be modified by the Director of Engineering in order to protect the public safety and welfare in the event that exceptional site conditions necessitate such modification.
[2] See Figure (K) for illustration.

**Figure (K)**
**Sight Distance Triangle Setbacks**




(L) **Content.** Except as provided in this subsection (L), no sign shall be approved or disapproved based on the content or message it displays.

(1) **Prohibition on Certain Types of Unprotected Speech**. The following content, without reference to the viewpoint of the individual speaker, shall not be displayed on signs:

(a) Text or graphics that is harmful to minors as defined by state or federal law;

(b) Text or graphics that are obscene, fighting words, defamation, incitement to imminent lawless action, or true threats, as such words and phrases are defined by controlling law;

(c) Text or graphics that present a clear and present danger due to their potential confusion with traffic control signs; or

(d) Signs that provide false information related to public safety (e.g., signs that use the words "Stop," "Yield," "Caution," or "Danger," or comparable words, phrases, symbols, or characters that are presented in a manner as to confuse motorists or imply a safety hazard that does not exist).

(2) **Severability**. The narrow classifications of content that are prohibited from display on signs by this subsection (L) are either not protected by the United States and Colorado Constitutions, or are offered limited protection that is outweighed by the substantial and compelling governmental interests in protecting the public safety and welfare. It is the intent of the City Council that each provision of this subsection (L) be individually severable in the event that a court holds one or more of them to be inconsistent with the United States Constitution or Colorado Constitution.

(M) **Sign Districts.**

(1) **Generally.** In recognition that the City is a place of diverse physical character, and that different areas of the City have different functional characteristics, signs shall be regulated based on sign district in which they are located.

(2) **Sign Districts Created**. The following sign districts are created: Downtown, Commercial/Industrial, Multi-unit, Single-unit, and Residential Neighborhood. Sign districts shall correspond to zoning districts as provided in Table (M), Sign Districts.

| Table (M)<br>Sign Districts | |
|---|---|
| **Sign District** | **Corresponding Zoning Districts** |
| Downtown | D; RDR |
| Commercial/Industrial | T; CC; CCN; CCR; CG; CS; CL; HC; E; I |
| Mixed-Use | LMN; MMN; HMN; NC |
| Multi-unit | OT-B; OT-C; MH |
| Single-unit | RUL; UE; RF; RL; OT-A; POL; RC |
| Residential Neighborhood Sign District | See map on file at City Clerk's office. To the extent of any geographic overlap with other sign districts, the Residential Neighborhood Sign District supersedes the overlapped sign district. |

## 5.16.2 PERMANENT SIGNS

(A) **Sign Area Allowance.**

(1) **Generally.** The sign area allowance limits the total amount of sign area that may be allocated to certain types of signs (listed in Tables (B) to (F)) on a site based on the location and use of the site. Sign area allowance is calculated as set out in Table (A), Sign Area Allowance.

| Table (A) Sign Area Allowance | | | | | |
|---|---|---|---|---|---|
| **Location/Use** | **Calculation** | | | | |
| | For 1st 200 lf. of bldg. frontage. | + | For each lf. of bldg. frontage in excess of 200 lf. | = | But not less than |
| Generally | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| All Sign Districts[1] | 2 sf./lf. | + | 1 sf./lf. | = | 1 sf./lf. of lot frontage |

**TABLE NOTES:**
[1] Sign allowance is calculated per building frontage and may only be applied to the frontage to which the calculations apply. No more than 3 building frontages shall be used for the purposes of the sign allowance calculations.

(2) **Sites without Frontage on Public Streets**. If a building does not have frontage on a dedicated public street, the owner of the building may designate the one building frontage for the purpose of calculating the sign area allowance.

(3) **Allocation of Sign Area Allowance.**

(a) If the only building frontage that fronts on a public street is a wall containing no signs, the property owner may designate another building frontage on the building on the basis of which the total sign allowance shall be calculated, provided that no more than twenty-five (25) percent of the total sign allowance permitted under this Sign Code may be placed on frontage other than the building fascia which was the basis for the sign allowance calculation.

(b) In all other cases, the sign allowance for a property may be distributed in any manner among its building and/or street frontages except that no one building, or street frontage may contain more sign area than one hundred (100) percent of the sign area allowance.

**Figure (A), Sign Types**

(B) **Wall Signs.** Wall signs are allowed according to the standards in Table (B), Wall Signs.

**Table (B)**
**Wall Signs**

| Type of Sign Standards | Sign District | | | | | |
|---|---|---|---|---|---|---|
| | Outside of Residential Neighborhood Sign District[1] | | | | | |
| | Downtown | Commercial/ Industrial | Mixed-Use | Multi-Unit | Single-Unit | Within Residential Neighborhood Sign District[1] |
| **Applied or Painted Wall Signs** | | | | | | |
| Max. # | Not limited. | Not limited. | 1 per single-unit dwelling or duplex building that fronts on an arterial; or 1 per nonresidential use. | 1 per single-unit dwelling or duplex building that fronts on an arterial; or 1 per nonresidential use. | 1 per single-unit dwelling or duplex building that fronts on an arterial; or 1 per nonresidential use. | 1 per single-unit dwelling or duplex building that fronts on an arterial; not limited for nonresidential uses. |
| Subject to Sign Area Allowance | Yes. | Yes. | Nonresidential uses only. | Nonresidential uses only. | Nonresidential uses only. | Yes. |
| Max. Sign Area | In addition to sign allowance, 6 sf. is allowed on rear wall if: (i) the wall includes a public entrance; (ii) site is within DDA Alley Enhancement Project area; and (iii) a projecting sign is not installed on the wall. | Limited by sign area allowance. | Single-unit or duplex building: 4 sf. Nonresidential use: 35 sf. | Single-unit or duplex building: 4 sf. Nonresidential use: 35 sf. | Single-unit or duplex building: 4 sf. Nonresidential use: 35 sf. | Limited by sign area allowance, except if tenant space does not have outside wall, in which case 30 sf. |
| Max. Sign Height | 4.5 ft. if within 15 ft. of elevation of sidewalk below; 7 ft. if above 15 ft. of elevation of sidewalk below but any portion below fourth story; 9 ft. if entirely above fourth story. | 7 ft. | 7 ft. | 7 ft. | 7 ft. | 2.5 ft. within Neighborhood Service Center or Neighborhood Commercial Uses; 2 ft. within Convenience Shopping Center use; and 1.5 ft. for all other Institutional, Business, Commercial, or other Nonresidential uses. |
| Max. Sign Width | N/A. | N/A. | N/A. | N/A. | N/A. | N/A. |

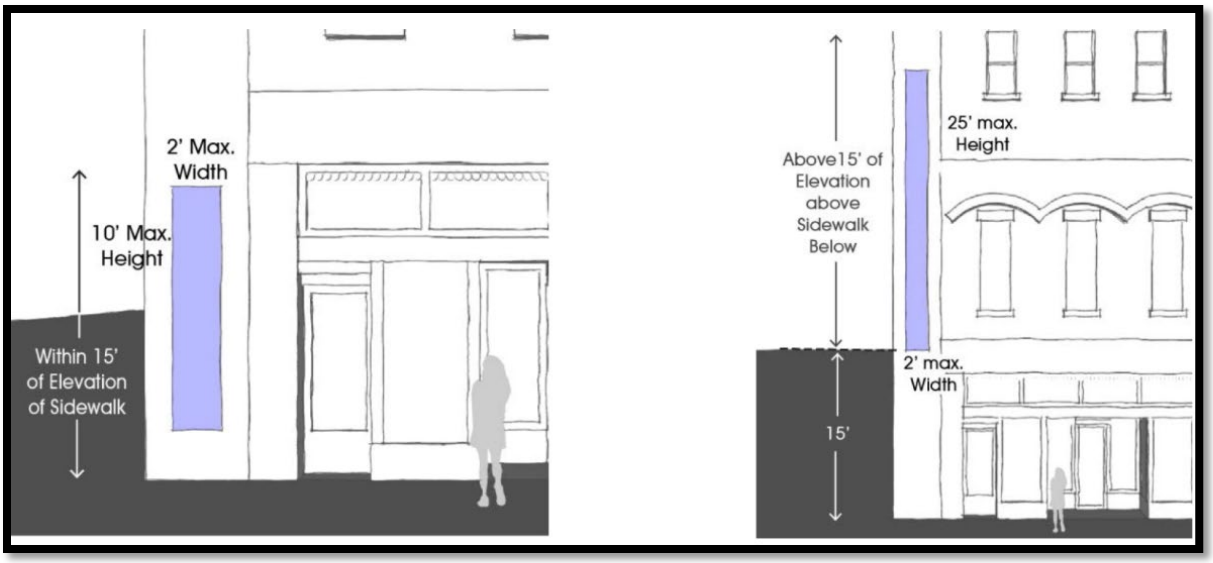
| | | | | | | |
|---|---|---|---|---|---|---|
| Allowed Lighting | Indirect only. | Indirect only. | Indirect only. | Indirect only. | None. | Indirect only. |
| Other Standards | For flush wall signs consisting of framed banners, all banners shall be sized to fit the banner frame so that there are no visible gaps between the edges of the banner and the banner frame. | For flush wall signs consisting of framed banners, all banners shall be sized to fit the banner frame so that there are no visible gaps between the edges of the banner and the banner frame. | Not allowed if detached sign is installed. | Not allowed if detached sign is installed. | Not allowed if detached sign is installed. | Location shall harmonize with architecture of the building(s) to which sign is attached, (e.g., projection, relief, cornice, column, change of building material, window or door opening); Flush wall signs shall align with other such signs on the same building. |

**Figure (B)(1)**
**Applied or Painted Wall Signs**

| Table (B)<br>Wall Signs | | | | | | |
|---|---|---|---|---|---|---|
| Type of Sign Standards | Sign District | | | | | |
| | Outside of Residential Neighborhood Sign District[1] | | | | | |
| | Downtown | Commercial/ Industrial | Mixed-Use | Multi-Unit | Single-Unit | Within Residential Neighborhood Sign District[1] |
| Applied or Painted Wall Signs - Vertically Oriented | | | | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| Max. # | 1 per building. | 1 per building. | 1 per building. | 1 per building. | 1 per building. | 1 per single-unit dwelling or duplex building that fronts on an arterial; 1 per building for nonresidential uses. |
| Subject to Sign Area Allowance | Yes. | Yes. | Nonresidential uses only. | Nonresidential uses only. | Nonresidential uses only. | Yes. |
| Max. Sign Area | Limited by sign area allowance. | Limited by sign area allowance. | Single-unit or duplex building: 4 sf. Nonresidential use: 35 sf. | Single-unit or duplex building: 4 sf. Nonresidential use: 35 sf. | Single-unit or duplex building: 4 sf. Nonresidential use: 35 sf. | Limited by sign area allowance, except if tenant space does not have outside wall, in which case 30 sf. |
| Max. Sign Height | 10′ if within 15′ if elevation of sidewalk below; 25 ft. if above 15′ of elevation of sidewalk below. | 25 ft. | 25 ft. | 25 ft. | 25 ft. | 25 ft. |
| Max. Sign Width | 2 ft. | 2 ft. | 2 ft. | 2 ft. | 2 ft. | 2 ft. |
| Allowed Lighting | Indirect only. | Indirect only. | Indirect only. | Indirect only. | Indirect only. | Indirect only. |

**Figure (B)(2)**
**Applied or Painted Wall Signs - Vertically Oriented**



| Table (B)<br>Wall Signs | | | | | | |
|---|---|---|---|---|---|---|
| Type of Sign Standards | Sign District | | | | | |
| | Outside of Residential Neighborhood Sign District[1] | | | | | |
| | Downtown | Commercial/ Industrial | Mixed-Use | Multi-Unit | Single-Unit | Within Residential Neighborhood Sign District[1] |
| Cabinet Wall Signs or Dimensional Wall Signs | | | | | | |
| Max. # | Not limited. | Not limited. | Not limited for nonresidential or mixed-use; 1 per building per frontage for multi-unit properties. | Not limited for nonresidential or mixed-use; 1 per building per frontage for multi-unit properties. | Not limited for nonresidential or mixed-use; 1 per building per frontage for multi-unit properties. | Not limited for nonresidential or mixed-use; 1 per building per frontage for multi-unit properties. |
| Subject to Sign Area Allowance | Yes. | Yes. | Nonresidential uses only. | Yes. | Yes. | Yes. |
| Max. Sign Area | Limited by sign area allowance. | Limited by sign area allowance. | Limited by sign area allowance. | Limited by sign area allowance. | Limited by sign area allowance. | Limited by sign area allowance. |
| Max. Sign Height | 4.5 ft. if within 15 ft. of elevation of sidewalk below; 7 ft. if above 15 ft. of elevation of sidewalk below but any portion below fourth story; 9 ft. if entirely above fourth story. | 7 ft. | 7 ft. | 7 ft. | 7 ft. | 2.5 ft. within Neighborhood Service Center or Neighborhood Commercial Uses; 2 ft. within Convenience Shopping Center use; and 1.5 ft. for all other Institutional, Business, Commercial, or other Nonresidential uses. |
| Max. Projection | 1 ft. | 1 ft. | 1 ft. | 1 ft. | 1 ft. | 1 ft. |
| Allowed Lighting | Any. | Any. | Any. | None. | None. | Internal only. |
| Other Standards | Raceway must be finished to match color of wall; raceway must be not more than 50% of height of attached letters or shapes. | Raceway must be finished to match color of wall; raceway must be not more than 50% of height of attached letters or shapes. | Raceway must be finished to match color of wall; raceway must be not more than 50% of height of attached letters or shapes. | Raceway must be finished to match color of wall; raceway must be not more than 50% of height of attached letters or shapes. | Raceway must be finished to match color of wall; raceway must be not more than 50% of height of attached letters or shapes. | Raceway must be finished to match color of wall; raceway must be not more than 50% of height of attached letters or shapes. |

(C) **Window Signs.** Window signs are allowed according to the standards in Table (C), Window Signs.

| Table (C) Window Signs | | | | | | |
|---|---|---|---|---|---|---|
| Type of Sign Standards | Sign District | | | | | |
| | Outside of Residential Neighborhood Sign District[1] | | | | | |
| | Downtown | Commercial/ Industrial | Mixed-Use | Multi-Unit | Single-Unit | Within Residential Neighborhood Sign District[1] |
| All Window Signs | | | | | | |
| Max. # | Not limited.[1] | Not limited.[1] | Not limited.[1] | Not limited. | Not limited. | Not limited. |
| Subject to Sign Area Allowance | Yes, except as provided in "other standards," below. | Yes, except as provided in "other standards," below. | Nonresidential only, and except as provided in "other standards," below. | No. | No. | Yes. |
| Max. Sign Area[2] | Up to 50% of area of architecturally distinct window. | Up to lesser of 50% of area of architecturally distinct window or 80 sf. | Up to lesser of 50% of area of architecturally distinct window or 80 sf. | Nonresidential: Up to lesser of 50% of area of architecturally distinct window or 80 sf.; Residential: 6 sf. | Nonresidential: Up to lesser of 50% of area of architecturally distinct window or 80 sf.; Residential: 6 sf. | Nonresidential: Up to lesser of 25% of area of architecturally distinct window or 80 sf.; Residential: 6 sf. |
| Max. Sign Height | No Max. | 7 ft. | 7 ft. | 3 ft. | 3 ft. | 3 ft. |
| Allowed Lighting | Internal. | Internal. | Internal. | None. | None. | Internal. |
| Other Standards | Window signs that are not exempt from sign permits are counted towards sign area allowance. See subsection (A), above, and Section 5.16.1(D)(5)(f). | Window signs that are not exempt from sign permits are counted towards sign area allowance. See subsection (A), above, and Section 5.16.1(D)(5)(f). | Window signs that are not exempt from sign permits are counted towards sign area allowance. See subsection (A), above, and Section 5.16.1(D)(5)(f). | Not allowed above the first story of nonresidential buildings. | Not allowed above the first story of nonresidential buildings. | Not allowed above the first story of nonresidential buildings. |

(D) **Projecting Signs.** Projecting signs include awning signs, marquee signs, under-canopy signs, and fin signs. Projecting signs are allowed according to the standards in Table (D), Projecting Signs. Projecting signs shall not extend into the public right-of-way, except that the City may grant a revocable license to allow projecting signs to encroach into the right-of-way.

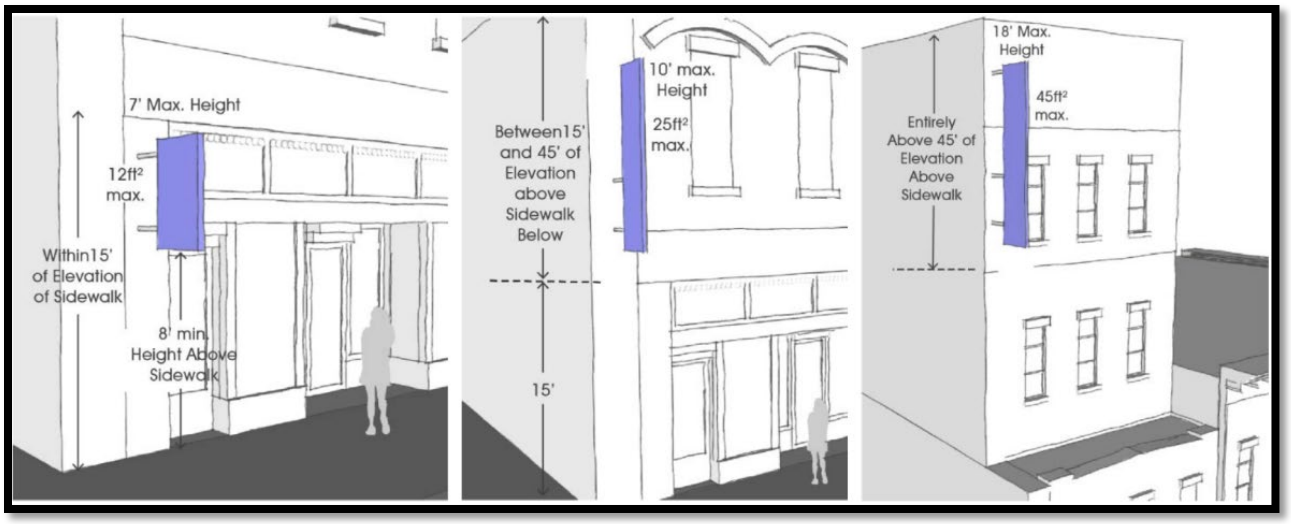
| Table (D) Projecting Signs | | | | | | |
|---|---|---|---|---|---|---|
| Type of Sign Standards | Sign District | | | | | |
| | Outside of Residential Neighborhood Sign District[1] | | | | | |
| | Downtown | Commercial/ Industrial | Mixed-Use | Multi-Unit | Single-Unit | Within Residential Neighborhood Sign District[1] |
| Awning Signs | | | | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| Max. # | 1 per awning. | 1 per awning. | 1 per awning. | 1 per awning; limited to nonresidential uses. | 1 per awning; limited to nonresidential uses. | 1 per awning; limited to nonresidential uses. |
| Subject to Sign Area Allowance | Yes. | Yes. | Nonresidential uses only. | Nonresidential uses only. | Nonresidential uses only. | Yes. |
| Max. Sign Area | Lesser of 35 sf. or 25% of total area of the awning. | Lesser of 35 sf. or 25% of total area of the awning. | Lesser of 35 sf. or 25% of total area of the awning. | Lesser of 35 sf. or 25% of total area of the awning. | Lesser of 10 sf. or 10% of total area of the awning. | Lesser of 35 sf. or 25% of total area of the awning. |
| Max. Projection (may project into right-of-way with revocable license) | 7 ft. | 7 ft. | 7 ft. | 7 ft. | 7 ft. | 7 ft. |
| Min. Sign Clearance | 8 ft. to awning; 7 ft. to valance. | 8 ft. to awning; 7 ft. to valance. | 8 ft. to awning; 7 ft. to valance. | 8 ft. to awning; 7 ft. to valance. | 8 ft. to awning; 7 ft. to valance. | 8 ft. to awning; 7 ft. to valance. |
| Allowed Lighting | Indirect; or backlighting of letters and graphics is allowed if background is completely opaque. | Indirect; or backlighting of letters and graphics is allowed if background is completely opaque. | Indirect; or backlighting of letters and graphics is allowed if background is completely opaque. | Indirect; or backlighting of letters and graphics is allowed if background is completely opaque. | For nonresidential uses only; Indirect; or backlighting of letters and graphics is allowed if background is completely opaque. | Indirect; or backlighting of letters and graphics is allowed if background is completely opaque. |
| Other Standards | Not allowed above first story; awning must be installed over window or building entrance Awning sign shall not project above top of awning or beyond face of awning. | Not allowed above first story; awning must be installed over window or building entrance Awning sign shall not project above top of awning or beyond face of awning. | Not allowed above first story; awning must be installed over window or building entrance Awning sign shall not project above top of awning or beyond face of awning. | Not allowed above first story; awning must be installed over window or building entrance Awning sign shall not project above top of awning or beyond face of awning. | Not allowed above first story; awning must be installed over window or building entrance Awning sign shall not project above top of awning or beyond face of awning. | Not allowed above first story; awning must be installed over window or building entrance Awning sign shall not project above top of awning or beyond face of awning. |
| **Under-Canopy Signs** | | | | | | |
| Max. # | 1 per building entrance for canopies that are attached to buildings; 1 per elevation for detached canopies. | 1 per building entrance for canopies that are attached to buildings; 1 per elevation for detached canopies. | 1 per building entrance for canopies that are attached to buildings; 1 per elevation for detached canopies. | 1 per building entrance for canopies that are attached to buildings; 1 per elevation for detached canopies. | 1 per building entrance for canopies that are attached to buildings; 1 per elevation for detached canopies. | Under canopies that cover vehicular use areas: 1 per street frontage; all others not limited. |

| | | | | | | |
|---|---|---|---|---|---|---|
| Subject to Sign Area Allowance | Yes. | Yes. | Yes. | Yes. | Yes. | Yes. |
| Max. Sign Area (per face) | Not covering vehicular use area: 4 sf.; Covering vehicular use area: 12 sf. | Not covering vehicular use area: 4 sf.; Covering vehicular use area: 12 sf. | Not covering vehicular use area: 4 sf.; Covering vehicular use area: 12 sf. | Not covering vehicular use area: 4 sf.; Covering vehicular use area: 12 sf. | Not covering vehicular use area: 4 sf.; Covering vehicular use area: 12 sf. | Not covering vehicular use area: 4 sf.; Covering vehicular use area: 12 sf. |
| Min. Sign Clearance | 8 ft. | 8 ft. | 8 ft. | 8 ft. | 8 ft. | 8 ft. |
| Allowed Lighting | Any. | Any. | Any. | Indirect only. | Indirect only. | Indirect only. |
| Other Standards | Under-canopy sign shall not project above top of canopy to which it is mounted; painted or applied wall sign standards apply if parallel to building facade; secondary fin sign standards apply if perpendicular to building facade; not allowed if secondary fin sign is present at same entrance. | Under-canopy sign shall not project above top of canopy to which it is mounted; painted or applied wall sign standards apply if parallel to building facade; secondary fin sign standards apply if perpendicular to building facade; not allowed if secondary fin sign is present at same entrance. | Under-canopy sign shall not project above top of canopy to which it is mounted; painted or applied wall sign standards apply if parallel to building facade; secondary fin sign standards apply if perpendicular to building facade; not allowed if secondary fin sign is present at same entrance. | Not allowed if secondary fin sign is present at same entrance. | Not allowed if secondary fin sign is present at same entrance. | Not allowed on a canopy that covers a vehicular use area if a canopy sign is present; not allowed if secondary fin sign is present at same entrance. |
| **Fin Signs (Primary)** | | | | | | |
| Max. # | 1 per street frontage per nonresidential, mixed-use, or multifamily building. | 1 per street frontage per nonresidential, mixed-use, or multifamily building. | 1 per street frontage per nonresidential, mixed-use, or multifamily building. | 1 per street frontage per nonresidential, mixed-use, or multifamily building. | 1 per street frontage per nonresidential, mixed-use, or multifamily building. | 1 per street frontage per nonresidential, mixed-use, or multifamily building. |
| Subject to Sign Area Allowance | Yes. | Yes. | Yes, but only for nonresidential, mixed-use, or multifamily buildings. | Yes, but only for nonresidential, mixed-use, or multifamily buildings. | Yes, but only for nonresidential, mixed-use, or multifamily buildings. | Yes. |
| Max. Sign Area | 12 sf. if within 15 ft. of elevation of sidewalk below; 25 sf. if between 15 ft. and 45 ft. of elevation above sidewalk below; 45 sf. if entirely above 45 ft. of | 15 sf. | 15 sf. | 15 sf. | 15 sf. | 7 sf. |

| | | | | | | |
|---|---|---|---|---|---|---|
| | elevation above sidewalk below. | | | | | |
| Max. Sign Height | 7 ft. if within 15 ft. of elevation of sidewalk below; 10 ft. if 15 ft. to 45 ft. of elevation above sidewalk below; 18 ft. if entirely above 45 ft. of elevation above sidewalk below. | 7 ft. | 7 ft. | 7 ft. | 7 ft. | 4 ft. |
| Max. Projection (may project into right-of-way only by revocable license) | Entirely or partially below third story: 3 ft.; entirely above third story: 6 ft.; Not more than 4 ft. within right-of-way. | 6 ft.; not more than 4 ft. within right-of-way. | 6 ft.; not more than 4 ft. within right-of-way. | 6 ft.; not more than 4 ft. within right-of-way. | 6 ft.; not more than 4 ft. within right-of-way. | 4 ft.; not more than 4 ft. within right-of-way. |
| Min. Sign Clearance | 8 ft. | 8 ft. | 8 ft. | 8 ft. | 8 ft. | 8 ft. |
| Allowed Lighting | Any. | Any. | Any. | Any. | Any. | Internal only. |
| Other Standards | City may authorize up to 48 in. encroachment into right-of-way by revocable license if total sign area for fin signs is lesser of 1 sf. per lf. building frontage or 12 sf. | City may authorize up to 48 in. encroachment into right-of-way by revocable license if total sign area for fin signs is lesser of 1 sf. per lf. building frontage or 12 sf. | City may authorize up to 48 in. encroachment into right-of-way by revocable license if total sign area for fin signs is lesser of 1 sf. per lf. building frontage or 12 sf. | City may authorize up to 48 in. encroachment into right-of-way by revocable license if total sign area for fin signs is lesser of 1 sf. per lf. building frontage or 12 sf. | City may authorize up to 48 in. encroachment into right-of-way by revocable license if total sign area for fin signs is lesser of 1 sf. per lf. building frontage or 12 sf. | |

Figure (D)
Fin Signs (Primary)




| Table (D)<br>Projecting Signs | | | | | | |
|---|---|---|---|---|---|---|
| Type of Sign Standards | Sign District | | | | | |
| | Outside of Residential Neighborhood Sign District[1] | | | | | |
| | Downtown | Commercial/ Industrial | Mixed-Use | Multi-Unit | Single-Unit | Within Residential Neighborhood Sign District[1] |
| Fin Signs (Secondary) | | | | | | |
| Max. # | 1 per public building entry. | 1 per public building entry. | 1 per public building entry. | 1 per public building entry. | 1 per public building entry. | 1 per public building entry. |
| Subject to Sign Area Allowance | Yes. | Yes. | Yes, but only for nonresidential uses. | No. | No. | Yes. |
| Max. Sign Area | 4 sf. | 4 sf. | 4 sf. | 4 sf. | 4 sf. | 4 sf. |
| Max. Projection | 4 ft. | 4 ft. | 4 ft. | 4 ft. | 4 ft. | 1 ft. |
| Min. Sign Clearance | By building code. | By building code. | By building code. | By building code. | By building code. | By building code. |
| Allowed Lighting | Indirect only. | Any. | Any. | Not allowed. | Not allowed. | Internal only. |
| Other Standards | Must be located above entrance, within 3 ft. of top of door; not allowed if under-canopy sign is present at | Must be located above entrance, within 3 ft. of top of door; not allowed if under-canopy sign is present at same entrance. | Must be located above entrance, within 3 ft. of top of door; not allowed if under-canopy sign is present at same entrance. | Must be located above entrance, within 3 ft. of top of door; not allowed if under-canopy sign is present at same entrance. | Must be located above entrance, within 3 ft. of top of door; not allowed if under-canopy sign is present at | Must be located above entrance, within 3 ft. of top of door; not allowed if under-canopy sign is present at same entrance. |

| | | | | | | |
|---|---|---|---|---|---|---|
| | same entrance. | | | | same entrance. | |

(E) **Canopy Signs.** Canopy signs are allowed according to the standards in Table (E), Canopy Signs.

**Table (E)**
**Canopy Signs**

| Type of Sign Standards | Sign District | | | | | |
|---|---|---|---|---|---|---|
| | Outside of Residential Neighborhood Sign District[1] | | | | | |
| | Downtown | Commercial/ Industrial | Mixed-Use | Multi-Unit | Single-Unit | Within Residential Neighborhood Sign District[1] |
| **All Canopy Signs** | | | | | | |
| Max. # | 1 per canopy elevation, for nonresidential, multi-unit, or mixed-use property. | 1 per canopy elevation, for nonresidential, multi-unit, or mixed-use property. | 1 per canopy elevation, for nonresidential, multi-unit, or mixed-use property. | 1 per canopy elevation, for nonresidential, multi-unit, or mixed-use property. | 1 per canopy elevation, for nonresidential, multi-unit, or mixed-use property. | 1 per street frontage, on canopy that covers vehicular use area of nonresidential. multi-unit, or mixed-use property. |
| Subject to Sign Area Allowance | Yes. | Yes. | Yes. | Yes. | Yes. | Yes. |
| Max. Sign Area (per sign) | 20 percent of canopy fascia on elevation to which sign is mounted. | 30 percent of canopy fascia on elevation to which sign is mounted. | 30 percent of canopy fascia on elevation to which sign is mounted. | 15 percent of canopy fascia on elevation to which sign is mounted. | 10 percent of canopy fascia on elevation to which sign is mounted. | 12 sf. on canopy that covers vehicular use area. |
| Allowed Lighting | Internal only. | Internal only. | Internal only. | Internal only. | Internal only. | Internal only. |
| Min. Sign Clearance | By building code. | By building code. | By building code. | By building code. | By building code. | By building code. |
| Other Standards | Canopy signs shall not project above the top of the canopy to which they are mounted. | Canopy signs shall not project above the top of the canopy to which they are mounted. | Canopy signs shall not project above the top of the canopy to which they are mounted. | Canopy signs shall not project above the top of the canopy to which they are mounted. | Canopy signs shall not project above the top of the canopy to which they are mounted. | Not allowed on a canopy that covers a vehicular use area if an under-canopy sign is present. |

(F) **Secondary Roof Signs.** Secondary roof signs are allowed according to the standards in Table (F), Secondary Roof Signs.

**Table (F)**
**Secondary Roof Signs**

| Type of Sign Standards | Sign District | | | | | |
|---|---|---|---|---|---|---|
| | Outside of Residential Neighborhood Sign District[1] | | | | | |
| | Downtown | Commercial/ Industrial | Mixed-Use | Multi-Unit | Single-Unit | Within Residential Neighborhood Sign District[1] |

| | | | | | | |
|---|---|---|---|---|---|---|
| Max. # | 1 per building, for nonresidential or mixed-use property. | 1 per building, for nonresidential or mixed-use property. | 1 per building, for nonresidential or mixed-use property. | 1 per building, for nonresidential or mixed-use property. | 1 per building, for nonresidential or mixed-use property. | 1 per building, for nonresidential or mixed-use property. |
| Subject to Sign Area Allowance | Yes. | Yes. | Yes. | Yes. | Yes. | Yes. |
| Max. Sign Area (per sign) | Limited by sign area allowance. | Limited by sign area allowance. | Limited by sign area allowance. | Limited by sign area allowance. | Limited by sign area allowance. | Limited by sign area allowance. |
| Max. Sign Height | 1st or 2nd story secondary roof: 3 ft. | 1st or 2nd story secondary roof: 3 ft. | 1st or 2nd story secondary roof: 3 ft. | 1st or 2nd story secondary roof: 3 ft. | 1st or 2nd story secondary roof | 1st or 2nd story secondary roof: 3 ft. |
| Allowed Lighting | Any. | Any. | Any. | Any. | Any. | Any. |
| Other Standards | Distance between secondary roof and bottom of sign face shall not exceed 6 in.; not allowed above 2nd story. | Distance between secondary roof and bottom of sign face shall not exceed 6 in.; not allowed above 2nd story. | Distance between secondary roof and bottom of sign face shall not exceed 6 in.; not allowed above 2nd story. | Distance between secondary roof and bottom of sign face shall not exceed 6 in.; not allowed above 2nd story. | Distance between secondary roof and bottom of sign face shall not exceed 6 in.; not allowed above 2nd story. | Distance between secondary roof and bottom of sign face shall not exceed 6 in.; not allowed above 2nd story. |

**Figure (F)**
**Secondary Roof Sign**

(G) **Freestanding Permanent Signs.** Detached permanent signs are allowed according to the standards in Table (G)(1), Freestanding Permanent Signs.

| Table (G)(1)<br>Freestanding Permanent Signs | |
|---|---|
| | Sign District |
| | Outside of Residential Neighborhood Sign District[1] |

| Type of Sign Standards | Downtown | Commercial/ Industrial | Mixed-Use | Multi-Unit | Single-Unit | Within Residential Neighborhood Sign District[1] |
|---|---|---|---|---|---|---|
| **Primary Detached Signs** | | | | | | |
| Max. # | 1 per frontage.[1] | 1 per frontage.[1] | 1 per frontage for nonresidential, mixed-use, or multi-unit property.[1] | 1 per site for nonresidential, mixed-use, or multi-unit uses[1]; 1 per site for single-unit detached or duplex if the lot fronts on an arterial; 2 per public vehicular entry into residential subdivision or multifamily site (one single face sign on each side of entry). | 1 per site for nonresidential, mixed-use, or multi-unit uses[1]; 1 per site for single-unit detached or duplex if the lot fronts on an arterial; 2 per public vehicular entry into residential subdivision or multifamily site (one single face sign on each side of entry). | 1 per site for nonresidential, mixed-use, or multi-unit uses[1]; 2 per public vehicular entry into residential subdivision or multifamily site (one single face sign on each side of entry). |
| Subject to Sign Area Allowance | Yes. | Yes. | Yes, for nonresidential or multi-unit uses. | No. | No. | Yes. |
| Max. Sign Area | Based on setback and style, see Table (G)(2), below. | Based on setback and style, see Table (G)(2), below. | Based on setback and style, see Table (G)(2), below. | Single-unit detached or duplex building with frontage on arterial: 4 sf. All other allowed signs: 35 sf. | Single-unit detached or duplex building with frontage on arterial: 4 sf. All other allowed signs: 35 sf. | 32 sf.[2] |
| Max. Sign Height | Based on setback and style, see Table (G)(2), below. | Based on setback and style, see Table (G)(2), below | Based on setback and style, see Table (G)(2), below. | Single-unit detached or duplex building with frontage on arterial: 5 ft. Multi-unit or Nonresidential use: 8 ft. | Single-unit detached or duplex building with frontage on arterial: 5 ft. Multi-unit or Nonresidential use: 8 ft. | Multi-unit or Nonresidential use: 5 ft.[2] |
| Allowed Lighting | Any. | Any. | Any. | Indirect only. | None. | Indirect only. |
| Setbacks and Spacing | See Table (G)(2), below; 15 ft. setback from interior lot lines; 75 ft. spacing between freestanding signs. | See Table (G)(2), below; 15 ft. setback from interior lot lines; 75 ft. spacing between freestanding signs. | See Table (G)(2), below; 15 ft. setback from interior lot lines; 75 ft. spacing between freestanding signs. | Not allowed if a wall sign is installed. | Not allowed if a wall sign is installed. | 75 ft. from adjacent residential zone or existing or approved residential use. |
| Max. Cabinets or Modules per Sign Face | 3 | 3 | 3 | 3 | 3 | 3 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Other Standards | Location may be established by approved development plan. Structure shall match primary finish and colors of associated buildings. Pole style signs shall contain no more than thirty (30) percent (or forty [40] percent if located within the site distance triangle) of free air space between the top of the sign and the ground, vertically and between the extreme horizontal limits of the sign extended perpendicular to the ground. A base or pole cover provided to satisfy this requirement shall be integrally designed as part of the sign by use of such techniques as color, material and texture. Freestanding signs that existed prior to December 30, 2011, and that do not comply with this requirement shall be removed or brought into compliance by December 31, 2019, provided that such signs otherwise comply with Section 5.16.4, Nonconforming Signs. | | | | | Structure shall match primary finish and colors of associated buildings; must be monument style. |
| **Secondary Detached Signs** | | | | | | |
| Max. # | 1 per vehicular access point to nonresidential, mixed-use, or multifamily property. | 1 per vehicular access point to nonresidential, mixed-use, or multifamily property. | 1 per vehicular access point to nonresidential, mixed-use, or multifamily property. | 1 per vehicular access point to nonresidential, mixed-use, or multifamily property. | 1 per vehicular access point to nonresidential, mixed-use, or multifamily property. | 1 per street frontage of a nonresidential, mixed-use, or multifamily uses. |
| Subject to Sign Area Allowance | Yes. | Yes. | Nonresidential uses only. | No. | No. | No. |
| Max. Sign Area | 16 sf. | 16 sf. | 16 sf. | 16 sf. | 16 sf. | 20 sf. |
| Max. Sign Height | 4 ft. | 4 ft. | 4 ft. | 4 ft. | 4 ft. | 5 ft. |
| Allowed Lighting | Any. | Any. | Any. | Indirect only. | Indirect only. | Indirect only. |
| Setbacks and Spacing | 2 ft. from right-of-way; 10 ft. from property lines. | 2 ft. from right-of-way; 10 ft. from property lines. | 2 ft. from right-of-way; 10 ft. from property lines. | 2 ft. from right-of-way; 10 ft. from property lines. | 2 ft. from right-of-way; 10 ft. from property lines. | 2 ft. from right-of-way; 10 ft. from property lines. |
| Max. Cabinets or Modules per Sign Face | 1 | 1 | 1 | 1 | 1 | 1 |
| Other Standards | Same as primary freestanding sign; however, pole style signs are not allowed. | Same as primary freestanding sign; however, pole style signs are not allowed. | Same as primary freestanding sign; however, pole style signs are not allowed. | Same as primary freestanding sign; however, pole style signs are not allowed. | Same as primary freestanding sign; however, pole style signs are not allowed. | Same as primary freestanding sign; however, pole style signs are not allowed. |
| **Drive-Thru Lane Signs** | | | | | | |
| Max. # | 1 per drive through lane | 1 per drive through lane | 1 per drive through lane | 1 per drive through lane | 1 per drive through lane | 1 per drive through lane |
| Subject to Sign Area Allowance | No. | No. | No. | No. | No. | No. |
| Max. Sign Area | 30 sf.[3] | 30 sf.[3] | 30 sf.[3] | 30 sf.[3] | 30 sf.[3] | 30 sf.[3] |
| Max. Sign Height | 6 ft. | 6 ft. | 6 ft. | 6 ft. | 6 ft. | 6 ft. |
| Allowed Lighting | Any. | Any. | Any. | Any. | Any. | Any. |
| Setbacks and Spacing | 2 ft. from the right of way; if the sign faces | 2 ft. from the right of way; if the sign faces | 2 ft. from the right of way; if the sign faces | 2 ft. from the right of way; if the sign faces | 2 ft. from the right of way; if the sign faces | 2 ft. from the right of way; if the sign faces |

| | | | | | | |
|---|---|---|---|---|---|---|
| | out to the right-of-way 10 ft. | out to the right-of-way 10 ft. | out to the right-of-way 10 ft. | out to the right-of-way 10 ft. | out to the right-of-way 10 ft. | out to the right-of-way 10 ft. |
| Max. Cabinets or Modules per Sign Face | 1 | 1 | 1 | 1 | 1 | 1 |
| Other Standards | Must be oriented to the drive-thru lane; if any part of the sign structure is visible from abutting property or right-of-way additional screening is required.[4] | Must be oriented to the drive-thru lane; if any part of the sign structure is visible from abutting property or right-of-way additional screening is required.[4] | Must be oriented to the drive-thru lane; if any part of the sign structure is visible from abutting property or right-of-way additional screening is required.[4] | Must be oriented to the drive-thru lane; if any part of the sign structure is visible from abutting property or right-of-way additional screening is required.[4] | Must be oriented to the drive-thru lane; if any part of the sign structure is visible from abutting property or right-of-way additional screening is required.[4] | Must be oriented to the drive-thru lane; if any part of the sign structure is visible from abutting property or right-of-way additional screening is required.[4] |
| **Table Notes:** | | | | | | |
| [1] Frontages include the frontage of all properties that are part of a group of properties that are planned or developed with shared pedestrian or vehicular access. Signs may not be allocated from one frontage to another. | | | | | | |
| [2] Additional sign area and sign height are allowed as follows:<br>(i) Convenience shopping centers: Max. sign area: 40 sf., Max. sign height 8 ft.;<br>(ii) Neighborhood service centers or neighborhood commercial districts: Max. sign area: 55 sf., Max. sign height: 10 ft. | | | | | | |
| [3] A Drive-Thru Lane EMC may be 100% of the sign area if the display changes no more than three times in a 24 hr. period. | | | | | | |
| [4] For a Drive-Thru Lane Sign screening may be achieved through plants or other materials compatible to the primary building. | | | | | | |

**Table (G)(2)**
**Setback for Primary Detached Signs Based on Sign Height and Sign Area**

| Distance from Street Right-of-Way Line (ft.) | Monument Style Sign Max. Height (ft.) | Max. Sign Area (per face) (sf.) | Pole Style Sign Max. Height (ft.) | Max. Sign Area (per face) (sf.) |
|---|---|---|---|---|
| 0 | 7 | 45 | 10 | 20 |
| 5 | 8.5 | 60 | 10 | 30 |
| 10 | 10 | 75 | 12 | 40 |
| 15 | 12 | 90 | 12 | 50 |
| 20 | 12 | 90 | 14 | 60 |
| 25 | 12 | 90 | 16 | 70 |
| 30 | 12 | 90 | 18 | 80 |
| 36+ | 12 | 90 | 18 | 90 |

(H) **Projected Light Signs.**

(1) **Horizontal Projected Light Signs.**

(a) Horizontal projected light signs that are projected onto public sidewalks are allowed only by portable sign permit, except that with respect to such signs, the area in which the portable sign permit may be issued is expanded to include the following zoning districts: D, RDR, CCR, CG, and NC, and all pedestrian-oriented shopping streets within the CC and HC zoning districts.

(b) All horizontal projected light signs require a permit.

(c) The projected image of a horizontal projected light sign:

(I) Shall be entirely within ten (10) feet of a building entrance;

(II) Shall not exceed six (6) square feet in area;

(III) Shall be projected onto a sidewalk or landscaped area;

(IV) Shall not project onto safety or traffic signage (e.g., crosswalk markings, bicycle dismount signs, etc.); and

(V) Shall comply with all applicable lighting standards.

(d) The projector shall be concealed from view and either:

(I) Located entirely on private property; or

(II) Hung under an awning, canopy, eave, or arcade that is allowed to encroach over the right-of-way by way of a revocable license.

(e) A Horizontal projected light sign shall not be displayed on the public sidewalk at the same time as a sidewalk sign.

(2) **Vertical Projected Light Signs**. Vertical projected light signs are not allowed as permanent signs. See Section 5.16.3 for the temporary use of vertical projected light signs.

(3) **Operation**. All projected light signs shall contain static messages only. Animated, dissolve, or fade transitions are not allowed.

(I) **Restoration or Reconstruction of Historic Signs.** The provisions of this subsection apply to buildings in the Downtown sign district that are fifty (50) years or older, whether they are formally recognized as historic at the local, state, or national level, or whether they are located within a designated historic district.

(1) A sign on a designated property, or a property determined to be eligible for designation on the National Register of Historic Places, the State Register of Historic Properties, or as a Fort Collins Landmark, that may not otherwise comply with the strict provisions of this Sign Code and has been approved by the Historic Preservation Commission through a review of Chapter 14 of the City Code shall be permitted and shall not be counted in sign area allowance for the property.

(2) A sign on a property which is not designated or individually eligible for designation on the National Register of Historic Places, the State Register of Historic Properties, or as a Fort Collins Landmark, that may not otherwise comply with the strict provisions of this Sign Code and is inspired by a historic sign on the property and does not require a review through Chapter 14 of the City Code by the Historic Preservation Commission shall be reviewed by the Director. In approving such signs, the Director shall not condition approval on changes in content and must find the following:

(a) The sign is not detrimental to the public good;

(b) The size and location of the sign are comparable to a historic sign of the property and the deviation from the provisions of this Sign Code are nominal and inconsequential with the context of the neighborhood;

(c) The sign is comparable to the quality, character and design of a historic sign of the property; and

(d) The sign shall not degrade the historic character of the neighborhood or convey a false sense of history.

The Director may deny any sign application that does not meet all the standards of this Section. All signs approved through Section 5.16.2(I) shall count towards the sign area allowance for the property.

## 5.16.3 TEMPORARY SIGNS

(A) **Applicability.** The regulations contained in this Section 5.16.3 apply to temporary signs. The standards of this Section are applied in conjunction with all other applicable standards.

(B) **Standards for Attached Temporary Signs.**

(1) **Generally.** The standards of this subsection apply to temporary signs that are attached to buildings. Temporary signs that are not attached to buildings are subject to the standards of subsection (C), below. Duration of display is limited by subsection (D).

(2) **Attached Temporary Banners and Pennants**. Attached temporary banners and pennants may only be displayed provided a permit is obtained pursuant to Section 5.16.4(B)(2).

(3) **Temporary Sign Covers**. Temporary sign covers are permitted in all sign districts, provided that they are used during a period not to exceed forty (40) days in which a new permanent sign or sign component is being fabricated and such sign or sign component is permitted and installed in accordance with this Sign Code.

(4) **Temporary Window Signs**.

(a) Temporary window signs are allowed in all locations where permanent window signs are allowed, provided that the standards of Section 5.16.2(C) are met as to the combination of temporary and permanent window signs.

(b) Temporary window signs shall be affixed to the window such that the fastener (e.g., tape) is not highly visible, or shall be mounted vertically inside of the building for viewing through the window.

(C) **Standards for Detached Temporary Signs.**

(1) **Generally.** The standards of this subsection apply to temporary signs that are not attached to buildings. Temporary signs that are attached to buildings are subject to the standards of subsection (B), above. Duration of display is limited by subsection (D).

(2) **Detached Temporary Signs**. Detached temporary signs are allowed according to the standards in Table (C), Detached Temporary Signs. Detached temporary sign types that are not listed in Table C (including but not limited to inflatable signs) are not allowed. Detached banners and pennants may only be displayed provided a permit is obtained pursuant to subsection (E), below. Portable signs may only be displayed provided a permit is obtained pursuant to the Code of the City of Fort Collins, Chapter 24, Article IV.

| Table (C)<br>Detached Temporary Signs<br>(sf. = square feet/ft. = linear feet/N/A = not applicable) | | | | |
|---|---|---|---|---|
| Type of Sign Standards | Sign District | | | |
| | Downtown | Commercial-Industrial | Multi-Unit/Mixed Use | Single-Unit |
| **Yard Signs** | | | | |
| Max. # | Single-Unit and Duplex Residential Buildings: Not Limited. | Single-Unit and Duplex Residential Buildings: Not Limited. | Single-Unit and Duplex Residential Buildings: Not Limited. | Residential Buildings: Not limited. |
| | Multi-Unit Residential Buildings: 1 per 20 ft. of property frontage or fraction thereof | All other uses: 2 per vehicular access point. | Multi-Unit Residential Buildings: 1 per 20 ft. of property frontage or fraction thereof. | Nonresidential and Residential Mixed Use Buildings: 1 per 80 ft. of property frontage or fraction thereof. |
| | Nonresidential and Residential Mixed Use Buildings: 1 per 80 ft. of property frontage or fraction thereof. | | Nonresidential and Residential Mixed Use Buildings: 1 per 80 ft. of property frontage or fraction thereof. | |
| Max. Sign Area (per sign) | 6 sf. | 8 sf. | 8 sf. | 6 sf. |
| Max. Sign Height | 4 ft. | 4 ft. | 4 ft. | 4 ft. |
| Allowed Lighting | None. | None. | None. | None. |
| Setbacks and Spacing | 2 ft. from property lines; 2 ft. from all other signs. | 2 ft. from property lines; 2 ft. from all other signs. | 2 ft. from property lines; 2 ft. from all other signs. | 2 ft. from property lines; 2 ft. from all other signs. |
| Other Standards | Must be installed in permeable landscaped area. | Must be installed in permeable landscaped area that is at least 8 sf. in area and 2 ft. in any horizontal dimension, not more than 10 ft. from vehicular access point. | Must be installed in permeable landscaped area that is at least 8 sf. in area and 2 ft. in any horizontal dimension. | Must be installed in permeable landscaped area that is at least 8 sf. in area and 2 ft. in any horizontal dimension. |
| **Site Signs** | | | | |
| Max. # | Residential Buildings: Not Limited | 1 per 600 ft. of property frontage or fraction thereof. | 1 per 600 ft. of property frontage or fraction thereof, provided that the area of the property is at least 2 acres; properties that are less than 2 acres shall not display site signs. | 1 per 600 ft. of property frontage or fraction thereof, provided that the area of the property is at least 2 acres; properties that are less than 2 acres shall not display site signs. |
| | Nonresidential and Residential Mixed Use Buildings: 1 per property. | | | |
| Max. Sign Area | 16 sf. | 32 sf. | 32 sf. | 32 sf. |
| Max. Sign Height | 6 ft. | 6 ft. | 6 ft. | 6 ft. |
| Allowed Lighting | External, down directional and | External, down directional and | External, down directional and | External, down directional and |

| | | | | |
|---|---|---|---|---|
| | concealed light source. | concealed light source. | concealed light source. | concealed light source. |
| Setbacks and Spacing | 2 ft. from front property lines. | 2 ft. from front property lines. | 2 ft. from front property lines. | 2 ft. from front property lines. |
| | 10 ft. from all other property lines. | 10 ft. from all other property lines. | 10 ft. from all other property lines. | 10 ft. from all other property lines. |
| | 10 ft. from all other signs. | 10 ft. from all other signs. | 10 ft. from all other signs. | 10 ft. from all other signs. |
| | 12 ft. from building walls. | 12 ft. from building walls. | 12 ft. from building walls. | 12 ft. from building walls. |
| Other Standards | Where allowed, site signs shall be installed in permeable landscaped areas or hardscaped areas other than vehicular use areas and sidewalks that are at least 5 ft. in every horizontal dimension and at least 40 sf. in area. | Where allowed, site signs shall be installed in permeable landscaped areas or hardscaped areas other than vehicular use areas and sidewalks that are at least 5 ft. in every horizontal dimension and at least 40 sf. in area. | Where allowed, site signs shall be installed in permeable landscaped areas or hardscaped areas other than vehicular use areas and sidewalks that are at least 5 ft. in every horizontal dimension and at least 40 sf. in area. | Where allowed, site signs shall be installed in permeable landscaped areas or hardscaped areas other than vehicular use areas and sidewalks that are at least 5 ft. in every horizontal dimension and at least 40 sf. in area. |
| **Swing Signs** | | | | |
| Max. # | Not allowed. | Not allowed. | 1 per property frontage. | 1 per property frontage. |
| Max. Sign Area | N/A. | N/A. | 5 sf., including riders. | 5 sf., including riders. |
| Max. Sign Height | N/A. | N/A. | 5 ft. | 5 ft. |
| Allowed Lighting | N/A. | N/A | None. | None. |
| Setbacks and Spacing | N/A. | N/A. | 2 ft. from all property lines. | 2 ft. from all property lines. |
| Other Standards | N/A. | N/A. | Swing signs shall be installed in permeable landscaped areas that are at least 4 ft. in every horizontal dimension and at least 20 sf. in area. | Swing signs shall be installed in permeable landscaped areas that are at least 4 ft. in every horizontal dimension and at least 20 sf. in area. |
| **Feather Flags** | | | | |
| Max. # | 1 per 100 ft. of property frontage or fraction thereof; may be clustered. | 1 per 100 ft. of property frontage or fraction thereof; may be clustered. | 1 per 100 ft. of property frontage or fraction thereof; may be clustered. | Residential Buildings: Not Allowed. Nonresidential Buildings: 1. |
| Max. sign area | 40 sf. | 40 sf. | 40 sf. | 10 sf. |
| Max. sign height | 15 ft. | 15 ft. | 15 ft. | 10 ft. |
| Other Standards | Not allowed if freestanding banner is present Must be installed in a permeable landscaped area with a radius that | Not allowed if freestanding banner is present Must be installed in a permeable landscaped area with a radius that | Must be installed in a permeable landscaped area with a radius that extends not less than 3 ft. from the flag pole. | Must be installed in a permeable landscaped area with a radius that extends not less than 3 ft. from the flag pole. |

| | | | | |
|---|---|---|---|---|
| | extends not less than 3 ft. from the flag pole. | extends not less than 3 ft. from the flag pole. | | |

(D) **Duration of Display of Temporary Signs.**

(1) **Generally**. The purpose of temporary signs is to display messages for a temporary duration. Temporary signs shall not be used as a subterfuge to circumvent the regulations that apply to permanent signs or to add permanent signage to a property in addition to that which is allowed by this Sign Code.

(2) **Classification of Temporary Sign Materials.** Temporary signs are constructed from a variety of materials with varying degrees of durability. Common materials are classified in Table (D)(1), Classification of Temporary Sign Materials.

**Table (D)(1)**
**Classification of Temporary Sign Materials**

| Material | Material Class | | | | |
|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 |
| Paper, card stock, foam core board, or cardboard | ✓ | | | | |
| Laminated paper or cardstock, polyethylene bags | | ✓ | | | |
| Cloth, canvas, nylon, polyester, burlap, flexible vinyl, or other flexible material of comparable durability | | | ✓ | | |
| Inflexible vinyl, hard plastic, composite, or corrugated plastic ("coroplast") | | | | ✓ | |
| Wood or metal | | | | | ✓ |

(3) **Duration of Display.**

(a) In general, a temporary sign shall be removed as of the earlier of the date that:

(I) It becomes an abandoned sign;

(II) It falls into disrepair (see Section 5.16.5); or

(III) The number of days set out in Table (D)(2), *Duration of Temporary Sign Display by Material Class*, expires.

**Table (D)(2)**
**Duration of Temporary Sign Display by Material Class**

| Sign Type | Max. Duration for Individual Sign by Material Class | | | | | Max. Posting Days/Year |
|---|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | |
| Yard Sign | Not Allowed. | 45 days. | Not Allowed. | 60 days. | 180 days. | 180 days. |
| Site Sign | Not Allowed. | Not Allowed. | Not Allowed. | 60 days. | 180 days. | 180 days[1]. |
| Swing Sign | Not Allowed. | Not Allowed. | Not Allowed. | 60 days. | 180 days. | 180 days[1]. |
| Window Sign | 30 days per sign. | 30 days per sign. | 30 days per sign. | 30 days per sign. | 30 days per sign. | 30 days per sign. |
| Feather Flags | Not Allowed. | Not Allowed. | 20 days. | Not Allowed. | Not Allowed. | 20 days. |

**Table Notes:**
[1] Alternatively, the sign type may be displayed for three hundred sixty (360) days every two (2) calendar years.

(b) Temporary required signs shall be removed as required by the applicable regulation.

(4) **Administrative Interpretations.** Materials for signage that are not listed in this subsection (D) may be introduced into the market. When a material is proposed that is not listed in this subsection (D), the Director shall determine the class of materials with which the new material is most closely comparable, based on the new material's appearance, durability, and colorfastness. No temporary sign shall be displayed for a longer period than a site sign constructed of class 5 material, regardless of the durability material (although such a sign may be permissible as a permanent sign under Section 5.16.2).

(E) **Banners and Pennants.**

(1) Attached unframed banners, detached banners, and attached and detached pennants are allowed in any zone district subject to the restrictions in below Table (E), provided that a permit is obtained from the Director. The Director shall issue a permit for the display of banners and pennants only in locations where the Director determines that such banners and pennants will not cause unreasonable annoyance or inconvenience to adjoining property owners or other persons in the area and on such additional conditions as deemed necessary to protect adjoining premises and the public. All banners and pennants shall be removed on or before the expiration date of the permit. If any person, business or organization erects any banners or pennants without receiving a permit, as herein provided, the person, business or organization shall be ineligible to receive a permit for a banner or pennant for the remainder of the calendar year.

(2) Each business or non-profit entity or other organization, and each individual not affiliated with an entity or organization, shall be eligible to display banners and pennants pursuant to a valid permit for a maximum of forty (40) days per calendar year. A permitted banner may exceed the forty (40) days when there is City authorized construction work in the portion of public right-of-way abutting the property, until such time as all applicable construction materials, equipment and fencing is removed from the right-of-way.

(3) The Director shall review a banner or pennant permit application within two (2) business days to determine completeness. If it is complete, the Director shall approve or deny the application within three (3) business days after such determination. If it is incomplete, the Director shall cause the application to be returned to the applicant within one (1) business day of the determination, along with written reasons for the determination of incompleteness.

(4) Notwithstanding the size and time limitations contained in Table E in the Downtown sign district:

(a) In conjunction with a special event permit, three (3) banners larger in size than forty (40) square feet may be displayed for fifteen (15) days.

(b) The Director may approve a temporary banner permit application upon the Director's determination that:

(I) The banner display is not detrimental to the public good;

(II) The banner does not project into the right-of-way;

(III) The banner is attached to a building thirty (30) feet or greater in height;

(IV) The banner is mounted flush with the building wall;

(V) The banner is on the side of building that fronts a right-of-way or public plaza;

(VI) There is no more than fifteen (15) square feet of permanent signage on the side of the building on which the banner is to be displayed;

(VII) The banner does not cover more than one (1) architecturally distinct window;

(VIII) No feather flags are displayed on the property;

(IX) Only one (1) banner is displayed at a time;

(X) The banner does not exceed six (6) feet in width and twenty-five (25) feet in height; and

(XI) The banner is displayed no more than a four (4) consecutive month period.

**Table (E)**
**Banners and Pennants**
**(sf. = square feet/ft. = linear feet/N/A = not applicable)**

| Standard | Sign District | | | |
|---|---|---|---|---|
| | Downtown | Commercial-Industrial | Multi-Unit/Mixed Use | Single-Unit |
| **Attached Banners and Pennants** | | | | |
| Max. # on each building elevation | 1 | 1 per 300 ft. of building elevation or fraction thereof, but not more than 3 banners per building. | 1 | Residential Buildings: Not Allowed. Nonresidential Buildings: 1. |
| Max. Sign Area | 40 sf. | 40 sf. | 40 sf. | Residential Buildings: N/A Nonresidential Buildings: 40 sf. |
| Allowed Lighting | None. | External. | None. | None. |
| Max. Sign Height | 7 ft. | 7 ft. | 4 ft. | 4 ft. |
| Other Standards | None. | If more than one banner is allowed on a building elevation, banners may be clustered. | None. | None. |
| **Detached Banners and Pennants** | | | | |
| Max. # | Either framed or unframed: 1 per property frontage; or 1 per 100 ft. of property frontage if secured to temporary construction fencing related to permitted construction (may be clustered). | Either framed or unframed: 1 per property frontage; or 1 per 100 ft. of property frontage if secured to temporary construction fencing related to permitted construction (may be clustered). | Either framed or unframed: 1 per property frontage; or 1 per 100 ft. of property frontage if secured to temporary construction fencing related to permitted construction (may be clustered). | Not allowed. |
| Max. Sign Area (per banner) | 40 sf. | 40 sf. | 40 sf. | 40 sf. |
| Allowed Lighting | None. | None. | None. | None. |
| Max. Sign Height (applies to freestanding banner frames) | 6 ft. | 6 ft. | 6 ft. | 6 ft. |

(5) For banners and pennants in all sign districts, the following shall apply:

(a) Mounting hardware shall be concealed from view;

(b) Banners shall be stretched tightly to avoid movement in windy conditions;

(c) All banners that are installed in banner frames shall be sized to fit the banner frame so that there are no visible gaps between the edges of the banner and the banner frame;

(d) Banners are not allowed if any of the following are present on the property: feather flag, yard sign, site sign, or swing sign; and

(e) Any common line of pennants must be stretched tightly to avoid movement in windy conditions.

(F) **Vertical Projected Light Signs.**

(1) Vertical projected light signs may be used in connection with a temporary special event, during the term of the temporary special event. Such special events may include, but are not limited to, Art in Public Places events or Downtown Development Authority Alley Enhancement Projects.

(2) The projected image of a vertical projected light signs is limited to nonresidential and mixed-use properties, but is not limited by zoning district.

(3) The projected image shall not fall onto a surface with a high degree of specular reflectivity, such as polished metal or glass. The image shall be positioned to harmonize with the architectural character of the building(s) to which it is projected, and shall avoid any projection, relief, cornice, column, window, or door opening.

(4) The projected image shall not exceed fifteen (15) square feet if any portion of it is on a first story building wall or on a structure that is not a building, or thirty (30) square feet if all of the image is above the first story of a building, except that a projected image may occupy one hundred (100) percent of the side or rear wall area of a building in the Downtown sign district, provided that the building is within the Downtown Development Authority's Alley Enhancement Project and the building wall does not face a vehicular right-of-way.

(5) The path of the projection shall not cross public rights-of-way or pedestrian pathways at a height of less than seven (7) feet.

(6) Vertical projected light signs shall contain static messages only, and animated, dissolve, or fade transitions are prohibited.

(7) Vertical projected light signs are subject to the illumination standards of Section 5.16.1(I) unless the City determines that additional illumination will be permitted because it will pose no material detrimental effects on neighboring properties or public rights-of-way due to the location and/or timing of the display. Such determination, and allowable illumination levels, shall be specified in the permit that allows the vertical projected light sign.

## 5.16.4 NONCONFORMING SIGNS AND ADMINISTRATION

(A) **Nonconforming Signs.**

(1) Nonconforming signs shall be maintained in good condition and no such sign shall be:

(a) structurally changed to another nonconforming sign, although its content may be changed;

(b) structurally altered in order to prolong the life of the sign;

(c) altered so as to increase the degree of nonconformity of the sign; or

(d) enlarged.

(2) Except as provided in subsection (A)(3), below, all existing nonconforming signs located on property annexed to the City shall be removed or made to conform to the provisions of this Article no later than seven (7) years after the effective date of such annexation; provided, however, that during said seven (7) year period, such signs shall be maintained in good condition and shall be subject to the same limitations contained in subparagraphs (A)(1)(a) through (f), above. This subsection shall not apply to off-premises signs that are subject to the just compensation provisions of the Federal Highway Beautification Act and the Colorado Outdoor Advertising Act.

(3) All existing signs with flashing, moving, blinking, chasing or other animation effects not in conformance with the provisions of this Article and located on property annexed to the City shall be altered so that such flashing, moving, blinking, chasing, or other animation effects shall cease within sixty (60) days after such annexation, and all existing portable signs, vehicle-mounted signs, banners, and pennants located on property annexed to the City shall be removed or made to conform within sixty (60) days after such annexation.

(4) Historic signs shall be considered conforming for the purposes of this Section. The Director may designate a sign as an historic sign if:

(a) the applicant provides documentation that the sign has been at its present location for a minimum of fifty (50) years;

(b) the sign is structurally safe or capable of being made structurally safe without substantially altering its historic character. The property owner is responsible for making all structural repairs and restoration of the sign to its original condition; and

(c) the sign is representative of signs from the era in which it was constructed and provides evidence of the historic use of the building or premises.

Additionally, a sign shall be considered historic if the HPC through a review of Chapter 14 of the City Code as approved the historic nature of the sign.

(B) **Administration.**

(1) All sign permit applications shall be accompanied by detailed drawings indicating the dimensions, location, and engineering of the particular sign, plat plans when applicable, and the applicable processing fee.

(2) The Director shall review the sign permit application within two (2) business days after receipt to determine if it is complete. If it is complete, the Director shall approve or deny the application within three (3) business days after such determination. If it is incomplete, the Director shall cause the application to be returned to the applicant within one (1) business day of the determination, along with written reasons for the determination of incompleteness.

## 5.16.5 SIGN MAINTENANCE

(A) **Maintenance Standards.** Signs and sign structures of all types (attached, detached, and temporary) shall be maintained according to the following standards:

(1) **Paint and Finishes**. Paint and other finishes shall be maintained in good condition. Peeling finishes shall be repaired. Signs with running colors shall be repainted, repaired, or removed if the running colors were not a part of the original design.

(2) **Mineral Deposits and Stains.** Mineral deposits and stains shall be promptly removed.

(3) **Corrosion and Rust**. Permanent signs and sign structures shall be finished and maintained to prevent corrosion and rust. A patina on copper elements (if any) is not considered rust.

(4) **Damage.** Permanent signs that are damaged shall be repaired or removed within one (1) year, of being damaged unless the damage creates a material threat to public safety, in which case the Chief Building Official may order prompt repair or removal. Temporary signs that are obviously damaged (e.g., broken yard signs) shall be removed within twenty-four (24) hours of being damaged.

(5) **Upright, Level Position.** Signs that are designed to be upright and level, whether temporary or permanent, shall be installed and maintained in an upright and level position. Feather flag poles shall be installed in a vertical position. Signs that are not upright and level shall be removed or restored to an upright, level position.

(6) **Code Compliance.** The sign must be maintained in compliance with all applicable building, electrical, and property maintenance codes (including any exceptions that may apply to existing sign structures).

(B) **Quality of Repairs.** Repairs to signs shall be equal to or better in quality of materials and design than the original sign.

(C) **Altering or Moving Existing Signs.**

**(A)** Any alteration to an existing sign structure (except for alterations to changeable copy, replacement of a panel in a cabinet sign, replacement of a light source with a comparably bright light source, application of paint or stain) shall require a new permit pursuant to Section 5.16.4(B) prior to commencement of the alteration. Alterations requiring a new permit shall include, without limitation:

(a) Changes to the area of manual changeable copy center on a sign, including the installation of a new manual changeable copy center where one was not previously present;

(b) Changing the size of the sign;

(c) Changing the shape of the sign;

(d) Changing the material of which the sign is constructed;

(e) Changing or adding lighting to the sign (except as provided above);

(f) Changing the location of the sign; or

(g) Changing the height of the sign.

**(B)** No sign permit is required for removal of sign displays from supporting structures for maintenance, provided that they are replaced on the same support in the same configuration and the maintenance did not involve work that requires a permit.

# DIVISION 5.17 WATER ADEQUACY DETERMINATIONS

## 5.17.1 PURPOSE.

(A) The general purpose of this Division is to establish the standards and procedures by which the adequacy of proposed water supplies for development are reviewed and determined pursuant to C.R.S. § 29-20-301, et seq. The specific purposes are to:

(1) Fulfill the C.R.S. § 29-20-303(1) requirement that the City "shall not approve an application for a development permit unless it determines in its sole discretion, after considering the application and all of the information provided, that the applicant has satisfactorily demonstrated that the proposed water supply will be adequate.";

(2) Protect public health, safety, and welfare by ensuring that the water supplies for developments are adequate;

(3) Ensure that growth and development in the City occur in a planned and coordinated manner;

(4) Ensure that the City is provided with reliable information concerning the adequacy of developments' proposed water supplies to inform the City, in the exercise of its discretion, in the approval of development applications and permits;

(5) Promote safe, efficient, and economic use of public resources in developing and providing water; and

(6) Ensure City participation in the review and approval of development plans that pass through and impact City residents, businesses, neighborhoods, property owners, and resources.

## 5.17.2 APPLICABILITY.

(A) This Division shall apply to all development, or redevelopment, that requires new, expanded, or increased water use, whether potable or non-potable, within the incorporated municipal boundaries of the City. No such development or redevelopment shall be approved and allowed to proceed unless the Director has determined that the proposed water supply for the development or redevelopment is adequate.

(1) Temporary non-potable water supply systems to establish native vegetation are exempt from these requirements if the term of use is three (3) consecutive years or less and identified as such on an approved landscape plan.

(2) Except as stated in Subsection 5.17.5(D), the modification of standards review set forth in Division 6.8 shall not apply to this Division 5.17

## 5.17.3 APPLICATION.

(A) *Application Timing.* An applicant seeking a water adequacy determination shall file an application with the Director pursuant to this Division at the same time as submitting an application for final plan or basic development review, as outlined in Divisions 2.5 and 2.18, unless the application timing is altered pursuant to the following:

(1) Upon written request at the time of application, the Director may defer the timing of an application for a water adequacy determination for potable or non-potable water until submittal with a development construction permit (Division 2.6) if the Director determines such timing will not substantially interfere with or otherwise make it more difficult to determine whether the proposed water supply is adequate.

(2) Upon written request at the time of application, the Director may defer the timing of an application for a water adequacy determination for potable water until submittal with a building permit (Division 2.7), if the provider is an established potable water supply entity and the Director determines such timing will not substantially interfere with or otherwise make it more difficult to determine whether the proposed water supply is adequate.

(B) *Separate Applications.* The applicant shall file separate applications for water adequacy determinations for each portion of the development served by different water supply entities or water supply systems unless the Director determines that a single combined application can fully describe and provide needed information and be effectively analyzed. Subsequent sections in this Division provide distinctions in the evaluation process for established potable water supply entities, other potable water supply entities, and non-potable water supply entities.

(C) *Material Changes.* The City shall make a determination that a proposed water supply is adequate only once for each portion of a development served by a different potable or non-potable water supply entities or water supply systems during the development review process unless the water demands or supply of the portion of the development for which approval is sought are materially changed. The Director shall determine whether changes to the water demands or supply for any development or redevelopment are material and require a new water adequacy determination. The Director's determination that a material change has occurred is not subject to appeal pursuant to the Land Use Code or Code of the City of Fort Collins.

(D) *Application After Director Denial.* If the Director denies an application for a water adequacy determination, the applicant may submit another application at any time, subject to applicable fees, that addresses the stated reason or reasons for denial.

## 5.17.4 PROCEDURES AND STANDARDS FOR WATER ADEQUACY DETERMINATIONS: ESTABLISHED POTABLE WATER SUPPLY ENTITIES

(A) *Application Requirements.*

(1) Requests under this Section shall include a letter as described in Subsection (a), unless exempted pursuant to Subsection (b).

(A) A letter prepared by a registered professional engineer or by a water supply expert from the established potable water supply entity that contains the following information:

(I) An estimate of the water supply requirements for the proposed development through build-out conditions;

(II) A description of the established potable water supply entity's water supply system and the physical source(s) of water supply that will be used to serve the proposed development. If the proposed source(s) includes groundwater, this description must include water quality test results and results of an analysis into the potential impact on water treatment processes or the quality of delivered potable water;

(III) An estimate of the amount of water yield projected from the proposed water supply system and water rights portfolio under various hydrologic conditions;

(IV) Water conservation and/or water demand management measures, if any, that may be implemented within the proposed development;

(V) Results from analyses performed demonstrating the ability for the proposed water supply to meet demands of the proposed development under various hydrologic conditions;

(VI) An affidavit signed by the entity manager attesting that to the best of their knowledge, the entity is in compliance with all applicable regulations; and

(VII) Such other information as may be required by the Director in order to determine whether the proposed water supply will be adequate.

All letters shall be provided to City Council for informational purposes only and kept on file with the City's Community Development and Neighborhood Services Department. At the established potable water supply entity's discretion, the letter may describe their entire service area and be submitted for a determination once updated as required based on any material changes to any of the requirements in this Section or in their reported supply as described in Subsection 5.17.3 (C). If the letter describes the entire service area, then the entity does not need to resubmit the approved letter with each letter as outlined in Subsection 5.17.4(A)(2) but should be referenced within the letter content in addition to what is outlined in Subsection 5.17.4(A)(2).

(b) The letter described in Subsection (a) shall not be required if the established potable water supply entity has a water supply plan, or other plans that cumulatively provide the information, that:

(I) Has been reviewed and updated, if appropriate, within the previous ten (10) years by the governing board of the established potable water supply entity;

(II) Has a minimum twenty-year planning horizon;

(III) Lists the water conservation measures, if any, that may be implemented within the service area;

(IV) Lists the water demand management measures, if any, that may be implemented within the development or service area;

(V) Includes a general description of the established potable water supply entity's water obligations, such as a general description of customer demands and operational water delivery obligations, such as augmentation requirements and return flow obligations;

(VI) Includes a general description of the established potable water supply entity's water supply system and water rights portfolio; and

(VII) Includes an affidavit signed by the entity manager attesting that, to the best of their knowledge, the entity is in compliance with Colorado Primary Drinking Water Regulations, 5 CCR 1002-11.

All water supply plans, or other plans that cumulatively provide the information required above shall be provided to City Council for informational purposes only and kept on file with the City's Community Development and Neighborhood Services Department. The Director may defer providing the Council with any water supply plan or other plans until such time as the established potable water supply entity updates their existing water supply plan. Once the plan, or plans, are on file, they do not need to be resubmitted with each letter as outlined in Subsection 5.17.4(A)(2) but should be referenced within the letter content in addition to what is outlined in Subsection 5.17.4(A)(2).

(2) Requests for a water adequacy determination for all or portions of a development to be served with potable water by an established potable water supply entity shall be in a form as required by the Director. Such requests shall include a letter prepared by a registered professional engineer or by a water supply expert from the established potable water supply entity:

(a) Identifying the portions of a development to be served with potable water by the established potable water supply entity;

(b) Stating its ability to provide an adequate water supply for the proposed development;

(c) Stating it is willing to commit to provide an adequate water supply for the proposed development including any conditions of the commitment; and

(d) Providing the length of time the letter is valid for should the proposed development not occur immediately.

(B) *Review of Application.* The Director shall promptly review the application and associated materials concurrently with the required Final Plan, Basic Development Review, Development Construction Permit, or Building Permit application.

(C) *Standards.* To issue a determination that a proposed water supply is adequate under this Section, the Director must find that the statements in the application and associated materials are complete, correct, and reliable.

(D) *Decision.*

(1) Based upon the information provided by the applicant and developed by the City and any consultants, the Director shall issue all water adequacy determinations pursuant to this Section in writing including specific findings and shall either:

(a) Approve the application finding that the proposed water supply is adequate;

(b) Approve the application with conditions finding the proposed water supply is adequate provided the conditions are met; or

(c) Deny the application finding that the proposed water supply is inadequate.

(2) All water adequacy determinations shall become part of the plan set for the associated development application, if approved. The Director shall maintain a record of all information submitted or developed upon which any water adequacy decision was based, and that record shall become part of the associated development application.

(3) The Director may impose conditions of approval that when met, as determined by the Director, will bring the proposed water supply into compliance with all applicable standards set forth in this Section. No building permit may be issued until all conditions have been met.

(4) The Director's decision is not subject to appeal pursuant to the Land Use Code or Code of the City of Fort Collins.

## 5.17.5 PROCEDURES AND STANDARDS FOR WATER ADEQUACY DETERMINATIONS: OTHER POTABLE WATER SUPPLY ENTITIES.

(A) *Application Requirements for Other Potable Water Supply Entities.* Applications for a water adequacy determination for all or portions of a development to be served with potable water by other potable water supply entities shall be in a form as required by the Director. Such applications shall include all of the following:

(1) A summary document linking the information to the standard of review.

(2) Report including information required under Section 29-20-304(1), C.R.S.:

(a) An estimate of the water supply requirements for the proposed development through build-out conditions;

(b) A description of the potable water supply entity's water supply system and the physical source of water supply that will be used to serve the proposed development. This should include water quality test results and proposed methods of water treatment from a registered professional engineer or water supply expert;

(c) A description of all elements of the water rights portfolio either owned or planned for acquisition required for proposed water supply;

(d) An estimate of the amount of water yield projected from the proposed water supply under various hydrologic conditions;

(e) Water demand management measures, if any, that may be implemented within the development to account for hydrologic variability; and

(f) Description of all water conservation measures to be applied in the development and how they would be enforced and effectuated.

(3) Financial documentation establishing that the proposed provider is able to create the proposed water supply system and maintain it in perpetuity.

(4) A fee assessment describing the proposed water rates and fees for the new system and how those fees compare with those charged by the established potable water supply entities. This assessment should include consideration of any metro district, homeowners' or property owners' association, or other taxes or fees that are also uniquely applicable to the proposed development to be served by the other potable water supply entity.

(5) Approval documentation from other regulatory agencies such as CDPHE. At the Director's discretion, this information may substitute in whole or in part for the application requirements set forth in this Section. If additional approvals will be required, provide an explanation of how those approvals will be obtained, and at the Director's discretion, the additional approvals may be required as conditions of approval.

(6) Detailed process diagrams stamped by a registered professional engineer on any proposed water treatment processes as well as how any waste products created from the treatment process will be properly disposed of.

(7) Such other information as may be required by the Director in order to determine whether the proposed water supply will be adequate.

(8) An other potable water supply entity with an approved ODP or PUD Overlay as outlined in Division 2.3 and Division 2.15 that includes the entire proposed service area, may at either the other potable water supply entity's, or Director's discretion, submit an application that describes their entire proposed service area once with the initial phase of development and then update the initial determination with a letter from a professional engineer for each subsequent phase with the information required in Subsection 3.13.4(A)(2); or as required based on any material changes to:

(a) Any of the requirements set forth in this Section;

(b) The reported water supply as set forth in Section 3.13.3(C); or

(c) The proposed development, as determined by the Director.

**(B)** ***Review of Application.***

(1) ***Agreement on Costs.*** Prior to the City reviewing any application under this Section, the applicant shall agree in writing to reimburse the City for all costs associated with reviewing the application and associated materials, including costs associated with consultants hired to assist the Director's review. No water adequacy determination shall be issued unless and until all such costs have been paid to the City. The fee assessed by the City shall not exceed the cost of the review and administration of the review process.

(2) ***Review.***

(a) The Director shall review the materials provided by the applicant following the completion of the agreement identified in Subsection 3.13.5(B)(1). The time needed for the Director's review shall be based on the complexity of the application, the proposed water supply, and proposed water supply system.

(b) Following the submission of the application, the Director shall be entitled to require any such additional or supplemental information from the applicant as may be required to review and ensure compliance with all review criteria.

(c) The review will be completed concurrently with the required Final Plan, Basic Development Review, Development Construction Permit, or any plan amendments as specified in Section 3.

**(C)** ***Standards.*** To issue a water adequacy determination under this Section, the Director must find that the application and associated materials establish that:

(1) The quality of the proposed potable water supply will be sufficient for build-out of the proposed development by:

(a) Providing potable water to the development of a quality that meets or exceeds all state and federal water quality standards;

(b) Providing potable water to the development of a quality equal to or better than the quality of potable water provided by the City of Fort Collins as measured by appropriate water quality aspects; and

(c) Establishing and maintaining a water supply entity that has the technical expertise and resources to maintain the quality of the water supply for the lifetime of the development.

(2) The quantity of the proposed potable water supply will be sufficient for build-out of the proposed development by:

(a) Relying upon a renewable and/or sustainable physical supply of water, that takes into account any impacts if multiple users have rights to use water from a single source, such as an aquifer;

(b) Having ability to acquire a water rights portfolio that provides a permanent firm yield equal to or greater than the maximum assumed demand in all hydrological conditions, including a modeled one-in-fifty-year drought or equivalent or more stringent standard, when taking into consideration reasonable transit and other losses and all applicable obligations, including augmentation requirements and return flow obligations; and

(3) For lands to be served by tributary groundwater, establishing that the plan for augmentation will operate to provide a permanent firm yield equal to or greater than the maximum assumed demand in all hydrological conditions, including a modeled one-in-fifty-year drought or equivalent or more stringent standard, when taking into consideration reasonable losses and all applicable obligations, including augmentation requirements and return flow obligations for the lifetime of the development.

(4) The dependability of the proposed potable water supply will be sufficient for build-out of the proposed development by:

(a) Establishing that the water supply system includes sufficient redundancy equal to or better than the redundancy of the City of Fort Collins system;

(b) If the water supply system includes a water treatment facility, include the class of facility and treatment processes and provide information that the level of operations is equivalent or better as required by CDPHE, and demonstrate how the facility operators will ensure they have the technical expertise and resources to operate the treatment facility dependably and sustainably in a manner that is economical, safe, and that does not produce any harmful by-products;

(c) Establishing that the water supply system and water rights portfolio can operate during water supply shortages and emergencies, including infrastructure issues, natural disasters, and long-term climate change; and

(d) Establishing and maintaining a water supply entity that can oversee and maintain the water supply system and water rights portfolio for the lifetime of the development.

(5) The availability of the proposed potable water supply will be sufficient for build-out of the proposed development by:

(a) Establishing the applicant has, or has the ability to acquire, the necessary property rights and resources to build and operate the proposed water supply system;

(b) For lands to be served by tributary groundwater, establishing that the proposed use of the tributary groundwater is sustainable with evidence of assured supply for the lifetime of the development; and

(c) For lands within the water service area of an established potable water supply entity, establishing that the lands to be served by the other potable water supply entities have been removed from the water service area of the established potable water supply entity; or the established potable water supply entity consents to the proposed service by the other potable water supply entity. The Director may, however, waive this requirement if an established potable water supply entity is incapable of providing a reasonable level of service to the proposed development.

(D) *Modification of Standards.* If a potable water supply entity cannot meet the standards set forth above in Subsection 5.17.5(C), with the exception of 5.17.5(C)(5)(c) which shall not be subject to modification, then they may seek a modification of standards pursuant to Division 6.8 with the Director as the designated decision maker. In addition to the four (4) standards set forth in Section 6.8.2(H) for granting a modification, the Director may also grant a modification if such modification would not be detrimental to the public good and the standard as modified is comparable to an existing standard already being employed by another established potable water supply entity. The Director's decision regarding a requested modification of standards is not subject to appeal pursuant to the Land Use Code or Code of the City of Fort Collins.

(E) *Decision.*

(1) Based upon the information provided by the applicant and developed by the City and any consultants, the Director shall issue all water adequacy determinations in writing including specific findings and shall either:

(a) Approve the application finding that the proposed water supply is adequate;

(b) Approve the application with conditions finding the proposed water supply is adequate provided the conditions are met; or

(c) Deny the application finding that the proposed water supply is inadequate.

(2) All water adequacy determinations shall become part of the plan set for the associated development application, if approved. The Director shall maintain a record of all non-privileged information submitted or developed upon which the water adequacy determination was based for the proposed water supply and proposed water supply system, and that record shall become part of the associated development application.

(3) The Director may impose conditions of approval that when met, as determined by the Director, will bring the proposed water supply into compliance with all applicable standards set forth in this Section, including conditions that the applicant acquire the required water right decrees and water contracts for the water supply system; and/or the applicant completing construction of all infrastructure for the water supply system. No building permit may be issued until all conditions have been met.

(4) The Director's decision is not subject to appeal pursuant to the Land Use Code or Code of the City of Fort Collins.

(5) The Director shall require a disclosure, recorded by the Larimer County Clerk, to be provided at the time of all property sales or transfers that the water supply for the development is being provided by the approved entity.

## 5.17.6 PROCEDURES AND STANDARDS FOR WATER ADEQUACY DETERMINATIONS: NON-POTABLE WATER SUPPLY ENTITIES.

(A) *Application Requirements for Non-Potable Water Supplies.* Applications for a water adequacy determination for all or portions of a development to be served with non-potable water shall include all of the following:

(1) Summary document linking the information to the standard of review.

(2) Report including information required under Section 29-20-304(1), C.R.S.:

(a) An estimate of the water supply requirements for the proposed development through build-out conditions;

(b) A description of the water supply system and physical source of water supply that will be used to serve the proposed development. This description must include water quality test results and results of an analysis investigating any limitations of use due to poor quality;

(c) A description of all elements of the water rights portfolio either owned or planned for acquisition, contracts, and/or IGAs required for the proposed water supply;

(d) An estimate of the amount of water yield projected from each proposed water supply source under various hydrologic conditions. For surface water sources, this should include results of an analysis of historical temporal availability of the proposed supplies throughout the year, annual volumetric yield, and the frequency and flow rate of deliveries. For groundwater sources, this should include descriptions of the decreed place of use, flow rate, and annual volumetric limits, and their temporal availability of the proposed supplies throughout the year, including any augmentation requirements;

(e) Water demand management measures, if any, that may be implemented within the development to account for hydrologic variability; and

(f) Description of all water conservation measures to be applied in the development and how they would be enforced and effectuated. At a minimum, smart controllers and flow meters are required per the Land Use Code.

(3) Financial documentation showing that the proposed provider is able to create the proposed water supply system and maintain it in perpetuity.

(4) A narrative describing how the entity plans to ensure compliance equal to or better than City water conservation requirements including those outlined in Division 5.9.

(5) Approval documentation from other regulatory agencies, including the established potable water supply entity whose service area contains the proposed non-potable system when applicable. At the Director's discretion, this information may substitute in whole or in part for the application requirements set forth in this Section.

(6) Such other information as may be required by the Director.

**(B)** ***Review of Application.***

(1) ***Agreement on Costs.*** Prior to the City reviewing any application under this Section, the applicant shall agree in writing to reimburse the City for all costs associated with reviewing the application and associated materials, including costs associated with consultants hired to assist the Director's review. No water adequacy determination shall be issued unless and until all such costs have been paid to the City. The fee assessed by the City shall not exceed the cost of the review and administration of the review process.

(2) ***Review.***

(a) The Director shall review the materials provided by the applicant following the completion of the agreement identified in Subsection 5.17.6(B)(1). The length of the Director's review shall be based on the complexity of the application, the proposed water supply, and proposed water supply system.

(b) Following the submission of the application, the Director shall be entitled to require any such additional or supplemental information from the applicant as may be required for the Director's review.

(c) Applications for water adequacy determinations for Non-potable systems shall be submitted at the same time as Development Construction Permit for review.

**(C)** ***Standards.*** To issue a water adequacy determination under this Section, the Director must find that the application and associated materials establish that:

(1) The quality of the proposed non-potable water supply will be sufficient for build-out of the proposed development by providing non-potable water to the development of a quality sufficient to meet all planned landscape needs and other intended non-potable water uses shown in the approved landscape or utility plans;

(2) The quantity of the proposed non-potable water supply will be sufficient for build-out of the proposed development by:

(a) Relying upon a renewable and/or sustainable physical supply of water;

(b) Having a water rights portfolio that provides a permanent firm yield equal to or greater than the maximum daily water requirement (accounting for typical conveyance and irrigation and other inefficiencies) under various hydrological conditions, including a modeled one-in-fifty-year drought or equivalent or more stringent standard, when taking into consideration all applicable obligations, including augmentation requirements and return flow obligations; and

(c) For lands to be served by tributary groundwater, establishing that the plan for augmentation will operate to provide a permanent firm yield equal to or greater than the maximum assumed demand under various hydrological conditions, including a modeled one-in-fifty-year drought or equivalent or more stringent standard, when taking into consideration all applicable obligations, including augmentation requirements and return flow obligations.

(3) The dependability of the proposed non-potable water supply will be sufficient for build-out of the proposed development by:

(a) If the non-potable water supply system includes treatment, establishing that the treatment can and will operate sustainably in a manner that is economical, safe, and that does not produce any harmful by-products; and

(b) Establishing and maintaining a water supply entity that has the technical expertise and resources to oversee and maintain the non-potable water supply system.

(4) The availability of the proposed water supply will be sufficient for build-out of the proposed development by:

(a) Establishing the applicant has, or has the ability to acquire, the necessary property rights and resources to build and operate the proposed non-potable water supply system; and

(b) For lands to be served by tributary groundwater, establishing that the proposed use of the tributary groundwater is sustainable with evidence of assured supply for the lifetime of the development.

**(D)** ***Decision.***

(1) Based upon the information provided by the applicant and developed by the City and any consultants, the Director shall issue all water adequacy determinations in writing including specific findings and shall either:

(a) Approve the application finding that the proposed water supply is adequate;

(b) Approve the application with conditions finding the proposed water supply is adequate provided the conditions are met; or

(c) Deny the application finding that the proposed water supply is inadequate.

(2) The written determination shall be included in the plan set for the associated development application, if approved. The Director shall maintain a record of all non-privileged information developed to review the proposed water supply and proposed water supply system and that record shall become part of the associated development application.

(3) The Director may impose conditions of approval that when met, as determined by the Director, will bring the proposed water supply into compliance with all applicable standards set forth in this Section, including conditions that the applicant acquire the required water right decrees and water contracts for the water supply system. No building permit may be issued until all conditions have been met.

(4) The Director's decision is not subject to appeal pursuant to the Land Use Code or Code of the City of Fort Collins.

# ARTICLE 6

# ADMINISTRATION and PROCEDURES

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# ARTICLE 6

# ADMINISTRATION and PROCEDURES

## DIVISION 6.1 ZONING MAP AND ZONE DISTRICTS

### 6.1.1 ESTABLISHMENT OF ZONE DISTRICTS

In order to carry out the purposes of this Code, the City is hereby divided into the following zone districts:

#### Residential

- Rural Lands District (RUL)
- Urban Estate District (UE)
- Residential Foothills District (RF)
- Low Density Residential District (RL)
- Old Town District – A (OT-A)
- Manufactured Housing District (MH)

#### Mixed-Use

- Low Density Mixed-Use Neighborhood District (LMN)
- Medium Density Mixed-Use Neighborhood District (MMN)
- High Density Mixed-Use Neighborhood District (HMN)
- Old Town District – B (OT-B)
- Old Town District – C (OT-C)

#### Commercial

- Community Commercial District (CC)
- Community Commercial - North College District (CCN)
- Community Commercial - Poudre River District (CCR)
- General Commercial District (CG)
- Service Commercial District (CS)
- Neighborhood Commercial District (NC)
- Limited Commercial District (CL)
- Harmony Corridor District (HC)

#### Downtown

- Downtown District (D)

#### Employment, Industrial, and Other

- Employment District (E)
- Industrial District (I)
- Public Open Lands District (POL)
- Transition District (T)

#### Overlay

- Transit-Oriented Development Overlay (TOD)
- South College Gateway Area (SCG)
- Planned Unit Development Overlay (PUD)

### 6.1.2 ESTABLISHMENT OF ZONING MAP

The boundaries of the zone districts are hereby established as shown on a map entitled "Zoning Map of the City of Fort Collins, Colorado," dated March 28, 1997, as amended, which map is hereby made a part of this Code by reference. Where uncertainty exists regarding the boundary of a zone district on the Zoning Map, reference should be made to Division 6.24, Interpretations.

### 6.1.3 ESTABLISHMENT OF ZONE DISTRICT AND DEVELOPMENT STANDARDS

The development standards contained in Articles 3 and 5 include standards applicable to all development unless specifically exempted. The zone district standards and allowed uses in zone districts contained in Articles 2 and 4 are standards that apply to development located within a specified zone district. The district standards are organized on a zone district by zone district basis, and specify the purpose of each applicable zone district, the permitted uses allowed in each zone district, and other standards and criteria that apply in each zone district. The development standards contained in Articles 3 and 5 and the zone district standards and allowed uses in zone districts contained in Articles 2 and 4 are minimum standards and requirements. Applicable rules of measurement and definitions are contained in Article 7.

## DIVISION 6.2 GENERAL PROCEDURAL REQUIREMENTS

### 6.2.1 OVERVIEW OF DECISION MAKERS AND ADMINISTRATIVE BODIES

The City Council, Planning and Zoning Commission, Land Use Review Commission, the Historic Preservation 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 Commission will consider, review and decide all development applications for permitted uses including:

- Overall Development Plans;
- PUD Overlays 640 acres or less;
- Basic Development Review plans; and
- Project Development Plans and Final Plans

in accordance to the provisions of this Land Use Code. For those development applications subject to basic development review, the Director, or the Director's designee, is the authorized 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 6.3.7(A)(2)). For those development applications subject to Planning and Zoning Commission review (sometimes referred to as "Type 2 review"), the Planning and Zoning Commission is the designated decision maker (see Section 6.3.7(A)(3)). For PUD Overlays greater than 640 acres, the City Council is the designated decision maker after receiving a Planning and Zoning 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 basic development review and building permit applications, the Director is the decision maker (see Sections 6.4 and 6.13). (See "Overview of Development Review Procedures," Section 6.2.2, 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.

## 6.2.2 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 2 of this Land Use Code, the applicant will find the zone 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 their proposal;
- seek the addition of a new permitted use pursuant to Division 6.9;
- seek a text amendment to this Land Use Code pursuant Division 6.25;
- seek a rezoning amendment to the Zoning Map pursuant to Division 6.25; or
- seek approval of a PUD Overlay pursuant to Divisions 2.6.

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 Division 6.9 for a particular development application or permitted as part of an approved PUD Overlay. Applications for permits regarding 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 as determined pursuant to Article 4:

- a project development plan (Division 6.6) followed by a final plan (Division 6.7); or
- basic development review (Division 6.4).

If the applicant desires to develop in two (2) or more separate project development plan submittals, an overall development plan (Division 6.5) 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 development standards of Articles 3 and 5 and the zone district standards and allowed uses in zone districts of Articles 2 and 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 6.3.3. The purpose, applicability, and interrelationship of these types of development applications are discussed further in Section 6.2.3. Applications for a permit regarding areas and activities of state interest provisions are addressed in

Divisions 6.27 and 6.28.

(D) **Who reviews the development application?** Once an applicant has determined the type of development application to be submitted, they 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 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 basic development review and administrative review ("Type 1 review"), or the Planning and Zoning Commission in the case of Planning and Zoning 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 (basic development review, administrative review or Planning and Zoning Commission, or City Council review). The common development review procedures contained in Division 6.3 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 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). Basic Development Review and Final Plan 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 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 Comprehensive list of submittal requirements as established by the Director. Overall development plans must comply with only certain identified items on the Comprehensive list, while PUD Overlays, project development plans, and final plans must include different items from the Comprehensive list. This Comprehensive 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 five (5) 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 6.8), an amendment to the text of the Land Use Code and/or the Zoning Map (Division 6.25), a hardship variance (Division 6.14), an appeal of an administrative decision (Division 6.18), a permit to conduct an activity or develop in an area of state interest (Articles 6.27 and 6.28) 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 6.13.

(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. An applicant may communicate with City staff designated as reviewers of a project.

### 6.2.3 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 (Division 6.4); or through a project development plan (Division 6.6), then through a final plan (Division 6.7), then through a development construction permit (Division 6.21) and then through a building permit review (Division 6.13). If the applicant desires to develop in two (2) or more separate project development plan submittals, an overall development plan (Division 6.5) will also be required prior to or concurrently with the project development plan. A PUD Comprehensive Plan associated with a PUD Overlay may be substituted for an overall development plan (Division 2.6). 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 development standards of Articles 3 and 5 and the zone district standards and allowed uses in zone districts of Articles 2 and 4).

Permitted uses subject to basic development review, administrative review, or permitted uses subject to Planning and Zoning Commission review listed in the applicable zone district set forth in Article 2, zone districts, shall be processed through an overall development plan, a basic development review, 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 6.25, or in accordance with the requirements for the addition of a permitted use under Division 6.9 Development applications for permitted uses which seek to modify any standards contained in the development standards in Articles 3 and 5, and the zone district standards in Article 2 and use standards of Article 4, shall be submitted by the applicant and processed as a modification of standards under Division 6.8. Variances to development standards contained in Articles 3 and 5 and zone district standards of Article 2 and use standards of Article 4, shall be processed as variances by the Land Use Review Commission pursuant to Division 6.14. Appeals of administrative/staff decisions shall be according to Division 6.18. PUD overlays shall be processed pursuant to Division 2.6. Applications to conduct an activity or develop within an area of state interest are addressed in Articles 6.27 and 6.28. This Section is meant to complement and not override or substitute for the requirements of Chapter 14 of the Code of the City of Fort Collins regarding landmarks.

(B) **Basic Development Review (BDR)**

(1) **Purpose and Effect.** The basic development review is the administrative process for reviewing a site specific development plan that describes and establishes the type and intensity of use for a specific parcel or parcels of property. The basic development review shall include the final subdivision plat (when such plat is required pursuant to Section 5.4.4 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 Director only pursuant to an approved Basic Development Review, subject to the provisions of Division 6.4.

(2) **Applicability.** A basic development review application may be submitted prior to required public notification. If the project is to be developed over time in two (2) or more separate basic development review submittals, an overall development plan shall also be required. Refer to Division 6.4 for specific requirements for basic development reviews.

(C) **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 6.5 for specific requirements for overall development plans.

(D) **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 5.4.4 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 6.6 for specific requirements for project development plans.

(E) **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 5.4.4 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 Director only pursuant to an approved final plan or other site specific development plan, subject to the provisions of Division 6.7.

(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 Commission for Type 2 review) of a project development plan, unless the project development and final plans have been consolidated pursuant to Section 6.3.3(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 6.7 for specific requirements for final plans.

### (F) 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 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 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.

(c) Application for a Site Plan Advisory Review is subject to review by the Planning and Zoning Commission under the requirements contained in Division 6.11 of this Code.

### (G) 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 Comprehensive Plan is the written document associated with a PUD Overlay and the PUD Comprehensive 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

Comprehensive 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 Division 2.6.3 for specific requirements and review of PUD.

(H) **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 Division 6.27 unless an exemption exists pursuant to Section 6.27.4.1 or a finding of no significant impact is issued pursuant to Section 6.27.6.5.

## 6.2.4 EFFECT OF DEVELOPMENT APPLICATION APPROVAL

(A) **Limitation on other development.**

In the event that a property has obtained development approval of a site specific development plan, such property may not thereafter be developed in any other fashion, except in accordance with Division 6.16, Nonconforming Uses and Structures or 6.17, Existing Limited Permitted Uses; or upon the occurrence of one (1) of the following events:

(1) The right to develop the property in accordance with the approved plan has expired pursuant to Division 6.3, in which event the property may be developed according to such other development application as may be subsequently approved by the appropriate decision maker (the Director for Type 1 review and the Planning and Zoning Commission for Type 2 review);

(2) The owner of the property has obtained the approval, pursuant to subsections 6.3.10(B) and (C), of the appropriate decision maker to abandon the right to develop the property (or any portion thereof) in accordance with the approved development plan, in which event the right to develop other than as the previously approved development plan shall apply only to the portion of the property which is no longer subject to the development plan;

(3) The owner of the property has obtained permission from the appropriate decision maker to amend the approved development plan in accordance with Division 6.3, in which event the property shall be developed according to the amended plan;

(4) The owner of the property has obtained the approval of the appropriate decision maker to redevelop the property (or any portion thereof) in some manner other than in accordance with the approved development plan because of the destruction of improvements constructed pursuant to the approved development plan by reason of fire, flood, tornado or other catastrophe, in which event the property shall be developed according to the plan for redevelopment approved by the appropriate decision maker.

(B) **Process.** Any property owner seeking to obtain the approval of the appropriate decision maker pursuant to this Section shall submit an application complying with the requirements and procedures set forth in Section 6.3.10 pertaining to amendments and abandonment.

(C) **Criteria**. In considering whether to approve any application for abandonment pursuant to this Section, the appropriate decision maker shall be governed by the following criteria:

(1) The application shall not be approved if, in so approving, any portion of the property remains developed or to be developed in accordance with the previously approved development plan and, because of the abandonment, such remaining parcel of property would no longer qualify for development approval pursuant to the standards and requirements of the most current version of this Code.

(2) The application shall not be approved if, in so approving, the city's rights of ownership of, or practical ability to utilize, any previously dedicated street, easement, right-of-way or other public area or public property would be denied or diminished to the detriment of the public good.

## 6.2.5 DEDICATIONS AND VACATIONS

**(A) By the Planning and Zoning Commission.**
As part of its review and approval of a specific planning item, the Planning and Zoning Commission may accept the dedication of streets, easements and other rights-of-way shown on plats and deeds for such item. The Commission may also vacate easements and rights-of-way, other than streets and alleys, if they pertain to a planning item subject to review by the Commission. Such acceptance and/or vacation may be accomplished either by resolution or by notation on the plat for the item.

**(B) By the Director.** The Director may also accept the dedication of streets, easements and other rights-of-way shown on the plats and deeds associated with a specific planning item. Such authority of the Director shall extend to planning items that are subject to review and approval by the Commission, as well as those that are subject to basic development review, building permit review, and administrative review, and approval, and shall apply to both on-site and off-site streets, easements, and rights-of-way. The Director may also vacate easements and rights-of-way, other than streets and alleys, whether they pertain to a planning item subject to review by the Commission, basic development review, building permit review, or administrative review. Such acceptance and/or vacation may be accomplished either by resolution or by notation on the plat for the item.

## 6.2.6 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 or permit to conduct a designated activity of state interest or develop in 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 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:

(1) The proposed development cannot have begun any step of the Common Development Review Procedures for Development Applications set forth in Division 6.3.

(2) 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.

(3) 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 Division 6.3. Such review is intended to provide an opportunity for applicants to present conceptual information to the Planning and Zoning 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. 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) **Notice and Hearing Procedure.**
All preapplication hearings under above Subsections (A) or (B) 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 set forth in Division 6.3, 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.

(D) **Input Non-Binding, Record.** The Planning and Zoning Commission or City Council as applicable pursuant to above Subsections (A) or (B) may, but shall not be required to, comment on the proposal. Any comment, suggestion, or recommendation made by any Planning and Zoning Commission or City Council member regarding 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.

# DIVISION 6.3 COMMON DEVELOPMENT REVIEW PROCEDURES FOR DEVELOPMENT APPLICATIONS

## 6.3.1 STEP 1: CONCEPTUAL REVIEW/PRELIMINARY DESIGN REVIEW

(A) **Conceptual Review:**

(1) **Purpose.** Conceptual review is an opportunity for an applicant to discuss requirements, standards and procedures that apply to their development proposal. Major problems can be identified and solved during conceptual review before a formal application is made.

Conceptual review may include representatives of the Department, Poudre Fire Authority, Police Services, Water & Wastewater Utilities, Electric Utility, Stormwater Utility, and other departments as appropriate, and special districts where applicable.

(2) **Applicability.** A conceptual review is mandatory for all overall development plans and for project development plans not subject to an overall development plan. Conceptual review must occur at least one (1) day prior to submittal of any application for an overall development plan or project development plan which is not subject to an overall development plan. The conceptual review may be waived by the Director for those development proposals that, in their opinion, would not derive substantial benefit from such review.

(3) **Concept Plan Submittal.** The applicant shall bring a sketch showing the location of the proposed project, major streets and other significant features in the vicinity to the Conceptual Review meeting.

(4) **Staff Review and Recommendation.** Upon receipt of a concept plan, and after review of such plan with the applicant, the Director shall furnish the applicant with written comments regarding such plan, including appropriate recommendations to inform and assist the applicant prior to preparing the components of the development application.

(B) **Preliminary Design Review:**

(1) **Purpose**. Preliminary design review is an opportunity for an applicant to discuss requirements, standards, procedures, potential modifications of standards or variances that may be necessary for a project and to generally consider in greater detail the development proposal design which has been evaluated as a part of the conceptual review process. While the conceptual review process is a general consideration of the development proposal, preliminary design review is a consideration of the development proposal in greater detail. Problems of both a major and minor nature can be identified and solved during the preliminary design review before a formal application is made.

Preliminary design review may include representatives of the Department, Poudre Fire Authority, Police Services, Water and Wastewater Utilities, Electric Utility, Stormwater Utility, and other departments as appropriate, and special districts where applicable. Additionally, other public or quasi-public agencies which may be impacted by the development project are invited and encouraged to attend the preliminary design review. These agencies may include the gas utility, water and/or wastewater utility districts, ditch companies, railroads, cable television service providers and other similar agencies.

(2) **Applicability.** Although a preliminary design review is not mandatory, it may be requested by the applicant for any development proposal. A request for preliminary design review may be made in an informal manner, either in writing or orally, but must be accompanied by the payment of the application fee as established in the development review fee schedule. Preliminary design review, if requested by the applicant, must occur at least seven (7) days prior to the submittal of any application for overall development plan or project development plan which is not subject to an overall development plan.

(3) **Preliminary Plan Submittal.** In conjunction with a preliminary design review, the applicant shall submit all documents required for such review as established in the development application submittal requirements Comprehensive list.

(4) **Staff Review and Recommendation**. Upon receipt of a preliminary development proposal for review, and after review of such proposal with the applicant, the Director shall furnish the applicant with written comments and recommendations regarding such proposal in order to inform and assist the applicant prior to preparing components of the development application. In conjunction with the foregoing, the Director shall provide the applicant with a "critical issues list" which will identify those critical issues which have surfaced in the preliminary design review as issues which must be resolved during the review process of the formal development application. The critical issues list will provide to applicants the opinion of the Director

regarding the development proposal, as that opinion is established based upon the facts presented during conceptual review and preliminary design review. To the extent that there is a misunderstanding or a misrepresentation of facts, the opinion of the Director may change during the course of development review. The positions of the Director that are taken as a part of the critical issues list may be relied upon by applicants, but only insofar as those positions are based upon clear and precise facts presented in writing, either graphically or textually on plans or other submittals, to the Director during the course of preliminary design review.

### 6.3.2 STEP 2: NEIGHBORHOOD MEETINGS

(A) **Purpose.** To facilitate citizen participation early in the development review process, the City shall require a neighborhood meeting between citizens of area neighborhoods, applicants and the Director for any development proposal that is subject to Planning and Zoning Commission review unless the Director determines that the development proposal would not have significant neighborhood impact. Citizens are urged to attend and actively participate in these meetings. The purpose of the neighborhood meeting is for such development applications to be presented to citizens of area neighborhoods and for the citizens to identify, list and discuss issues related to the development proposal. Working jointly with staff and the applicant, citizens help seek solutions for these issues. Neighborhood meetings are held during the conceptual planning stage of the proposal so that neighborhoods may give input on the proposal before time and effort have been expended by the applicant to submit a formal development application to the City. At least ten (10) calendar days shall have passed between the date of the neighborhood meeting and the submittal to the City of the application for development approval for the project that was the subject of the neighborhood meeting.

(B) **Applicability**. A neighborhood meeting shall be required on any development proposal that is subject to Planning and Zoning Commission review unless the Director determines as a part of the staff review and recommendation required pursuant to Section 6.3.1(B)(4) that the development proposal would not have significant neighborhood impacts.

(C) **Notice of Neighborhood Meeting.** Notice of the neighborhood meeting shall be given in accordance with Section 6.3.6(A), (B) and (D).

(D) **Attendance at Neighborhood Meeting.** If a neighborhood meeting is required, the meeting shall be held prior to submittal of a development application to the Director for approval of an overall development plan and/or project development plan. The applicant or applicant's representative shall attend the neighborhood meeting. The Director shall be responsible for scheduling and coordinating the neighborhood meeting and shall hold the meeting in the vicinity of the proposed development.

(E) **Summary of Neighborhood Meeting.**
A written summary of the neighborhood meeting shall be prepared by the Director. The written summary shall be included in the staff report provided to the decision maker at the time of the public hearing to consider the proposed development.

### 6.3.3 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 6.3.7 had it been submitted, processed and considered as separate development applications. Decision makers, from highest level to lowest level, are the Planning and Zoning Commission and the Director, respectively.

(C) **Development Application Contents.**

(1) **Development Application Submittal Requirements Comprehensive List.** A Comprehensive list of development application submittal requirements shall be established by the Director. The Comprehensive 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 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 Comprehensive list that are identified as submittal requirements for that development application. The Director may waive items on the Comprehensive 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 6.3.3(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 the applicant's 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; and

(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.

### 6.3.4 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. Some development applications may involve complex technical issues that require review and input that is outside the expertise of City staff. If such a situation arises, the Director may procure the services of third-party consultants to review and consult with the City regarding the relevant subject matter and require the applicant to pay the costs for such third-party consultants as described in Section 6.3.3(D)(3). Upon review by the Director and any necessary third-party consultants, the Director will determine whether the application is complete. 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 6.3.3(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.

(C) **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 Section

6.3.11(E)(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.

### 6.3.5 STEP 5: STAFF REPORT

Within a reasonable time after determining that a development application is sufficient, the Director shall refer the development application to the appropriate review agencies, review the development application, and prepare a Staff Report. The Staff Report shall be made available for inspection and copying by the applicant and the public prior to the scheduled public hearing on the development application. The Staff Report shall indicate whether, in the opinion of the Staff, the development application complies with all applicable standards of this Code. Conditions for approval may also be recommended to eliminate any areas of noncompliance or mitigate any adverse effects of the development proposal.

### 6.3.6 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 6.3.6(D), then the area of notification shall conform to the 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 or in case of a Basic Development Review the Director's decision. 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 6.3.6(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**. The following table indicates the required notice radius for a mailed notice and posted sign size for development applications.

| *Development Project* | *Minimum Notice Radius* | *Sign Size* |
|---|---|---|
| All developments except those described below. | 800 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 shall apply to mailed notice for FONSI comment periods, neighborhood meetings, appeals of Director FONSI decisions, Planning and Zoning Commission permit recommendations, and City Council permit hearings | 12 square feet, however, the Director may require an increased number of signs depending upon the size and configuration of the proposed development plan |
| Minor Subdivisions containing no more than one (1) new lot. | Abutting Properties | 12 square feet |
| Developments including only an Accessory Dwelling Unit or one (1) additional dwelling unit. | Abutting Properties | 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 |
| Oil and gas facilities and oil and gas pipelines | One (1) mile to owners of record and occupants of real property (exclusive of property rights-of-way, public facilities, parks or public open space); 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 |
| Plugging and abandonment of wells and pipelines and decommissioning of oil and gas facilities | One (1) mile to owners of record and occupants of real property (exclusive of property rights-of-way, public facilities, parks or public open space of the oil and gas facility, well, or pipeline. | 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 |

(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 their agents.

### 6.3.7 STEP 7: PUBLIC HEARING

(A) **Decision maker**

(1) **Basic Development Review** no public hearing is conducted as part of a BDR.

(2) **Administrative Review (Type 1 review).** An administrative review process is hereby established wherein certain development applications shall be processed, reviewed, considered and approved, approved with conditions, or denied by the Director pursuant to the general procedural requirements contained in Division 6.2, and the common development review procedures contained in Division 6.3. For those development applications that are subject to administrative review, the Director shall be the designated decision maker.

(3) **Planning and Zoning Commission Review (Type 2 review).** A Planning and Zoning Commission review process is hereby established wherein certain development applications shall be processed, reviewed, considered and approved, approved with conditions, or denied by the Planning and Zoning Commission pursuant to the general procedural requirements contained in Division 6.2, and the common development review procedures contained in Division 6.3. For those development applications that are subject to Planning and Zoning Commission review, the Planning and Zoning Commission shall be the designated decision maker.

(B) Conduct of Public Hearing.

(1) **Rights of All Persons.** Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall state their name, address and, if appearing on behalf of a person or organization, the name and mailing address of the person or organization being represented.

(2) **Exclusion of Testimony.** The decision maker conducting the public hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious.

(3) **Continuance of Public Hearing.** The decision maker conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time and place. All continuances shall be granted at the discretion of the body conducting the public hearing.

(C) **Order of Proceedings at Public Hearing.**

The order of the proceedings at the public hearing shall be as follows:

(1) **Director Overview.** The Director shall provide an overview of the development application.

(2) **Applicant Presentation**. The applicant may present information in support of its application, subject to the determination of the Chair as to relevance. Copies of all writings or other exhibits that the applicant wishes the decision maker to consider must be submitted to the Director no less than five (5) working days before the public hearing.

(3) **Staff Report Presented.** The Director shall present a narrative and/or graphic description of the development application, as well as a staff report that includes a written recommendation. This recommendation shall address each standard required to be considered by this Code prior to approval of the development application.

(4) **Staff Response to Applicant Presentation**. The Director, the City Attorney and any other City staff member may respond to any statement made or evidence presented by the applicant.

(5) **Public Testimony.** Members of the public may comment on the application and present evidence, subject to the determination of the Chair as to relevance.

(6) **Applicant Response.** The applicant may respond to any testimony or evidence presented by the public.

(7) **Staff Response to Public Testimony or Applicant Response.** The Director, the City Attorney and any other City staff member may respond to any statement made or evidence presented by the public testimony or by the applicant's response to any such public testimony.

(D) Decision and Findings.

(1) **Decision — Administrative Review (Type 1 review).** After consideration of the development application, the Staff Report and the evidence from the public hearing, the Director shall close the public hearing. Within ten (10) working days following the public hearing, the Director shall issue a written decision to approve, approve with conditions, or deny the development application based on its compliance with the Standards referenced in Step 8 of the Common Development Review Procedures (Section 6.3.8). The written decision shall be mailed to the applicant and any person who provided testimony at the public hearing.

(2) **Decision — Planning and Zoning Commission Review (Type 2 review).** After consideration of the development application, the Staff Report and the evidence from the public hearing, the Chair of the Planning and Zoning Commission shall close the public hearing and the Commission shall approve, approve with conditions, or deny the development application based on its compliance with the Standards referenced in Step 8 of the Common Development Review Procedures (Section 6.3.8).

(3) **Findings.** All decisions shall include at least the following elements:

(a) A clear statement of approval, approval with conditions, or denial, whichever is appropriate.

(b) A clear statement of the basis upon which the decision was made, including specific findings of fact with specific reference to the relevant standards set forth in this Code.

(E) **Notification to Applicant.**

Notification of the decision maker's decision shall be provided by the Director to the applicant by mail within three (3) days after the decision. A copy of the decision shall also be made available to the public at the offices of the Director, during normal business hours, within three (3) days after the decision.

(F) **Record of Proceedings.**

(1) **Recording of Public Hearing.** The decision maker conducting the public hearing shall record the public hearing by any appropriate means. A copy of the public hearing record may be acquired by any person upon application to the Director, and payment of a fee to cover the cost of duplication of the record.

(2) **The Record.** The record shall consist of the following:

(c) all exhibits, including, without limitation, all writings, drawings, maps, charts, graphs, photographs and other tangible items received or viewed by the decision maker at the proceedings;

(d) all minutes of the proceedings;

(e) if appealed to the City Council, a verbatim transcript of the proceedings before the decision maker, the cost of which transcript shall be borne by the City; and

(f) if available, a videotape recording of the proceedings before the decision maker.

(G) **Recording of Decisions and Plats.**

(1) **Filing with City Clerk.** Once approved, and after the appeal period has expired (if applicable), the decision of the decision maker shall be filed with the City Clerk.

(2) **Final Plats and Development Agreements Recorded with County Clerk and Recorder.** Once the final utility plans, final plat and all other applicable Final Development Plan Documents are approved and the development agreement has been executed, the final plan has been approved, and any applicable conditions of final plan approval have been met, and after the appeal period has expired, the final plat and Development Agreement shall be recorded by the City in the Office of the Larimer County Clerk and Recorder and shall be filed with the City Clerk. The date that the recording with the Larimer County Clerk and Recorder of both the Final Plat and the Development Agreement is accomplished by the City shall establish the date of approval under Section 6.3.11(E)1. of this Land Use Code.

## 6.3.8 STEP 8: STANDARDS

To approve a development application, the decision maker must first determine and find that the development application has satisfied and followed the applicable requirements of this Article 6 and complies with all of the standards required for the applicable development application as modified by any modification of standards approved under Division 6.8.

## 6.3.9 STEP 9: CONDITIONS OF APPROVAL

The decision maker may impose such conditions on approval of the development application as are necessary to accomplish the purposes and intent of this Code, or such conditions that have a reasonable nexus to potential impacts of the proposed development, and that are roughly proportional, both in nature and extent, to the impacts of the proposed development.

## 6.3.10 STEP 10: AMENDMENTS AND CHANGES OF USE

(A) **Minor Amendments and Changes of Use.**

(1) Minor amendments to any approved development plan, including any Overall Development Plan, Project Development Plan, or PUD Comprehensive Plan, any site specific development plan, or the existing condition of a platted property; and (2) Changes of use, either of which meet the applicable criteria of below subsections 6.3.10(A)(2) or 6.3.10(A)(3), may be approved, approved with conditions, or denied

administratively by the Director and may be authorized without additional public hearings. Except for PUD Comprehensive Plans, such minor amendments and changes of use may be authorized by the Director as long as the development plan, as so amended, continues to comply with the standards of this Code to the extent reasonably feasible. PUD Comprehensive Plan Minor amendments may be authorized by the Director as long as the PUD Comprehensive Plan, as so amended, continues to comply with the standards of this Code, as such standards may have been modified in the existing PUD Comprehensive Plan, and so long as the amendments are consistent with the existing PUD Comprehensive Plan. Minor amendments and changes of use shall only consist of any or all of the following:

(2) Any change to any approved development plan or any site specific development plan which was originally subject only to administrative review and was approved by the Director, or any change of use of any property that was developed pursuant to a basic development review or a use-by-right review under prior law; provided that such change would not have disqualified the original plan from administrative review had it been requested at that time; and provided that the change or change of use complies with all of the following criteria applicable to the particular request for change or change of use:

(a) results in an increase by five (5) percent or less in the approved number of dwelling units, except that in the case of a change of use of any property that was developed pursuant use-by-right review under prior law, the number of dwelling units proposed to be added may be four (4) units or less;

(b) results in an increase or decrease in the amount of square footage of a nonresidential land use or structure that does not change the character of the project;

(c) results in a change in the housing mix or use mix ratio that complies with the requirements of the zone district and does not change the character of the project;

(d) does not result in a change in the character of the development;

(e) does not result in new buildings, building additions or site improvements, such as parking lots and landscaping, that are proposed to be located outside the boundaries of the approved Project Development Plan or approved site specific development plan;

(f) results in a decrease in the number of approved dwelling units and does not change the character of the project, and that the plan as amended continues to comply with the requirements of this Code; and

(g) in the case of a change of use, the change of use results in the site being brought into compliance, to the extent reasonably feasible as such extent may be modified pursuant to below subsection 6.3.10(A)3., with the applicable development standards contained in Articles 3 and 5 and the applicable zone district standards contained in Articles 2 and 4 of this Code.

(3) Any change to any approved development plan or any site specific development plan which was originally subject to review by the Planning and Zoning Commission (either as a Type 2 project or as a project reviewed by the Planning and Zoning Commission under prior law) or City Council review of a PUD Overlay, or any change of use of any property that was approved by the Planning and Zoning Commission; provided that the change or change of use complies with all of the following criteria applicable to the particular request for change or change of use:

(a) results in an increase or decrease by five (5) percent or less in the approved number of dwelling units;

(b) results in an increase or decrease in the amount of square footage of a nonresidential land use or structure that does not change the character of the project;

(c) results in a change in the housing mix or use mix ratio that complies with the requirements of the zone district and does not change the character of the project;

(d) does not result in a change in the character of the development; and

(e) does not result in new buildings, building additions or site improvements, such as parking lots and landscaping, that are proposed to be located outside the boundaries of the approved Project Development Plan or approved site specific development plan.

(4) **Waiver of Development Standards for Changes of Use.**

(a) **Applicability.** The procedure and standards contained in this Section shall apply only to changes of use reviewed pursuant to Section 6.3.10(A) of this Code.

(b) **Purpose.** In order for a change of use to be granted pursuant to Section 6.3.10(A), the change of use must result in the site being brought into compliance with all applicable development and zone district standards to the extent reasonably feasible. The purpose of this Section is to allow certain changes of use that do not comply with all applicable development standards to the extent reasonably feasible to be granted pursuant to Section 6.3.10(A) in order to:

(I) Foster the economic feasibility for the use, maintenance and improvement of certain legally constructed buildings and sites which do not comply with certain Land Use Code development standards provided that:

(II) existing blight conditions have been ameliorated; and

(III) public and private improvements are made that address essential health and life safety issues that are present on-site.

(IV) Encourage the eventual upgrading of nonconforming buildings, uses and sites.

(c) **Review by Director.** As part of the review conducted pursuant to Section 6.3.10(A) for a proposed change of use, the Director may waive, or waive with conditions, any of the development standards set forth in subsection (d) below. In order for the Director to waive, or waive with conditions, any such development standard, the Director must find that such waiver or waiver with conditions would not be detrimental to the public good and that each of the following is satisfied:

(I) The site for which the waiver or waiver with conditions is granted satisfies the policies of the applicable Council adopted subarea, corridor or neighborhood plan within which the site is located;

(II) The proposed use will function without significant adverse impact upon adjacent properties and the district within which it is located in consideration of the waiver or waiver with conditions;

(III) Existing blight conditions on the site are addressed through site clean-up, maintenance, screening, landscaping or some combination thereof; and

(IV) The site design addresses essential health and public safety concerns found on the site.

(d) **Eligible Development Standards.** The Director may grant a waiver or waiver with conditions for the following development standards:

(I) Division 5.9 related to Parking Lot Perimeter and Interior Landscaping, and Landscape Coverage.

(II) Division 5.12 Site Lighting,

(III) Division 5.11 Trash and Recycling Enclosure design.

(IV) Division 5.4.3 Engineering Design standards related to water quality standard, including Low Impact Development.

(5) **Referral.** In either subsection (1) or (2) above, the Director may refer the amendment or change of use to the decision maker who approved the development plan proposed to be amended. The referral of minor amendments to development plans or changes of use allowed or approved under the laws of the City for the development of land prior to the adoption of this Code shall be processed as required for the land use or uses proposed for the amendment or change of use as set forth in Article 4 (i.e., Type 1 review or Type 2 review) for the zone district in which the land is located. The referral of minor amendments or changes of use to project development plans or final plans approved under this Code shall be reviewed and processed in the same manner as required for the original development plan for which the amendment or change of use is sought, and, if so referred, the decision maker's decision shall constitute a final decision, subject only to appeal as provided for development plans under Divisions 6.2.3 (B);(C);(D);(E); and (G) as applicable, for the minor amendment or change of use. City Council approval of a minor amendment to a PUD Comprehensive Plan shall be by resolution.

(6) **Notification**. Written notice must be mailed to the owners of record of all real property abutting the property that is the subject of the minor amendment application at least fourteen (14) calendar days prior to the Director's decision.

(7) **Appeals**. Applicable pursuant to Section 6.3.12(C).

(B) **Major Amendments and Changes of Use Not Meeting the Criteria of 6.3.10(A)**.

(1) **Procedure/Criteria.** Amendments to any approved development plan, including any Overall Development Plan, Project Development Plan, or PUD Comprehensive Plan, or any site specific development plan, and changes of use that are not determined by the Director to be minor amendments or qualifying changes of use under the criteria set forth in subsection (A) above, shall be deemed major amendments.

(2) Major amendments to approved development plans or site specific development plans approved under the laws of the City for the development of land prior to the adoption of this Code shall be processed as required for the land use or uses proposed for the amendment as set forth in Article 4 (i.e., BDR, Type 1 review, or Type 2 review) for the zone district in which the land is located, and, to the maximum extent feasible, shall comply with all applicable Land Use Code standards. Major amendments to development

plans or site specific development plans approved under this Code shall be reviewed and processed in the same manner as required for the original development plan for which amendment is sought. Any major amendments to an approved project development plan or site specific development plan shall be recorded as amendments in accordance with the procedures established for the filing and recording of such initially approved plan. City Council approval of a major amendment to a PUD Comprehensive Plan shall be by resolution.

(3) Any partial or total abandonment of a development plan or site specific development plan approved under this Code, or of any plan approved under the laws of the City for the development of land prior to the adoption of this Code, shall be deemed to be a major amendment, and shall be processed as a Type 2 review; provided, however, that if a new land use is proposed for the property subject to the abandonment, then the abandonment and new use shall be processed as required for the land use or uses proposed as set forth in Article 4 (i.e., BDR, Type 1 review or Type 2 review) for the zone district in which the land is located.

(4) *Appeals.* Appeals of decisions for approval, approval with conditions or denial of major amendments, or abandonment, of any approved development plan or site specific development plan shall be filed and processed in accordance with Section 6.3.12 (Step 12).

(C) **Additional Criteria.** In addition to the criteria established in (A) and (B) above, the criteria established in subsection 6.2.4(C) shall guide the decision maker in determining whether to approve, approve with conditions, or deny the application for partial or total abandonment.

(D) **Parkway Landscaping Amendments.** Amendments to parkway landscaping in any approved development plan may be approved, approved with conditions or denied administratively by the Director. No public hearing need be held on an application for a parkway landscaping amendment. Such amendments may be authorized by the Director as long as the development plan, as so amended, continues to comply with the Fort Collins Streetscape Standards, Appendix C, Section 6.1 in the Larimer County Urban Area Street Standards. Appeals of the decision of the Director regarding the approval, approval with conditions or denial of parkway landscaping amendments of any approved development plan shall be made in accordance with paragraph (A)(4) of this Section.

## 6.3.11 STEP 11: LAPSE

(A) **Application Submittals.** An application submitted to the City for the review and approval of a development plan must be diligently pursued and processed by the applicant. Accordingly, the applicant, within one hundred eighty (180) days of receipt of written comments and notice to respond from the City on any submittal (or subsequent revision to a submittal) of an application for approval of a development plan, shall file such additional or revised submittal documents as are necessary to address such comments from the City. If the additional submittal information or revised submittal is not filed within said period of time, the development application shall automatically lapse and become null and void. The Director may grant one (1) extension of the foregoing one-hundred-eighty-day requirement, which extension may not exceed one hundred twenty (120) days in length, and one (1) additional extension which may not exceed sixty (60) days in length. This subsection (A) shall apply to applications which are, or have been, filed pursuant to this Code and to applications which are, or have been, filed pursuant to the laws of the City for the development of land prior to the adoption of this Code. On transfer of ownership of any real property that is the subject of a pending application, whether in whole or in part, such transfer shall bar a new owner or transferee from taking further action on such application unless, prior to taking any action, the new owner provides evidence satisfactory to the Director that the transferor of such property intended that all rights of the owner under the pending

application be assigned to the transferee.

(B) **Overall Development Plan.** There is no time limit for action on an overall development plan. Because an overall development plan is only conceptual in nature, no vested rights shall ever attach to an overall development plan. The approval of, or completion of work pursuant to, project development plans or final plans for portions of an overall development plan shall not create vested rights for those portions of the overall development plan which have not received such approvals and have not been completed.

(C) **PUD Comprehensive Plan.** A PUD Comprehensive Plan shall be eligible for a vested property right solely with respect to uses, densities, development standards, and Engineering Standards for which variances have been granted pursuant to Section 2.6.3, as all are set forth in an approved PUD Comprehensive Plan. An approved PUD Comprehensive Plan shall be considered a site specific development plan solely for the purpose of acquiring such vested property rights subject to the provisions set forth in this Subsection (C) and not Subsection (E) below. A PUD Comprehensive Plan shall be deemed approved upon the effective date of the ordinance approving such PUD Comprehensive Plan as a site specific development plan and, upon such approval, a vested property right shall be created pursuant to the provisions of Article 68 Title 24, C.R.S., and this Section 6.3.11.

(1) **Specification of Uses, Densities, Development Standards, and Engineering Standards**. The application for a PUD Comprehensive Plan shall specify the uses, densities, development standards, and Engineering Standards granted variances pursuant to Section 2.6.3, for which the applicant is requesting a vested property right. Such uses, densities, and development standards may include those granted modifications pursuant to Section 2.6.3 and uses, densities, and development standards set forth in the Land Use Code which are applicable to the PUD Comprehensive Plan.

(2) **Term of Vested Right**. The term of the vested property right shall not exceed three (3) years unless: (a) an extension is granted pursuant to paragraph (3) of this subsection, or (b) the City and the developer enter into a development agreement which vests the property right for a period exceeding three (3) years. Such agreement may be entered into by the City if the Director determines that it will likely take more than three (3) years to complete all phases of the development and the associated engineering improvements for the development, and only if warranted in light of all relevant circumstances, including, but not limited to, the overall size of the development and economic cycles and market conditions. Council shall adopt any such development agreement as a legislative act subject to referendum.

(3) **Extensions.** Extensions for two (2) successive periods of one (1) year each may be granted by the Director, upon a finding that (a) the applicant has been diligently pursuing development pursuant to the PUD Comprehensive Plan, and (b) granting the extension would not be detrimental to the public good. Any additional one-year extensions shall be approved, if at all, only by the original PUD Comprehensive Plan decision maker, upon a finding that (a) the applicant has been diligently pursuing development pursuant to the PUD Comprehensive Plan, and (b) granting the extension would not be detrimental to the public good. A request for an extension of the term of vested right under this Section must be submitted to the Director in writing at least thirty (30) days prior to the date of expiration. Time is of the essence. The granting of extensions by the Director under this Section may, at the discretion of the Director, be referred to the original PUD Comprehensive Plan decision maker.

(4) **Publication**. A "notice of approval" describing the PUD Comprehensive Plan and stating that a vested property right has been created or extended, shall be published by the City once in a newspaper of general circulation within the City, not later than fourteen (14) days after the approval of a PUD Comprehensive

Plan, an extension of an existing vested right, or the legislative adoption of a development agreement as described in paragraph (2) of this subsection. The period of time permitted by law for the exercise of any applicable right of referendum or judicial review shall not begin to run until the date of such publication, whether timely made within said fourteen-day period, or thereafter.

(5) **Minor and Major Amendments**. In the event that a minor or major amendment to a PUD Comprehensive Plan is approved under the provisions of Section 6.3.10, and such amendment alters or adds uses, densities, development standards, or Engineering Standards for which variances have been granted pursuant to Section 2.6.3, a new vested property right may be created upon the applicant's request and pursuant to paragraph 2 of this subsection. If the applicant wants the term of the new vested property right to exceed three (3) years, such extended term must be approved and legislatively adopted pursuant to paragraph 2 of this subsection.

(D) **Project Development Plan and Plat.** Following the approval of a project development plan and upon the expiration of any right of appeal, or upon the final decision of the City Council following appeal, if applicable, the applicant must submit a final plan for all or part of the project development plan within three (3) years unless the project development plan is for a large base industry to be constructed in phases, in which case the application for approval of a final plan must be submitted within twenty-five (25) years. If such approval is not timely obtained, the project development plan (or any portion thereof which has not received final approval) shall automatically lapse and become null and void. The Director may grant one (1) extension of the foregoing requirement, which extension may not exceed six (6) months in length. No vested rights shall ever attach to a project development plan. The approval of, or completion of work pursuant to, a final plan for portions of a project development plan shall not create vested rights for those portions of the project development plan which have not received such final plan approval and have not been completed.

(E) **Final Plan and Plat and Other Site Specific Development Plans.**

(1) **Approval.** With the exception of site specific development plans subject to Subsection (C) above, a site specific development plan shall be deemed approved upon the recording by the City with the Larimer County Clerk and Recorder of both the Final Plat and the Development Agreement and upon such recording, a vested property right shall be created pursuant to the provisions of Article 68 Title 24, C.R.S., and this Section 6.3.11.

(2) **Publication.** A "notice of approval" describing generally the type and intensity of use approved and the specific parcel or parcels affected, and stating that a vested property right has been created or extended, shall be published by the City once, not later than fourteen (14) days after the approval of any final plan or other site specific development plan in a newspaper of general circulation within the City. The period of time permitted by law for the exercise of any applicable right of referendum or judicial review shall not begin to run until the date of such publication, whether timely made within said fourteen-day period, or thereafter.

(3) **Term of Vested Right.** Within a maximum of three (3) years following the approval of a final plan or other site specific development plan, the applicant must undertake, install and complete all engineering improvements (water, sewer, streets, curb, gutter, street lights, fire hydrants and storm drainage) in accordance with City codes, rules and regulations. The period of time shall constitute the "term of the vested property right." The foregoing term of the vested property right shall not exceed three (3) years unless: (a) an extension is granted pursuant to paragraph (4) of this subsection, or (b) the City and the developer enter into a development agreement which vests the property right for a period exceeding three (3) years. Such agreement may be entered into by the City only if the subject development constitutes a "large base industry" as defined in Article 7, or if the Director determines that it will likely take more than

three (3) years to complete all engineering improvements for the development, and only if warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles and market conditions. Any such development agreement shall be adopted as a legislative act subject to referendum. Failure to undertake and complete such engineering improvements within the term of the vested property right shall cause a forfeiture of the vested property right and shall require resubmission of all materials and reapproval of the same to be processed as required by this Code. All dedications as contained on the final plat shall remain valid unless vacated in accordance with law.

(4) **Extensions.** Extensions for two (2) successive periods of one (1) year each may be granted by the Director, upon a finding that the plan complies with all applicable development standards as contained in Articles 3 and 5 and Zone District Standards as contained in Articles 2 and 4 at the time of the application for the extension. Any additional one-year extensions shall be approved, if at all, only by the Planning and Zoning Commission, upon a finding that the plan complies with all applicable development standards as contained in Articles 3 and 5 and zone district standards as contained in Articles 2 and 4 at the time of the application for the extension, and that (a) the applicant has been diligent in constructing the engineering improvements required pursuant to paragraph (3) above, though such improvements have not been fully constructed, or (b) due to other extraordinary and exceptional situations unique to the property, completing all engineering improvements would result in unusual and exceptional practical difficulties or undue hardship upon the applicant, and granting the extension would not be detrimental to the public good. A request for an extension of the term of vested right under this Section must be submitted to the Director in writing at least thirty (30) days prior to the date of expiration. Time is of the essence. The granting of extensions by the Director under this Section may, at the discretion of the Director, be referred to the Planning and Zoning Commission.

(5) **Minor Amendments.** In the event that minor amendments to a final plan or other site-specific development plan are approved under the provisions of Section 6.3.10(A) (or under prior law, if permissible), the effective date of such minor amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original final plan or other site specific development plan.

(6) **Major Amendments.** The approval of major amendments to a final plan or other site specific development plan under the provisions of Section 6.3.10(B) (or under prior law, if permissible), shall create a new vested property right with effective period and term as provided herein, unless expressly stated otherwise in the decision approving such major amendment.

(7) **Planning over old plans**. In the event that a new final plan is approved for a parcel of property which includes all of a previously approved site specific development plan, the approval of such new final plan shall cause the automatic expiration of such previously approved site specific development plan. In the event that a new final plan is approved for a parcel of property which includes only a portion of a previously approved site specific development plan, the approval of such new final plan shall be deemed to constitute the abandonment of such portion of the previously approved plan as is covered by such new plan, and shall be reviewed according to the abandonment criteria contained in subsection 6.2.4(C) and all other applicable criteria of this Code.

(8) **Other provisions unaffected.** Approval of a final plan or other site specific development plan shall not constitute an exemption from or waiver of any other provisions of this Code pertaining to the development and use of property.

(9) **Post denial re-submittal delay.** Property that is the subject of an overall development plan or a project development plan that has been denied by the decision maker or denied by City Council upon appeal, or withdrawn by the applicant, shall be ineligible to serve, in whole or in part, as the subject of another overall development plan or project development plan application for a period of six (6) months from the date of the final decision of denial or the date of withdrawal (as applicable) of the plan unless the Director determines that the new plan includes substantial changes in land use, residential density and/or nonresidential intensity.

(10) **Automatic repeal; waiver**. Nothing in this Section is intended to create any vested property right other than such right as is established pursuant to the provisions of Article 68, Title 24, C.R.S. In the event of the repeal of said article or a judicial determination that said article is invalid or unconstitutional, this Section shall be deemed to be repealed and the provisions hereof no longer effective. Nothing herein shall be construed to prohibit the waiver of a vested property right pursuant to mutual agreement between the City and the affected landowner. Upon the recording of any such agreement with the Larimer County Clerk and Recorder, any property right which might otherwise have been vested shall be deemed to be not vested.

## 6.3.12 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 Article.

(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 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 6.3.10(A) or basic development review application pursuant to Division 6.4 may be appealed to the Planning and Zoning 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 Commission within sixty (60) calendar days of a notice of appeal being deemed complete unless the Planning and Zoning Commission adopts a motion granting an extension of such time period.

(4) **Notice.** Once a hearing date before the Planning and Zoning Commission has been determined, the Director shall mail written notice pursuant to Section 6.3.6(A). Notice requirements set forth in Section 6.3.6(B) through (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 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 6.3.7 to decide the appeal, and City staff shall prepare a staff report for the Planning and Zoning 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 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 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 Commission for its consideration at the appeal hearing that was not provided to the Director for their consideration in making the final 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 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 6.3.10(A) and Division 6.4. The Planning and Zoning Commission decision shall constitute a final decision appealable to City Council pursuant to Section 6.3.12(A).

(D) *Appeal of FONSI Determination*. The Director's determination pursuant to Section 6.5.5 that a proposed development plan would have no significant impact and would not require a permit pursuant to Article 6, or that a proposed development plan would have a significant 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 have a significant impact and, therefore, a permit is required pursuant to Division 6.27.

Any person is eligible to file an appeal of the Director's finding that a proposed development plan would not have a significant impact and would not require a permit pursuant to Division 6.27.

(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 FONSI 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;

(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 6.3.7 to decide the appeal with appellant being substituted for applicant in Section 6.3.7. In any appeal of a Director finding that a proposed development project would have a significant impact and is not required to obtain a permit, the procedure set forth in Section 6.3.7 shall be modified to provide the FONSI 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 6.27.6.5 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 6.3.12(A).

# DIVISION 6.4 BASIC DEVELOPMENT REVIEW

## 6.4.1 PURPOSE AND APPLICABILITY

The purpose of the basic development review ("BDR") is to establish an internal administrative process for approval of a site specific development plan where the decision maker is the Director. There is no public hearing and the basic development review process shall be deemed final upon issuance of a decision by the Director. The basic development review shall be the review process for:

(A) Those uses listed as such in each of the Article Four use table.
(B) Existing Limited Permitted Uses (Division 6.17).
(C) Expansions and Enlargements of Existing Buildings (Sections 6.22 and 6.23.1).
(D) Building Permit Applications (Division 6.13).
(E) Minor Subdivisions (Section 6.4.2).
(F) Plugging and Abandonment and Decommissioning of Wells and Pipelines (Section 4.3.4(F)) provided such Plugging and Abandonment and Decommissioning is not part of a development application subject to a development review process other than BDR.

### 6.4.2 MINOR SUBDIVISIONS

A minor subdivision is a plat or replat that does not create more than one (1) new lot. A minor subdivision shall not be permitted if the property is within a parcel, any part of which has been subdivided by a minor subdivision plat within the immediately preceding twelve (12) months. For an unplatted metes and bounds lot undergoing the minor subdivision process to create a platted lot with the same boundaries, Step 6 (Notice) of Section 6.4.3 is not applicable.

### 6.4.3 BASIC DEVELOPMENT REVIEW AND MINOR SUBDIVISION REVIEW PROCEDURES

An application for Basic Development Review or Minor Subdivision shall be processed according to, in compliance with, and subject to the provisions contained in Division 6.2 and Steps (1) through (12) of the Common Development Review Procedures (Sections 6.3.1 through 6.3.12, inclusive), as follows:

(A) ***Step 1*** (Conceptual Review): Not applicable.
(B) ***Step 2***(Neighborhood Meeting): Not applicable.
(C) ***Step 3***(Development Application): Applicable.
(D) ***Step 4***(Review of Applications): Applicable.
(E) ***Step 5***(Staff Report): Not applicable and in substitution thereof, a staff report shall be prepared in the case of an appeal of a final decision pursuant to Section 6.3.12 (Step 12).
(F) ***Step 6 (Notice):*** Applicable
***Step 6(A)*** (Mailed Notice): Applicable.
***Step 6(B)*** (Posted Notice): Applicable.
***Step 6(C)*** (Published Notice): Applicable excluding developments of Accessory Dwelling Units.
***Step 6(D)*** (Supplemental Notice): Applicable.
***Step 6(E)*** Applicable.
(G) ***Step 7*** (Public Hearing): Not Applicable.
***Step 7(A)(1 and 2***: (Decisionmaker): Not applicable and in substitution thereof, the Director shall be the decision maker and there shall be no public hearing.
***Steps 7(B - C)*** Not Applicable.
***Step 7(D)(1 and 2***: (Decision and Findings): Not applicable and in substitution thereof, after consideration of the development application, the Director shall issue a written decision to approve, approve with conditions, or deny the development application based on compliance with the standards referenced in Step 8 of the Common Development Review Procedures (Section 6.3.8). The written decision shall be mailed to the applicant, to any person who provided comments during the comment period and to the abutting property owners, and shall also be posted on the City's website at www.fcgov.com.
***Step 7(D)(3)***: (Findings): Applicable
***Step 7(E)***: (Notification to Applicant): Applicable.
***Step 7(F)(1)***: (Recording of the Public Hearing): Not Applicable.
***Step 7(F)(2)(a)***: (The Record): Not Applicable.
***Step 7(F)(2)(b)***: (Minutes): Not applicable and in substitution thereof, the Director shall issue the decision in writing.

***Step 7(F)(2)(c and d)***: (Verbatim Transcript and Videotape Recording): Not Applicable.
***Step 7(G)***: (Recording of Decisions and Plats): Applicable for Minor Subdivisions only.

(H) ***Step 8*** (Standards): Applicable.
(I) ***Step 9*** (Conditions of Approval): Applicable.
(J) ***Step 10*** (Amendments): Applicable.
(K) ***Step 11*** (Lapse): Applicable.
***Step 11(A)***: (Application Submittals): Applicable.
***Step 11(B and C)*** (Lapse): Not Applicable.
***Step 11(D)(1—8)***: (Final Plan and Plan and Other Site Specific Development Plan): Applicable.
***Step 11(D)(9)***: (Post denial re-submittal delay): Not Applicable.
***Step 11(D)(10)***: (Automatic repeal; waiver): Applicable.
(L) ***Step 12*** (Appeals): Applicable pursuant to Section 6.3.12(C).

# DIVISION 6.5 OVERALL DEVELOPMENT PLAN

## 6.5.1 PURPOSE AND APPLICABILITY

The purpose and applicability of an overall development plan is contained in Section 6.2.3(C)).

## 6.5.2 OVERALL DEVELOPMENT PLAN REVIEW PROCEDURES

An overall development plan shall be processed according to, in compliance with and subject to the provisions contained in Division 6.2 and Steps 1 through 12 of the Common Development Review Procedures (Sections 6.3.1 through 6.3.12, inclusive) as follows:

(A) ***Step 1*** (Conceptual Review): Applicable.
(B) ***Step 2*** (Neighborhood Meeting): Applicable.
(C) ***Step 3*** (Development Application Submittal): All items or documents required for overall development plans as described in the development application submittal Comprehensive list shall be submitted. The Director may waive or modify the foregoing submittal requirements if, given the facts and circumstances of the specific application, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary for the full and complete review of the application.
(D) ***Step 4*** (Review of Applications): Applicable.
(E) ***Step 5*** (Staff Report): Applicable.
(F) ***Step 6*** (Notice): Applicable.
(G) ***Step 7(A)*** (Decision Maker): All overall development plans will be processed as Type 2 reviews.
(H) ***Step 7(B)—(G)*** (Conduct of Public Hearing, Order of Proceedings at Public Hearing, Decision and Findings, Notification to Applicant, Record of Proceedings, Recording of Decisions and Plats): Applicable.
(I) ***Step 8*** (Standards): Applicable. An overall development plan shall comply with the following criteria:

(1) The overall development plan shall be consistent with the permitted uses and zone district standards contained in Articles 2 and 4 for all zone districts contained within the boundaries of the overall development plan. The plan shall also be consistent with any development standards (Articles 3 and 5) that can be applied at the level of detail required for an overall development plan submittal. Only one (1) application for an overall development plan for any specific parcel or portion thereof may be pending for approval at any given time. Such application shall also be subject to the provisions for delay set out in Section 6.3.11.

(2) The overall development plan shall be consistent with the required density range of residential uses (including lot sizes and housing types) with regard to any land which is part of the overall development plan and which is included in the following districts of Article 2:

- The Rural Land District (RUL).
- The Urban Estate District (UE).
- The Residential Foothills District (RF).
- The Low Density Mixed-Use Neighborhood District (LMN).
- The Medium Density Mixed-Use Neighborhood District (MMN).
- The High Density Mixed-Use Neighborhood District (HMN).
- The Manufactured Housing District (MH).
- The Community Commercial - North College District (CCN).
- The Harmony Corridor District (HC).
- The Employment District (E).

(3) The overall development plan shall conform to the Master Street Plan requirements and the street pattern/connectivity standards both within and adjacent to the boundaries of the plan as required pursuant to Sections 5.4.5 and 5.4.7(A) through (F). The overall development plan shall identify appropriate transportation improvements to be constructed and shall demonstrate how the development, when fully constructed, will conform to the Transportation Level of Service Requirements as contained in Section 5.4.10 by submittal of a Comprehensive Level Transportation Impact Study.

(4) The overall development plan shall provide for the location of transportation connections to adjoining properties in such manner as to ensure connectivity into and through the overall development plan site from neighboring properties for vehicular, pedestrian and bicycle movement, as required pursuant to Section 5.4.7(F) and Section 5.9.1(C)(6).

(5) The overall development plan shall show the general location and approximate size of all natural areas, habitats and features within its boundaries and shall indicate the applicant's proposed rough estimate of the natural area buffer zones as required pursuant to Section 5.6.1(E).

(6) The overall development plan shall be consistent with the appropriate Drainage Basin Master Plan.

(7) Any standards relating to housing density and mix of uses will be applied over the entire overall development plan, not on each individual project development plan review.

(J) ***Step 9*** (Conditions of Approval): Applicable.
(K) ***Step 10*** (Amendments): Applicable.
(L) ***Step 11*** (Lapse): Applicable.
(M) ***Step 12*** (Appeals): Applicable.

# DIVISION 6.6 PROJECT DEVELOPMENT PLAN

## 6.6.1 PURPOSE AND APPLICABILITY

The purpose and applicability of a project development plan is contained in Section 6.2.3(D).

### 6.6.2 PROJECT DEVELOPMENT PLAN REVIEW PROCEDURES

A project development plan shall be processed according to, in compliance with and subject to the provisions contained in Division 6.2 and Steps 1 through 12 of the Common Development Review Procedures (Sections 6.3.1 through 6.3.12, inclusive) as follows:

(A) ***Step 1*** (Conceptual Review): Applicable, only if the project development plan is not subject to an overall development plan.
(B) ***Step 2*** (Neighborhood Meeting): Applicable.
(C) ***Step 3*** (Development Application Submittal): All items or documents required for project development plans as described in the development application submittal Comprehensive list shall be submitted. The Director may waive or modify the foregoing submittal requirements if, given the facts and circumstances of the specific application, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary for the full and complete review of the application.
(D) ***Step 4***(Review of Applications): Applicable.
(E) ***Step 5***(Staff Report): Applicable.
(F) ***Step 6*** (Notice): Applicable.
(G) ***Step 7(A)*** (Decision Maker):
Applicable as follows:

(1) **Administrative review** (Type 1 review) applies to a project development plan that satisfies all of the following conditions:

(a) it was submitted after the effective date of this Land Use Code and is subject to the provisions of this Land Use Code; and

(b) it contains only permitted uses subject to administrative review as listed in the zone district (set forth in Article 7, District Standards) in which it is located.

(2) **Planning and Zoning Commission review** (Type 2 review) applies to a project development plan that does not satisfy all of the conditions in (1), above.

***Step 7(B)-(G)*** (Conduct of Public Hearing, Order of Proceedings at Public Hearing, Decision and Findings, Notification to Applicant, Record of Proceedings, Recording of Decisions and Plats): Applicable.

(H) **Step 8** (Standards): Applicable. A project development plan shall comply with all development standards applicable to the development proposal (Articles 3 and 5) and the applicable zone district standards (Articles 2 and 4); and, when a project development plan is within the boundaries of an approved overall development plan or PUD Overlay, the project development plan shall be consistent with the overall development plan or PUD Comprehensive Plan associated with such PUD Overlay. Only one (1) application for a project development plan for any specific parcel or portion thereof may be pending for approval at any given time. Such application shall also be subject to the provisions for delay set out in Section 6.3.11.

(E) **Step 9** (Conditions of Approval): Applicable.
(F) **Step 10** (Amendments): Applicable.
(G) **Step 11** (Lapse): Applicable.
(H) **Step 12** (Appeals): Applicable

## DIVISION 6.7 FINAL PLAN

### 6.7.1 PURPOSE AND APPLICABILITY

The purpose and applicability of a final plan is contained in Section 6.2.3(E).

### 6.7.2 FINAL PLAN REVIEW PROCEDURES

A final plan may only be submitted after approval of a project development plan for the subject property or concurrently with a project development plan for the subject property. For consolidated applications for a project development plan and a final plan, the applicant shall follow both the project development plan and final development plan review procedures.

A final plan shall be processed according to, in compliance with and subject to the provisions contained in Division 6.2 and Steps 1 through 12 of the Common Development Review Procedures (Sections 6.3.1 through 6.3.12, inclusive) as follows:

(A) ***Step 1*** (Conceptual Review): Not applicable.

(B) ***Step 2*** (Neighborhood Meeting):
Not applicable

(C) **Step 3** (Development Application Submittal): All items or documents required for final plans as described in the development application submittal Comprehensive list shall be submitted. The Director may waive or modify the foregoing submittal requirements if, given the facts and circumstances of the specific application, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary for the full and complete review of the application.

(D) **Step 4** (Review of Applications): Applicable.

(E) **Step 5** (Staff Report): Not applicable.

(F) **Step 6** (Notice): Not applicable.

(G) **Step 7**(A)—(C) (Decision Maker, Conduct of Public Hearing, Order of Proceeding at Public Hearing): Not applicable, and in substitution therefor, the Director is hereby authorized to, and shall, review, consider and approve, approve with conditions or deny the development application for a final plan based on its consistency with a valid project development plan for the subject property and its compliance with all of the standards established in Step 8 of this Section. The Director may, but is not obligated to, confer or meet with the applicant or other city staff to obtain clarification or explanation, gain understanding, suggest revision, or otherwise discuss or learn about the development proposal and final plan, all for the purpose of ensuring a fully consistent and compliant final plan.

**Step 7**(D) (Decision and Findings): Not applicable, except that Step 7(D)(3) shall apply.
**Step 7**(E) (Notification to Applicant): Applicable.
**Step 7**(F) (Record of Proceedings): Not applicable, except that Step 7(F)(2) shall apply.
**Step 7**(G) (Recording of Decisions and Plats): Applicable.

(H) ***Step 8*** (Standards): Applicable. A final plan shall comply with the development standards applicable to the development proposal (Articles 3 and 5) and the applicable zone district standards (Articles 2 and 4); and a final plan shall be consistent with the project development plan.

(I) ***Step 9*** (Conditions of Approval): Applicable.

(J) ***Step 10*** (Amendments): Applicable.

(K) ***Step 11*** (Lapse): Applicable.

(L) ***Step 12*** (Appeals): Not applicable. The Director's decision shall be final and no appeals of the Director's decision will be allowed; however, the Director may refer the decision to the Planning and Zoning Commission when the Director is in doubt as to the compliance and consistency of the final plan with the approved project development plan. If the Director refers the decision to the Planning and Zoning Commission, the decision of the Planning and Zoning Commission shall be final and shall not be appealable to the City Council, notwithstanding any provision of the City Code to the contrary.

# DIVISION 6.8 MODIFICATION OF STANDARDS

## 6.8.1 PURPOSE AND APPLICABILITY

In conjunction with, or prior to, a development application the decision maker is empowered to grant modifications to the:

- zone district standards in Article 2, excluding Section 2.6.3 PUD Overlay;
- building standards in Article 3;
- use standards in Article 4, not including any use listed in the use table; and
- General Development and Site Design Standards of Article 5;

either for:

- overall development plans, project development plans, and/or applications subject to basic development review that are pending approval at the time that the request for proposed modification is filed;
- overall development plans and/or project development plans which the applicant intends to file, provided that such plans are in fact filed with the Director as development applications within one (1) year following the determination of the decision maker on the request for the proposed modification; or
- development plans approved under the Land Use Code or prior law and which are sought to be amended (either as a minor or major amendment) pursuant to Section 6.3.10.

## 6.8.2 MODIFICATION REVIEW PROCEDURES

A request for modification to the standards shall be processed according to, in compliance with and subject to the provisions contained in Division 6.3 and Steps 1 through 12 of the Common Development Review Procedures (Sections 6.3.1 through 6.3.12, inclusive) as set forth below. Once a modification is approved, it shall be controlling for the successive, timely filed, development applications for that particular development proposal only to the extent that it modifies the standards pertaining to such plan.

(A) ***Step 1*** (Conceptual Review): Applicable.
(B) ***Step 2*** (Neighborhood Meeting): Not applicable.
(C) ***Step 3*** (Development Application Submittal): All items or documents required for a Modification of Standards as described in the development application submittal Comprehensive list shall be submitted. The Director may waive or modify the foregoing submittal requirements if, given the facts and circumstances of the specific application, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary for the full and complete review of the application.
(D) ***Step 4*** (Review of Applications): Applicable.
(E) ***Step 5*** (Staff Report): Applicable.
(F) ***Step 6*** (Notice): Section 6.3.6(A), (B) and (C) apply. Section 6.3.6(D) shall not apply.
(G) ***Step 7(A)*** (Decision Maker): Applicable, and in explanation thereof and in addition thereto, if an application for a modification of standards pertains to a minor amendment or a development plan that is subject to administrative review or basic development review, the Director shall be the designated decision maker, except that, at the option of the applicant, the application may be considered by the Planning and Zoning Commission; and if an application for a modification of standards pertains to a development plan which is subject to Planning and Zoning Commission review, the Planning and Zoning Commission shall be the designated decision maker. If the application is for a modification of standards pertaining to a development plan previously approved under prior law or not yet filed, the Director shall determine whether such development plan would have been, or will be, subject to administrative review or Planning and Zoning Commission review and shall identify the decision maker accordingly. In all cases, the decision maker shall

review, consider and approve, approve with conditions or deny an application for a modification of standards based on its compliance with all of the standards contained in Step 8.

***Step 7(B)—(G)(1)*** (Conduct of Public Hearing, Order of Proceedings at Public Hearing, Decision and Findings, Notification to Applicant, Record of Proceedings, Recording of Decisions and Plats, Filing with City Clerk): Applicable.

***Step 7(G)(2)*** (Final Plats Recorded with County Clerk and Recorder): Not applicable.

(H) ***Step 8*** (Standards): Applicable, and the decision maker may grant a modification of standards only if it finds that the granting of the modification would not be detrimental to the public good, and that:

(1) the plan 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 Land Use Code, substantially alleviate an existing, defined and described problem of city-wide concern or would result in a substantial benefit to the City by reason of the fact that the proposed project would substantially address an important community need specifically and expressly defined and described in the City's Comprehensive Plan or in an adopted policy, ordinance or resolution of the City Council, and the strict application of such a standard would render the project practically infeasible; or

(3) by reason of exceptional physical conditions or other extraordinary and exceptional situations, unique to such property, including, but not limited to, physical conditions such as exceptional narrowness, shallowness or topography, or physical conditions which hinder the owner's ability to install a solar energy system, 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 owner of such property, provided that such difficulties or hardship are not caused by the act or omission of the applicant; or

(4) the plan as submitted will not diverge from the standards of the Land Use Code that are authorized by this Division to be modified except in a nominal, inconsequential way when considered from the perspective of the entire development plan, and will continue to advance the purposes of the Land Use Code as contained in Section 1.2.2.

Any finding made under subparagraph (1), (2), (3) or (4) above shall be supported by specific findings showing how the plan, as submitted, meets the requirements and criteria of said subparagraph (1), (2), (3) or (4).

(I) ***Step 9*** (Conditions of Approval): Applicable.

(J) ***Step 10*** (Amendments): Not Applicable.

(K) ***Step 11*** (Lapse): All Modifications of Standards which apply to a pending development plan or a development plan which is timely filed in accordance with the provisions of Section 6.8.1 shall be valid in accordance with the lapse provisions contained in Section 6.3.11. All Modifications of Standards which apply to a development plan which has not been filed in accordance with the provisions of Section 6.8.1 shall be valid for a period of time not to exceed one (1) year following the determination of the decision maker on the request for the proposed modification.

(L) ***Step 12*** (Appeal): Applicable.

# DIVISION 6.9 ADDITION OF PERMITTED USES

## 6.9.1 ADDITION OF PERMITTED USES

(A) **Purpose Statement.** The purpose of the Addition of Permitted Use process is to allow for the approval of a particular land use to be located on a specific parcel within a zone district that otherwise would not permit such a use. Under this process, an applicant may submit a plan that does not conform to the zoning, with the understanding that such plan will be subject to a heightened level of review, with close attention being paid to compatibility and impact mitigation. This process is intended to allow for consideration of unforeseen uses and unique circumstances on specific parcels with evaluation based on the context of the surrounding area. The process allows for consideration of emerging issues, site attributes or changed conditions within the neighborhood surrounding and including the subject property. For residential neighborhoods, land use flexibility shall be balanced with the existing residential character. Projects are expected to continue to meet the objectives of any applicable sub-area plan and City Plan. The process encourages dialogue and collaboration among applicants, affected property owners, neighbors and City Staff.

(B) **Applicability.** This Section is applicable only under the following circumstances:

(1) where the proposed use is not listed as a permitted use in any zone district, does not fall within any existing use classification and is proposed as being appropriate to be added to the permitted uses in the zone district. If approved under this Section, such use shall be considered for inclusion into the zone district pursuant to Division 6.25; or

(2) where the proposed use is listed as a permitted use in one (1) or more zone district(s) and is proposed based solely on unique circumstances and attributes of the site and development plan.

(C) **Procedures and Required Findings.** The following procedures and required findings shall apply to addition of permitted use determinations made by the Director, Planning and Zoning Commission, and City Council respectively:

(1) **Director Approval.** In conjunction with an application for approval of an overall development plan, a project development plan, or any amendment of the foregoing (the "primary application" for purposes of this Section only), for property not located in any zone district listed in subsection (G), the applicant may apply for the approval of an Addition of Permitted Use for uses described in subsection (B)(1) to be determined by the Director. If the applicant does not apply for such an addition of permitted use in conjunction with the primary application, the Director in their sole discretion may initiate the addition of permitted use process. The Director may add to the uses specified in a particular zone district any other use which conforms to all of the following criteria:

(a) Such use is appropriate in the zone district to which it is added.
(b) Such use conforms to the basic characteristics of the zone district and the other permitted uses in the zone district to which it is added.
(c) The location, size and design of such use is compatible with and has minimal negative impact on the use of nearby properties.
(d) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or any more traffic hazards, traffic generation or attraction, adverse environmental impacts, adverse impacts on public or quasi-public facilities, utilities or services, adverse effect on public health, safety, morals or aesthetics, or other adverse impacts of development, than the amount normally resulting from the other permitted uses listed in the zone district to which it is added.
(e) Such use will not change the predominant character of the surrounding area.

(f) Such use is compatible with the other listed permitted uses in the zone district to which it is added.

(g) Such use, if located within or adjacent to an existing residential neighborhood, shall be subject to two (2) neighborhood meetings, unless the Director determines, from information derived from the conceptual review process, that the development proposal would not have any significant neighborhood impacts. The first neighborhood meeting must take place prior to the submittal of an application. The second neighborhood meeting must take place after the submittal of an application and after the application has completed the first round of staff review.

(h) Such use is not a medical marijuana business as defined in Section 15-452 of the City Code or a retail marijuana establishment as defined in Section 15-603 of the City Code.

(2) **Planning and Zoning Commission Approval.** In conjunction with a primary application for a project not located, in whole or in part, in any zone district listed in subsection (G), the applicant may apply for approval of an addition of permitted use for uses described in subsection (B)(2) to be determined by the Planning and Zoning Commission. The Planning and Zoning Commission may add a proposed use if the Commission specifically finds that such use: (1) conforms to all of the eight (8) criteria listed in subsection (C)(1); (2) would not be detrimental to the public good; (3) would be in compliance with Section 5.15.1 Building and Project Compatibility; and (4) is not specifically listed as a "prohibited use" in the zone district in which the proposed site is located. The addition of a permitted use by the Commission shall be specific to the proposed project and shall not be considered for a text amendment under subsection (D) below.

(3) **City Council Approval**. In conjunction with a primary application for a project located, in whole or in part, in a zone district listed in subsection (G), any application for the approval of an addition of permitted use shall be determined by the City Council after a Planning and Zoning Commission recommendation on the addition of permitted use. The Planning and Zoning Commission shall remain the decision maker on the primary application.

(a) The Planning and Zoning Commission may recommend to the City Council that a proposed use described in subsection (B)1. be added if the Commission specifically finds that such use conforms to all of the eight criteria listed in subsection (C)1. The Planning and Zoning Commission may recommend to the City Council that a proposed use described in subsection (B)2. be added if the Commission specifically finds that such use: (1) conforms to all of the eight (8) criteria listed in subsection (C)1.; (2) would not be detrimental to the public good; (3) would be in compliance with Section 5.15.1 Building and Project Compatibility; and (4) is not specifically listed as a "prohibited use" in the zone district in which the proposed site is located. The Planning and Zoning Commission shall consider only the requirements set forth in this subsection in making a recommendation on the addition of permitted use and shall follow the notice and hearing requirements that are established for zonings and rezonings of areas of no more than six hundred forty (640) acres in size as set forth in Section 6.25 of this Land Use Code.

(b) In considering the recommendation of the Planning and Zoning Commission and in determining whether a proposed use should be added, the City Clerk shall cause the hearing by the City Council to be placed on the agenda for a future City Council meeting; and the public hearing before the City Council shall be held after at least fifteen (15) day notice of the time, date and place of such hearing and the subject matter of the hearing and the nature of the proposed zoning change has been given by publication in a newspaper of general circulation within the City and City Council shall follow the applicable hearing procedures established by the City Council by resolution for such hearings. In determining the addition of permitted use, the City Council shall consider only the requirements set forth in subsection (c) below.

(c) In deciding the addition of permitted use application for uses described in subsection (B)(1), the City Council, after considering the Planning and Zoning Commission recommendation, may add a proposed

use if the Council specifically finds that such use conforms to all of the eight (8) criteria listed in subsection (C)(1). In deciding the addition of permitted use application for uses described in subsection (B)(2), the City Council, after considering the Planning and Zoning Commission recommendation, may add a proposed use if the Council specifically finds that such use: (1) conforms to all of the eight (8) criteria listed in subsection (C)(1); (2) would not be detrimental to the public good; (3) would be in compliance would be in compliance with Section 5.15.1 Building and Project Compatibility and (4) is not specifically listed as a "prohibited use" in the zone district in which the proposed site is located. The City Council's action on the addition of permitted use shall be by ordinance. The addition of a permitted use by City Council shall be specific to the proposed project and shall not be considered for a text amendment under subsection (D). The City Council's decision on the addition of permitted use shall not be appealable and, if applicable, shall be subject only to a vested rights and takings determination pursuant to Land Use Code Article 6, Division 6.19.

(d) If the addition of permitted use is denied, any primary application that has been approved by the Planning and Zoning Commission contingent upon the City Council's approval of an additional permitted use under this Section shall be automatically terminated and made null if such condition is not met; and any pending appeal of such conditional approval shall also be automatically terminated if such condition is not met, whereupon the appellant shall be promptly refunded any appeal fee that was paid to the City.

(D) ***Codification of New Use*** When any use described in subsection (B)1. has been added by the Director to the list of permitted uses in any zone district in accordance with subsection (C)1. above, such use shall be promptly considered for an amendment to the text of this Code under Division 6.25. If the text amendment is approved, such use shall be deemed to be permanently listed in the appropriate permitted use list of the appropriate zone district and shall be added to the published text of this Code, at the first convenient opportunity, by ordinance of City Council pursuant to Division 6.25. If the text amendment is not approved, such use shall not be deemed permanently listed in the zone district, except that such use shall continue to be deemed a permitted use in such zone district for only the development proposal for which it was originally approved under subsection (C)1. above.

(E) **Conditions** When any use has been added to the list of permitted uses in any zone district in accordance with this Section, the Director or the Planning and Zoning Commission with respect to any zone district not listed in subsection (G), or the City Council with respect to any zone district listed in subsection (G), may impose such conditions and requirements, including, but not limited to, conditions related to the location, size and design on such use as are necessary or desirable to: (1) accomplish the purposes and intent of this Code, (2) ensure consistency with the City Plan and its adopted components and associated sub-area plans, or (3) prevent or minimize adverse effects and impacts upon the public and neighborhoods, and to ensure compatibility of uses.

(F) **Changes to Approved Addition of Permitted Use.** Approvals under this Section are specific to the subject addition of permitted use application. Any changes to the use or to its location, size and design, in a manner that changes the predominant character of or increases the negative impact upon the surrounding area, will require the approval of a new addition of permitted use.

(G) **Zones Subject to City Council Addition of Permitted Use Review**. The City Council shall make all final determinations regarding any addition of permitted use under subsection (C)(3) with respect to a project located, in whole or in part, in any of the following zone districts:

- Rural Lands District (RUL)

- Urban Estate District (UE)
- Residential Foothills District (RF)
- Low Density Residential District (RL)
- Low Density Mixed-Use Neighborhood District (LMN)
- Old Town Neighborhood (OT) A, B, and C
- Manufactured Housing District (MH).

# DIVISION 6.10 ANNEXATION AND DISCONNECTION OF LAND

## 6.10.1 COMPLIANCE WITH STATE LAW

Annexation of lands to the City shall be in accordance with the laws of the state in effect from time to time.

## 6.10.2 PETITIONS FOR ANNEXATION AND ANNEXATION PLATS

In addition to all state statutory filing and procedural requirements, all petitions for annexation and annexation plats shall be submitted to the City Clerk, with a copy, and application fee, to the Director. The City Clerk shall schedule the petitions for a meeting of the City Council held at least fifteen (15) days after the date the City Clerk receives the petition and plat.

## 6.10.3 HEARING AND REPORT BY PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission shall hold a hearing on the matter of such annexation and shall make a report and recommendation to the City Council. Such report shall include a recommendation on the proper zoning for the lands if the City Council annexes such lands into the City.

## 6.10.4 ANNEXATION OF USES NOT LEGALLY PERMITTED

Except as provided below, any use that exists on a separately owned parcel outside the City and that is not legally permitted by the county must cease and be discontinued before the City Council adopts, on second reading, an annexation ordinance annexing any such property except as provided herein. In the event that a property containing a use that is not legal pursuant to county regulations is proposed to be annexed into the City and placed into a zone district wherein such use is a permitted use, said use must be reviewed and processed as set forth in Article 4 and (i.e., Type 1 review or Type 2 review) for the zone district in which the land is proposed to be located, and shall comply with all applicable Land Use Code standards. A development application for such review must be filed with the City within sixty (60) days following the effective date of annexation. Such use shall be temporarily permitted for a period not to exceed six (6) months following the date of second reading of the annexation ordinance. In the event that the development application is not approved within said six-month period, then the use shall be discontinued within thirty (30) days following the date of the decision of denial or expiration of said six-month period, whichever first occurs, except that the Director may grant one (1) extension of the foregoing six-month requirement, which extension may not exceed three (3) months in length. In the event that the development application is approved, then such use shall be brought into full compliance with this Land Use Code and the decision made thereunder by the decision maker within sixty (60) days following the date of final plan approval.

If a use which is not permitted by the county exists on any property that is included in an enclave annexation consisting of more than one (1) separately owned parcel, the above-described development process shall apply only if such property is placed in a zone district wherein such use is a permitted use. If a property which contains a use that is not permitted by the county is included in such multi-parcel enclave annexation, and such property is placed

in a zone district that does not allow the use within the City, such illegal use must be discontinued within: (A) two (2) years from the effective date of annexation; (B) if such illegal use is the subject of a county-initiated zoning or nuisance enforcement action, then within the time established by the court as a result of such enforcement action; or (C) if such illegal use is the subject of a zoning or nuisance complaint filed with the county and determined by the Director to be bona fide (but which has not become the subject of an enforcement action under (B) above or, if it has become the subject of an enforcement action, such action has been dismissed by the court for lack of county jurisdiction because the property has been annexed into the City), then ninety (90) days from the effective date of annexation, whichever comes first. With respect to the time limit established in (C) above, the Director may extend said time for an additional duration not to exceed one hundred eighty (180) days if necessary to prevent or mitigate undue hardship or manifest injustice.

### 6.10.5 EFFECTIVE DATE OF ANNEXATION

An annexation shall take effect upon the last to occur of the following events:

(A) the tenth (10th) day following passage on second reading of the annexation ordinance (except for emergency ordinances); and

(B) the filing for recording of three (3) certified copies of the annexation ordinance and map of the area annexed, containing a legal description of such area, with the Larimer County Clerk and Recorder.

### 6.10.6 APPLICATION FOR DISCONNECTION, ENACTMENT, AND FILING

When the owner of a tract of land within and adjacent to the boundary of the City desires to have said tract disconnected from the City, such owner may apply to the City Council for the enactment of an ordinance disconnecting such tract of land from the City. On receipt of such application, it is the duty of the City Council to give due consideration to such application, and, if the City Council is of the opinion that the best interests of the City will not be prejudiced by the disconnection of such tract, it shall enact an ordinance effecting such disconnection. If such an ordinance is enacted, it shall be immediately effective upon filing with the county Clerk and Recorder to accomplish the disconnection, and two (2) certified copies thereof shall also be filed with the county Clerk and Recorder. The county Clerk and Recorder shall file one (1) certified copy with the Division of Local Government in the Department of Local Affairs, as provided by Section 24-32-109, C.R.S., and the other copy shall be filed with the Department of Revenue, as provided by Section 31-12-113(2)(a.5), C.R.S.

## DIVISION 6.11 SITE PLAN AND ADVISORY REVIEW

### 6.11.1 PURPOSE AND APPLICABILITY

The purpose and applicability of a Site Plan Advisory Review is contained in Section 6.2.3(F).

### 6.11.2 SITE PLAN ADVISORY REVIEW PROCEDURES

A Site Plan Advisory Review shall be processed according to, in compliance with and subject to the provisions contained in Division 6.2 and Steps 1 through 12 of the Common Development Review Procedures (Sections 6.3.1 through 6.3.12, inclusive) as follows:

(A) **Step 1** (Conceptual Review): Applicable.
(B) ***Step 2*** (Neighborhood Meeting): Applicable.
(C) ***Step 3*** (Development Application Submittal): All items or documents required for Site Plan Advisory Review as described in the development application submittal Comprehensive list shall be submitted. The Director may waive or modify the foregoing submittal requirements if, given the facts and circumstances of the specific application, a particular requirement would either be irrelevant, immaterial, redundant or

otherwise unnecessary for the full and complete review of the application.

Prior to acquisition of land or contracting for the purchase of a facility, a public school or charter school shall advise the Planning and Zoning Commission in writing. The Planning and Zoning Commission shall have ten (10) days in which to request submittal of a site development plan.

Prior to constructing or authorizing any other public building or structure, a site development plan identifying the location, character and extent shall be submitted to the Planning and Zoning Commission.

(M) ***Step 4*** (Review of Application): Applicable.
(N) ***Step 5*** (Staff Report): Applicable.
(O) ***Step 6*** (Notice): Applicable.
(P) ***Step 7(A)*** (Decision Maker): Not applicable, and in substitution thereof, the Planning and Zoning Commission shall consider a Site Plan Advisory Review and approve or disapprove the application in a public hearing held within sixty (60) days after receipt of the application under Section 31-23-209, C.R.S. In the case of a public or charter school application under Section 22-32-124, C.R.S., the Planning and Zoning Commission shall provide review comments at a public hearing held within thirty (30) days (or such later time as may be agreed to in writing by the applicant) after receipt of the application.

***Step 7(B)-(G)*** (Conduct of Public Hearing, Order of Proceedings at Public Hearing, Decision and Findings, Notification to Applicant, Record of Proceedings, Recording of Decisions and Plats): Applicable.

(Q) ***Step 8*** (Standards): Not applicable, and in substitution thereof, an application for a Site Plan Advisory Review shall comply with the following criteria:

(1) The site location for the proposed use shall be consistent with the land use designation described by the City Structure Plan Map, which is an element of the City's Comprehensive Plan.
(2) The site development plan shall conform to architectural, landscape and other design standards and guidelines adopted by the applicant's governing body. Absent adopted design standards and guidelines, the design character of the site development plan shall be consistent with the stated purpose of the respective land use designation as set forth in the City's Comprehensive Plan.
(3) The site development plan shall identify the level of functional and visual impacts to public rights-of-way, facilities and abutting private land caused by the development, including, but not limited to, streets, sidewalks, utilities, lighting, screening and noise, and shall mitigate such impacts to the extent reasonably feasible.

(R) ***Step 9*** (Conditions of Approval): Not applicable.
(S) ***Step 10*** (Amendments): Not applicable.
(T) ***Step 11*** (Lapse): Not applicable.
(U) ***Step 12*** (Appeals): Not applicable, and in substitution thereof, a disapproved Site Plan Advisory Review made under Section 31-23-209, C.R.S., may be overruled by the governing board of the public entity by a vote of not less than two-thirds (⅔) of its entire membership. Further, with respect to a review made under Section 22-32-124, C.R.S., the Planning and Zoning Commission may request a hearing before the applicable board of education.

## DIVISION 6.12 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 Commission in all instances, except for permits to conduct an activity of state interest or develop in an area of state interest for which City Council is the decision maker, despite the fact that certain uses would otherwise have been subject to Administrative Review with the exception that minor amendments pursuant to Section 6.3.10(A) shall remain subject to administrative review.

# DIVISION 6.13 BUILDING PERMITS

## 6.13.1 PURPOSE

A Building Permit Application is required in order to review, consider, approve, approve with modifications or deny a request for permission to erect, move, place, alter or demolish a building or structure based on the standards referenced in step 8 of this section.

## 6.13.2 APPLICABILITY

Application for a building permit may be made at any time. a building permit may be issued only after a site specific development plan has been approved for the property upon which the proposed principal building or structure is to be erected. the building permit is the only authorization under which a building or structure may be constructed, moved, placed, altered or demolished, with some exceptions, such as fences and certain types of storage sheds.

## 6.13.3 BUILDING PERMIT REVIEW PROCEDURES

An application for a Building Permit shall be processed according to, in compliance with, and subject to the provisions contained in Division 6.2 and Steps 1 through 12 of the Common Development Review Procedures (Section 6.3.1 through 6.3.12, inclusive), as follows:

(A) ***Step 1*** (Conceptual Review): Not applicable.
(B) ***Step 2***(Neighborhood Meeting): Not applicable.
(C) ***Step 3(A)*** (Development Application Forms): Applicable.
***Step 3(B)*** (Consolidated Development Applications and Review): Not applicable.
***Step 3(C)*** (Development Application Contents): Not Applicable, and in substitution therefor, an application for a Building Permit shall be submitted to the Director for review and determination. An application for a Building Permit shall include all items, materials and documents that are required by the adopted International Building Code.
***Step 3(D)*** (Development Review Fees): Applicable.
(D) ***Step 4***(Review of Applications): Not applicable.
(E) ***Step 5***(Staff Report): Not applicable.
(F) ***Step 6*** (Notice): Not applicable.
(G) ***Step 7*** (Public Hearing): Not applicable, and in substitution therefor, an application for a Building Permit shall be processed, reviewed, considered and approved, approved with modifications, or denied by the Director based on its compliance with the site specific development plan, the City Code and all regulations related to such permit adopted by the city by reference or otherwise, as amended.
(H) ***Step 8*** (Standards): Not applicable, and in substitution therefor, an application for a Building Permit shall be reviewed for compliance with the site specific development plan, the City Code and all regulations related to such permit adopted by the City by reference or otherwise, as amended; and if the Building Permit is for the enlargement of a building and/or for the expansion of facilities, equipment or structures regulated under the provisions of Division 6.17, such application shall also comply with Division 6.17.
(I) ***Step 9*** (Conditions of Approval): Applicable.

(J) ***Step 10*** (Amendments): Not applicable, and in substitution therefor, amendments to Building Permits may be authorized by the Director only as allowed under the building regulations adopted by the City by reference or otherwise, as amended, provided that the amended Building Permit remains in compliance with the applicable standards.

(K) ***Step 11*** (Lapse): Not applicable, and in substitution therefor, a Building Permit shall expire six (6) months after the date that such Building Permit was issued unless properly acted upon in accordance with the provisions of the Uniform Building Code, as amended. One (1) six-month extension may be granted by the Director.

(L) ***Step 12*** (Appeals): Not applicable, and in substitution therefor, appeals of any final decision of the Director on a Building Permit application shall be in accordance with Division 6.18; provided, however, that such appeals may be filed only by persons who possess a legal or equitable interest in the specific real property which is the subject of the decision, or who own or reside on real property any part of which is located within five hundred (500) feet of the specific real property which is the subject of the decision. Notwithstanding the foregoing, appeals pertaining to the application and enforcement of the International Building Code (as adopted and amended by the City) shall be processed in accordance with Section 5-27 of the City Code.

# DIVISION 6.14 VARIANCES

## 6.14.1 PURPOSE AND APPLICABILITY

The purpose of this Division is to authorize, in specific cases, existing or approved development project may receive variances from:

- zone district standards in Article 2, excluding Section 2.6.3 PUD Overlay;
- building standards in Article 3;
- use standards in Article 4, not including any use listed in the use table; and
- General Development and Site Design Standards of Article 5.

Variances shall not authorize a change in use other than to a use that is allowed subject to basic development review. Also, the variance shall not be used for Basic Development Review, overall development plans, project development plans or final plans which are pending approval at the time that the request for the variance is filed. The process to be used for such pending development applications is the procedure established in Division 6.8 (Modification of Standards).

## 6.14.2 VARIANCES BY THE DIRECTOR

(A) The Director shall be authorized to grant the following types of variances, subject to the variance review procedure in Section 6.14.4 below:

(1) Setback encroachment of up to ten (10) percent.
(2) Fence height increase of up to one (1) foot.
(3) In the OT zone district, the allowable floor area in the rear half of the lot increase of up to ten (10) percent, provided the amount of increase does not exceed the allowable floor area for the entire lot.
(4) Building height increase of up to one (1) foot.

(B) The Director may refer any variance described in (A) above to the Land Use Review Commission for review and decision if the Director determines that the application under consideration raises questions as to compliance with the requirements for compatibility with the surrounding neighborhood that are appropriately addressed through a public hearing before the Land Use Review Commission that will allow the applicant or the public, or both, an opportunity to provide relevant information related to the application.

## 6.14.3 VARIANCES BY THE LAND USE REVIEW COMMISSION

The Land Use Review Commission shall be authorized to grant all variances not subject to the Director's review in Section 2.16.2(A) and those referred by the Director. The Land Use Review Commission shall follow the variance review procedure in Section 6.14.4 below.

## 6.14.4 VARIANCE REVIEW PROCEDURES

A variance shall be processed according to, in compliance with and subject to the provisions contained in Division 6.2 and Steps 1 through 12 of the Common Development Review Procedures (Sections 6.3.1 through 6.3.12, inclusive) as follows:

(A) **Step 1** (Conceptual Review): Not applicable.

(B) **Step 2**(Neighborhood Meeting): Not applicable.

(C) **Step 3**(Development Application Submittal): All items or documents required for variances as described in the development application submittal Comprehensive list shall be submitted. The Director may waive or modify the foregoing submittal requirements if, given the facts and circumstances of the specific application, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary for the full and complete review of the application.

(D) **Step 4** (Review of Applications): Applicable.

(E) **Step 5** (Staff Report): Not applicable.

(F) **Step 6** (Notice): For variances reviewed by the Director or the Land Use Review Commission subsection 6.3.6(A) only applies, except that a variance reviewed by the Director shall require mailed written notice fourteen (14) days prior to the decision instead of the hearing/meeting date and for variances reviewed by the Director or the Land Use Review Commission, "eight hundred (800) feet" shall be changed to "one hundred fifty (150) feet," and for single-unit houses in the OT-A and OT-B zone districts, eight hundred (800) feet shall be changed to five hundred (500) feet for variance requests for:

(1) Construction that results in a two-story house where a one-story house previously existed and where there is at least one (1) lot abutting the side of the subject lot and the house on such abutting lot is one (1) story; or

(2) Construction of a new house that is greater than two thousand five hundred (2,500) square feet; or

(3) Construction of an addition that results in a total square footage of more than three thousand (3,000) square feet.

(G) **Step 7(A)** (Decision Maker): Not applicable, and in substitution for Section 6.3.7(A), the Director or Land Use Review Commission, pursuant to Chapter 2 of the City Code, shall review, consider and approve, approve with conditions, or deny applications for variance based on its compliance with all of the standards contained in Step 8.

**Step 7(**B)—(G)(1) Land Use Review Commission Review Only (Conduct of Public Hearing, Order of Proceedings at Public Hearing, Decision and Findings, Notification to Applicant, Record of Proceedings, Recording of Decisions and Plats, Filing with City Clerk): Applicable.

**Step 7(**B)—(C) and (E)—(G)(1) Director Review Only (Conduct of Public Hearing, Order of Proceedings as Public Hearing): Not applicable.
**Step 7**(D) Director Review Only (Decision and Findings): Applicable and in substitution thereof, the Director shall issue a written decision to approve, approve with conditions, or deny the variance request. The written decision shall be mailed to the applicant and to the property owners to whom notice was originally mailed and shall also be posted on the City's website at www.fcgov.com.

(H) **Step 8** (Standards): Applicable, and the Director or Land Use Review Commission may grant a variance from the standards of Articles 2 – 5 and only if it finds that the granting of the variance would neither be detrimental to the public good nor authorize any change in use other than to a use that is allowed subject to basic development review; and that:

(1) by reason of exceptional physical conditions or other extraordinary and exceptional situations unique to such property, including, but not limited to, physical conditions such as exceptional narrowness, shallowness or topography, or physical conditions which hinder the owner's ability to install a solar energy system, the strict application of the standard sought to be varied would result in unusual and exceptional practical difficulties, or exceptional or undue hardship upon the occupant of such property, or upon the applicant, provided that such difficulties or hardship are not caused by the act or omission of the occupant or applicant;

(2) the proposal as submitted will promote the general purpose of the standard for which the variance is requested equally well or better than would a proposal which complies with the standard for which the variance is requested; or

(3) the proposal as submitted will not diverge from the standards of the Land Use Code that are authorized by this Division to be varied except in a nominal, inconsequential way when considered in the context of the neighborhood, and will continue to advance the purposes of the Land Use Code as contained in Section 1.2.2.

(4) Any finding made under subparagraph (1), (2) or (3) above shall be supported by specific findings showing how the proposal, as submitted, meets the requirements and criteria of said subparagraph (1), (2) or (3).

(I) **Step 9** (Conditions of Approval): Applicable.

(J) **Step 10** (Amendments): Not Applicable.

(K) **Step 11** (Lapse): Any variance that applies to the issuance of a Building Permit shall expire six (6) months after the date that such variance was granted, unless all necessary permits have been applied for; provided, however, that for good cause shown, the Director may authorize a longer term if such longer term is reasonable and necessary under the facts and circumstances of the case, but in no event shall the period of time for applying for all necessary permits under a variance exceed twelve (12) months in length. One (1) six-month extension may be granted by the Director.

(L) **Step 12** (Appeals):

(1) Applicable and in substitution thereof, variances decided by the Director are appealable to the Land Use Review Commission. Any such appeal must be initiated by filing a notice of appeal of the final decision of the Director within fourteen (14) days after the decision that is the subject of the appeal. The appeal

hearing before the Land Use Review Commission shall be considered a new, or de novo, hearing. The decision of the Land Use Review Commission on such appeals shall constitute a final decision appealable to City Council pursuant to Section 6.3.12 (Step 12).

(2) Applicable to variances reviewed by the Land Use Review Commission.

## DIVISION 6.15 REASONABLE ACCOMODATION PROCESS

(A) **Intent.** It is the policy of Fort Collins to provide reasonable accommodation for exemptions in the application of its zoning laws to rules, policies, and practices for the siting, development, and use of housing, as well as other related residential services and facilities, to persons with disabilities seeking fair access to housing. The purpose of this section is to provide a process for making a request for reasonable accommodation to individual persons with disabilities.

(B) **Application.** Any person who requires reasonable accommodation, because of a disability, in the application of a zoning law that may be acting as a barrier to equal opportunity to housing opportunities, or any person or persons acting on behalf of or for the benefit of such a person, may request such accommodation. For purposes of this section, "disabled," "disability," and other related terms shall be defined as in the federal Americans with Disabilities Act of 1990 ("ADA"), the Fair Housing Act ("FHA"), or their successor laws. Additional for the purpose of this section such laws are referred collectively as the "the Acts". Requests for reasonable accommodation shall be made in the manner prescribed by Division 6.15(C).

(C) **Required Information.**

(1) **The applicant shall provide the following information:**

(a) Applicant's name, address, and telephone number;
(b) Address of the property for which the request is being made;
(c) The current actual use of the property;
(d) Confirmation that the subject individual or individuals are disabled under the Acts. Any information related to the subject individual or individuals' disability shall be kept confidential;
(e) The specific zoning code provision, regulation, or policy from which accommodation is being requested; and
(f) Why the reasonable accommodation is necessary for the subject individual or individuals with disabilities to have equal opportunity to use and enjoy the specific property.

(2) **Review With Other Land Use Applications.**
If the project for which the request for reasonable accommodation is being made also requires some other development review, then the applicant shall file the information required by Division 6.15(C) together for concurrent review with any other application for development review approval. The application for reasonable accommodation will be decided prior to any concurrent development review application that is affected by the request for reasonable accommodation, including but not limited to applications reviewed by the City Council, Planning and Zoning Commission and Land Use Review Commission.

(3) **Timing of Application.** An application for reasonable accommodation may be filed at any time prior to a final decision on a development application, including any applicable time for appeal.

(4) **Effect of Application on Appeals.** Notwithstanding any limitation found in Section 2-49 or Section 2-52 of the City Code, filing an application for reasonable accommodation will toll the time for filing an appeal

regarding a development application, or hearing an appeal that has been filed, until a decision on the application for reasonable accommodation is rendered.

(D) **Review Procedure.**

(1) **Director.** Requests for reasonable accommodation shall be reviewed by the Director, or their designee.

(2) **Interactive Meeting.** Upon either the request of the Director or the applicant, the Director or their designee shall hold an interactive meeting with the applicant to discuss the reasonable accommodation request in order to obtain additional information or to discuss what may constitute a reasonable accommodation for a particular application.

(3) **Director Review.** The Director, or their designee, shall make a written determination within forty-five (45) days of receiving an application, or having an interactive meeting, whichever date comes later, and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Division 6.15(E). Information related to the subject individual or individuals' disability shall be kept confidential and shall not be included in a public file.

(E) **Findings and Decision.**

(1) **Findings.** The written decision to grant, grant with conditions or deny a request for reasonable accommodation shall be based on consideration of the following factors:

(a) Whether the property, which is the subject of the request, will be used by an individual disabled under the Acts;
(b) Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts;
(c) Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City;
(d) Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a Land Use Code provision; and
(e) Any other applicable requirements of the FHA and ADA.

(2) **Conditions of Approval.** In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Division 6.15(E)(1).

(3) **Effect of Approval.** An approval, with or without conditions, of an application for reasonable accommodation will be treated as compliance with the Code section being accommodated but will not affect any concurrent review not related to the reasonable accommodation, except that the decision maker shall amend or modify any concurrent decision to incorporate the approved reasonable accommodation.

(F) **Appeal of Determination.** The applicant may appeal a determination granting or denying a request for reasonable accommodation to the City Manager in accordance with Chapter 2, Article VI of the Code of the City of Fort Collins. No other review of a reasonable accommodation determination shall be allowed except as expressly provided within this Section.

## DIVISION 6.16 NONCONFORMING USES AND STRUCTURES

### 6.16.1 CONTINUATION OF USE

A nonconforming use may be continued and a nonconforming building or structure may continue to be occupied or used, except as otherwise provided in this Division as long as such use complies with the following limitations:

(A) The hours of operation of a nonconforming use may not be extended into the hours between 10:00 p.m. and 7:00 a.m.

(B) The nonconforming use shall not be converted from a seasonal to a multi-seasonal operation.

(C) Light intensity and hours of illumination shall not be changed except in compliance with the site lighting standards contained in Article 5 of this Code.

(D) Any proposals for the addition of trash receptacles and/or the relocation of existing trash receptacles shall comply with the location and design standards in Section 5.11.

(E) Outdoor storage areas shall not be expanded, nor shall they be relocated closer to any adjoining residential use.

### 6.16.2 CHANGE OF USE

A nonconforming use may only be changed to a conforming use.

### 6.16.3 ABANDONMENT OF USE

If active operations are not carried on in a nonconforming use during a period of twenty-four (24) consecutive months, the building, other structure or tract of land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing. A nonconforming home occupation business activity shall be considered to be abandoned if the occupants of the dwelling who were conducting such nonconforming home occupation business discontinue either their occupancy of the dwelling or the nonconforming home occupation.

### 6.16.4 RECONSTRUCTION

A nonconforming building or structure or a building or structure containing a nonconforming use which has been taken by governmental acquisition or damaged by fire or other accidental cause or natural catastrophe, may be reconstructed, provided such work is started within six (6) months of the date of occurrence of such damage and completed within one (1) year of the time the reconstruction is commenced, and provided that, to the extent reasonably feasible, such restoration complies with the zone district all applicable Land Use Code standards.

### 6.16.5 ENLARGEMENT OF BUILDING AND EXPANSION OF FACILITIES, EQUIPMENT, OR STRUCTURES

(A) A proposal for the enlargement or expansion of a building containing a nonconforming use, a proposal for an expansion of existing facilities and equipment which are located on the lot and associated with the nonconforming use (such as expanding the number of fuel pumps at a gas station), and a proposal for adding facilities or structures to the lot which are associated with the nonconforming use, (such as a new canopy over a fuel pump island), shall require the approval of the Planning and Zoning Commission. In considering such proposals, the Planning and Zoning Commission shall make a finding as to whether or not the enlargement, expansion or addition would adversely affect the surrounding properties. In making such determination, the Commission and the applicant shall be governed by the following limitations:

(1) The nonconforming use shall not be changed (except to a conforming use) as a result of enlargement, expansion or construction.

(2) The enlargement, expansion or construction shall not result in the conversion of the nonconforming use of a seasonal to a year-round operation.

(3) The nonconforming use shall not be expanded beyond the limits of the parcel of property upon which such use existed at the time it became nonconforming.

(4) Additional traffic generated by an enlargement, expansion or construction must be incorporated into the neighborhood and community transportation network without creating safety problems or causing or increasing level of service standard deficiencies.

(5) The noise and vibration levels that may be generated by the nonconforming use shall not be increased beyond the levels that existed prior to the enlargement, expansion or construction that is under consideration.

(6) The outdoor storage areas shall not be expanded or located any closer to an adjoining residential development as a result of the enlargement, expansion or construction.

(7) The proposed enlargement, expansion or construction shall not add more than twenty-five (25) percent of new floor area to existing buildings on the site.

(8) The enlargement, expansion or construction shall not exceed the building height requirements of the zone district in which the property is located.

(9) The enlargement, expansion or construction shall not further encroach upon any nonconforming setback.

(10) The enlargement, expansion or construction shall not increase or amplify any inconsistency with the parking standards contained within this Code.

(11) The enlargement, expansion or construction shall not hinder the future development of surrounding properties in accordance with this Code.

(12) The enlargement, expansion or construction shall not present a threat to the health, safety or welfare of the City or its residents.

(B) Where a building, facility, equipment or structure is enlarged, expanded or added pursuant to subsection 6.16.5(A), the parcel of ground upon which the building, facility, equipment or structure is located shall be brought into compliance with the applicable building and development standards contained in Articles 3 and 5 and the applicable zone district standards contained in Articles 2 and use standards in Article 4 of this Code. Any new structure that is added to said parcel of ground shall also comply with the applicable development standards and zone district standards referenced above.

(C) The hours of operation of a nonconforming use may not be extended into the hours between 10:00 p.m. and 7:00 a.m.

## 6.16.6 ALTERATION OR REPAIR OF BUILDING

A nonconforming building may be structurally altered or repaired in any way permitted by this Code. Any building or other structure containing a nonconforming use or any nonconforming building or portion declared unsafe by the Building Official may be strengthened or restored to a safe condition.

### 6.16.7 ACCESSORY DWELLING UNIT EXEMPTION

The addition of an accessory dwelling unit to a parcel containing an existing nonconforming habitable dwelling use or structure shall not be considered an expansion of the nonconforming use or structure.

## DIVISION 6.17 EXISTING LIMITED PERMITTED USES

### 6.17.1 PURPOSE AND APPLICABILITY

The provisions contained in this Division shall apply to any use which was lawful under prior law on the day before the effective date of this Code or subsequent amendment thereof.

Such uses are permitted in the various zone districts established in Articles 2 and 4 under the limitation that such uses shall constitute permitted uses only on such parcels of property. Accordingly, hereafter, such uses shall be referred to as "existing limited permitted uses."

### 6.17.2 CONTINUATION OF USE

An existing limited permitted use may be continued except as otherwise provided in this Division as long as such use complies with the following limitations:

(A) The hours of operation of a nonconforming use may not be extended into the hours between 10:00 p.m. and 7:00 a.m.

(B) The nonconforming use shall not be converted from a seasonal to a multi-seasonal operation.

(C) Light intensity and hours of illumination shall not be changed except in compliance with the site lighting standards contained in Section 5.12.

(D) Any proposals for the addition of trash receptacles and/or the relocation of existing trash receptacles shall comply with the location and design standards Section 5.11.

(E) Outdoor storage areas shall not be expanded, nor shall they be relocated closer to any adjoining residential use.

### 6.17.3 CHANGE OF USE

An existing limited permitted use may only be changed to a permitted use and when so changed, the prior existing limited permitted use shall be deemed to have been abandoned, and such use may not thereafter be reinstated.

### 6.17.4 RECONSTRUCTION

A building or structure containing an existing limited permitted use which has been taken by governmental acquisition or damaged by fire or other accidental cause or natural catastrophe may be reconstructed, provided that, to the extent reasonably feasible, such reconstruction complies with all applicable Land Use Code standards.

### 6.17.5 ENLARGEMENT OF BUILDING AND EXPANSION OF FACILITIES, EQUIPMENT, OR STRUCTURES

Any proposal for the enlargement or expansion of a building containing an existing limited permitted use, any proposal for an expansion of existing facilities and equipment which are located on the lot and associated with the limited existing permitted use (such as expanding the number of fuel pumps at a gas station), and any proposal for adding facilities or structures to the lot which are associated with the existing limited permitted use (such as a new canopy over a fuel pump island) shall be subject to basic development review in accordance with Division 6.4. In considering such proposals, the decision maker shall make a finding as to whether or not the enlargement, expansion

or addition would adversely affect the surrounding properties. In making such determination, the decision maker and the applicant shall be governed by the following limitations:

(A) Additional traffic generated by an enlargement, expansion or construction must be incorporated into the neighborhood and community transportation network without creating safety problems, or causing or increasing level of service standard deficiencies.

(B) The noise and vibration levels that may be generated by the use shall not be increased beyond the levels that existed prior to the enlargement, expansion or construction that is under consideration.

(C) The outdoor storage areas shall not be expanded or located any closer to an adjoining residential development as a result of the enlargement, expansion or construction.

(D) The enlargement, expansion or construction shall not further encroach upon any nonconforming setback.

(E) The enlargement, expansion or construction shall not increase or amplify any inconsistency with the parking standards contained within this Code.

(F) The enlargement, expansion or construction shall not hinder the future development of surrounding properties in accordance with this Code.

(G) The enlargement, expansion or construction shall not present a threat to the health, safety or welfare of the City or its residents.

(H) Where a proposed building addition exceeds five thousand (5,000) square feet or twenty-five (25) percent of the gross floor area of such building as it existed on March 27, 1997, whichever results in the least amount of square footage, the building and the parcel of ground upon which the building is located shall be brought into compliance with the applicable development standards contained in Articles 3 and 5 and the applicable zone district standards contained in Articles 2 and use standards in Article 4 of this Code, to the extent reasonably feasible. Any new structure that is added to said parcel of ground shall also comply with the applicable development standards and zone district standards referenced above.

### 6.17.6 ALTERATION OR REPAIR OF BUILDING

A building containing an existing limited permitted use may be structurally altered or repaired in any way permitted by this Code. Any building or other structure containing an existing limited permitted use or any such building or portion declared unsafe by the Building Official may be strengthened or restored to a safe condition.

### 6.17.7 ABANDONMENT OF USE

If active operations are not carried on in an existing limited permitted use during a period of twenty-four (24) consecutive months, the building, other structure or tract of land where such existing limited permitted use previously existed shall thereafter be occupied and used only for a permitted use. Intent to resume active operations shall not affect the foregoing.

### 6.17.8 ACCESSORY DWELLING UNIT EXEMPTION

The addition of an accessory dwelling unit to a parcel containing an existing limited permitted habitable dwelling use or structure shall not be considered an expansion of the existing limited permitted use or structure.

# DIVISION 6.18 APPEAL FROM ADIMINSTRATIVE DECISIONS TO THE LAND USE REVIEW COMMISSION

## 6.18.1 PURPOSE AND APPLICABILITY

(A) **Purpose.** The purpose of this Division is to provide for appeals of certain administrative/city staff decisions to the Land Use Review Commission. Appeals to the Planning and Zoning Commission of Minor Amendment and Change of Use and Basic Development Review decisions made by the Director are addressed in Section 6.3.12(C).

(B) **Applicability**. This Division shall apply to appeals from an administrative decision regarding the interpretation and/or application of the land use regulations which preceded this Land Use Code, and to appeals from the following administrative decisions made under this Land Use Code, provided such administrative decision is not for approval, approval with conditions, or denial either of a project development plan or a final plan pursuant to Divisions 6.6 or 6.7 or of an administrative amendment/ abandonment of any such plan or of any plan approved under prior law, processed pursuant to Section 6.3.10 (Step 10):

(1) Addition of a Permitted Use by Director (but not by Planning and Zoning Commission) under Division 6.9;
(2) Issuance of a written administrative interpretation under Division 6.24;
(3) Establishment of the Development Application Submittal Requirements under Section 6.3.3(C);
(4) Waiver of Development Application Submittal Requirements under Section 6.3.3(C);
(5) Waiver of a neighborhood meeting by the Director under Section 6.3.2;
(6) Establishment of Development Review Fees by the City Manager under Section 6.3.3(D), adopted administratively and not by Council resolution;
(7) The issuance of a Stockpiling Permit under Section 6.21.3.
(8) The issuance of a Development Construction Permit under Section 6.21.3.
(9) The issuance of a Building Permit under Section 6.13.3.
(10) Decisions of the City Engineer made under the provisions of Section 5.4.2 of this Land Use Code. Appeals from administrative decisions on a project development plan or a final plan shall be governed by Divisions 6.6 or 6.7, respectively. Appeals from an administrative decision on an amendment/ abandonment of an approved development plan or site specific development plan shall be governed by Section 6.3.10 (Step 10). Any action taken in reliance upon an appealed administrative decision during the pendency of the appeal shall be totally at the risk of the person(s) taking such action and the City shall not be liable for any damages arising from any such action.
(11) The issuance, denial, modification or revocation of an Off-Site Construction Staging License under Section 6.21.4.

## 6.18.2 ADMINISTRATIVE APPEAL REVIEW PROCEDURES

An appeal from an administrative decision shall be processed according to, in compliance with and subject to the provisions contained in Division 6.2 and Steps 1 through 12 of the Common Development Review Procedures (Sections 6.3.1 through 6.3.12, inclusive) as follows:

(A) ***Step 1*** (Conceptual Review): Not applicable.
(B) ***Step 2*** (Neighborhood Meeting): Not applicable.
(C) ***Step 3*** (Development Application Submittal): All items or documents required for an appeal from an administrative decision as described in the development application submittal Comprehensive list shall be submitted. The Director may waive or modify the foregoing submittal requirements if, given the facts and

circumstances of the specific application, a particular requirement would either be irrelevant, immaterial, redundant, or otherwise unnecessary for the full and complete review of the application.

(D) ***Step 4***(Review of Applications): Applicable.

(E) ***Step 5***(Staff Report): Applicable.

(F) ***Step 6*** (Notice): Only Section 6.3.6(A) applies, except that "14 days" shall be changed to "7 days," everywhere it occurs in Section 6.3.6. Section 6.3.6(B)-(D) shall not apply.

(G) ***Step 7(A)*** (Decision Maker): Not applicable, and in substitution for Section 6.3.7(A), the Land Use Review Commission, pursuant to Chapter 2 of the City Code, shall review, consider, and uphold, modify or overturn the administrative decision which is the subject of the appeal based on its compliance with all of the standards contained in Step 8 of this Section.
***Step 7(B)—(G)*** (Conduct of Public Hearing, Order of Proceedings at Public Hearing, Decision and Findings, Notification to Applicant, Record of Proceedings, Recording of Decisions and Plats): Applicable.

(H) ***Step 8*** (Standards): Applicable, and an appeal from an administrative decision shall be determined based upon the same standards which applied to the underlying administrative decision. Any appeal that is taken pursuant to this Division must be taken not later than fourteen (14) days from the date that the administrative decision was made; and, except for administrative decisions which are not focused upon a specific parcel of real property (are general in nature), may be filed only by persons who possess a legal or equitable interest in the specific real property which is the subject of the decision, or who own or reside within real property any part of which is located within eight hundred (800) feet of the specific real property which is the subject of the decision.

(I) ***Step 9*** (Conditions of Approval): Applicable.

(J) ***Step 10*** (Amendments): Not applicable.

(K) ***Step 11*** (Lapse): Not applicable.

(L) ***Step 12*** (Appeals): Applicable.

# DIVISION 6.19 VESTED RIGHTS AND TAKINGS DETERMINATIONS

## 6.19.1 PURPOSE

The purpose of this Division is to provide a procedure for relief, where appropriate, to persons who claim that the application of this code has interfered with their vested rights to develop, or who claim that their property has been taken by reason of the application of this code.

The provisions and procedures of this Division shall be followed to conclusion prior to seeking relief from the courts based upon any claim of vested rights, or any alleged denial of economically beneficial use of land, any alleged lack of reasonable nexus of a condition imposed by the City to potential impacts of development, any lack of rough proportionality of a condition imposed by the City to potential impacts of development, any deprivation of due process which causes a taking, or any other taking of real property.

## 6.19.2 ADMINISTRATIVE PROCESS/HEARING OFFICER

(A) There is hereby established the following Vested Rights Determination and Takings Determination Procedures for the purpose of identifying certain parcels of real property in the City that should be made exempt, or partially exempt, from the application of any portion of this Code.

(B) An owner or developer of real property in the City who claims such an exemption on the basis of development rights that have vested under the criteria contained in Section 6.19.10 may seek a Vested Rights Determination in accordance with the procedures described in this Division. Furthermore, an owner or developer of real property in the City who claims that such property has been taken without just compensation or who claims a deprivation of due process may seek a Takings Determination in accordance with the procedures described in this Division. With regard to a Takings Determination, the owner or developer may assert any legally recognized takings claim, including, but not limited to, a claim that they have been deprived of "all economically beneficial use" of their property, that a condition imposed by the City does not have a "reasonable nexus" to the potential impacts of their development, that such a condition is not "roughly proportional" to the potential impacts of their development, or that actions taken by the City under this Code have resulted in a deprivation of due process.

(C) Such persons will be provided an opportunity for a public hearing, the right to present and rebut evidence, a formal record and an impartial Hearing Officer in accordance with the following procedures. Such Hearing Officer shall be selected and appointed by the City Manager and shall be an attorney licensed to practice law in the State of Colorado, with experience in land use matters. Subject to the procedures hereinafter provided, the Hearing Officer shall issue formal findings of fact, conclusions of law and a Vested Rights Determination and/or Takings Determination, depending on the nature of the claim asserted by the applicant. The claims shall be reviewed according to the following procedure:

### 6.19.3 APPLICATION

An Application for vested rights determination or takings determination shall be submitted to the Director in the form established by the director. An application fee in the amount of two thousand five hundred dollars ($2,500.00) per application (i.e., $2,500.00 for vested rights, $2,500.00 for takings, whichever is applied for) shall accompany and be part of the application. the application shall, at a minimum, include:

(A) the name, address and telephone number of the property owner and authorized applicant if other than the owner;
(B) the street address, legal description and acreage of the property; and
(C) for Vested Rights Determinations, all factual information and knowledge reasonably available to the owner and applicant to address the criteria established in Section 6.19.10.
(D) for Takings Determination, all factual information and knowledge reasonably available to the owner and applicant to address the criteria established in Section 6.19.11, including, without limitation, the following:

(1) documentation of the date of purchase and the purchase price of such property, and any and all offers to purchase such property made by any person within the last three (3) years;

(2) a description of the physical features present on such property, the present use of such property, the use of such property at the time it was purchased, the use of such property on the day prior to the time of the adoption of this Code, the uses permitted on such property at the time of application pursuant to this Section, and a detailed description of the regulations which are alleged to result in an elimination of economically beneficial use of the land;
(a) evidence of any investments made by the owner to improve such property, the date the improvements were made, and the costs of the improvements;

(b) all appraisals, studies and any other supporting evidence related to such property;

(c) any actions taken by the City related to such property;

(d) a description of the use which the owner believes represents the minimum legally required economically beneficial use of such property, and all documentation, studies and other supporting evidence thereof.

The application fee shall be applied to all out-of-pocket expenses actually incurred by the City in connection with the hearing process, including without limitation fees for, and expenses incurred by, the Hearing Officer; costs of reporting and transcribing the proceedings before the Hearing Officer; and costs of producing of exhibits. The application fee shall not be applied to any in-house costs incurred by the City, such as compensation for city staff time. Any portion of the application fee not used by the City to pay the costs referred to above shall forthwith be returned to the applicant upon completion of the hearing and appeal process.

### 6.19.4 DETERMINATION OF COMPLETENESS

Within five (5) working days after receipt of an Application for Vested Rights or Takings Determination, the Director shall determine whether the application submitted is complete. If they determine that the application is not complete, the Director shall notify the applicant in writing of the deficiencies. The Director shall take no further steps to process the application until the deficiencies have been remedied.

### 6.19.5 REVIEW AND DETERMINATION OR RECOMMENDATION BY DIRECTOR AND CITY ATTORNEY

After receipt of a completed Application for Vested Rights Determination or Takings Determination, the Director and the City Attorney shall review and evaluate the application in light of all of the criteria in Section 6.19.10 or Section 6.19.11, whichever is applicable. Within twenty (20) days of such receipt and based on the review and evaluation, the Director and the City Attorney shall prepare a written recommendation to the Hearing Officer that the application should be denied, granted or granted with conditions by the Hearing Officer. Such recommendations shall include findings of fact for each of the criteria established in Section 6.19.10 or 6.19.11, whichever is applicable, to the extent that the information is presented or obtained or inclusion is feasible or applicable.

If the Director and the City Attorney agree, based on the review and evaluation, that the Application for Determination clearly should be granted or granted with conditions, then they may enter into a written Stipulated Determination with the applicant, in lieu of the written recommendation to the Hearing Officer and the provisions in Sections 6.19.6, 6.19.7, and 6.19.8. Any such Stipulated Determination shall be in writing, signed by the City Manager, the City Attorney and the applicant, and shall be approved by the City Council by resolution at its next regularly-scheduled meeting which is at least fourteen (14) days from the date such Stipulated Determination is signed. Said Stipulated Determination shall include findings of fact and conclusions of law based on the criteria established in Section 6.19.10 or Section 6.19.11, whichever is applicable, and the determination granting or granting with conditions, in whole or in part, the application. In the event that a proposed Stipulated Determination is rejected by the City Council, it shall be referred to the Hearing Officer for a hearing and Determination in accordance with the procedures described in Sections 6.19.6 through 6.19.9 below.

### 6.19.6 REVIEW AND DETERMINATION BY HEARING OFFICER

No later than thirty (30) days after receipt by the Hearing Officer of the Application for Determination and the written recommendation of the Director and the City Attorney, the Hearing Officer shall hold a public hearing on the application. Written notice of the hearing shall be mailed by the City to the applicant at least fourteen (14) days prior to the scheduled hearing. At the hearing, the Hearing Officer shall take evidence and sworn testimony in regard to the criteria set forth in Section 6.19.10 or Section 6.19.11, whichever is applicable, and shall follow such rules of procedure as may be established by the Director. The parties before the Hearing Officer shall include the City and the applicant. Testimony shall be limited to the matters directly relating to the standards set forth in Section 6.19.10 or Section 6.19.11, whichever is applicable. The City Attorney shall represent the City, shall attend the public hearing and shall offer such evidence as is relevant to the proceedings. The other parties to the proceedings, or their authorized agents, may offer such evidence at the public hearing as is relevant to the proceedings and criteria. The order of presentation before the Hearing Officer at the public hearing shall be as follows: (1) the City's summary of

the application, written recommendation, witnesses and other evidence; (2) the applicant's witnesses and evidence; and (3) city rebuttal, if any.

### 6.19.7 ISSUANCE OF DETERMINATION BY HEARING OFFICER

Within thirty (30) working days after the completion of the public hearing under Section 6.19.6, the Hearing Officer shall consider the Application for Determination, the recommendation of the Director and the City Attorney, and the evidence and testimony presented at the public hearing, in light of all of the criteria set forth in Section 6.19.10 or Section 6.19.11, whichever is applicable, and shall deny, grant, grant with conditions, or grant in part and deny in part, the Application for Determination for the property or properties at issue. The Determination shall be in writing and shall include findings of fact for each of the applicable criteria established in Section 6.19.10 or Section 6.19.11, whichever is applicable, conclusions of law for each of such criteria, and a determination denying, granting, or granting with conditions, in whole or in part, the vested rights.

### 6.19.8 APPEAL TO THE CITY COUNCIL

Within twenty (20) days after issuance of the Hearing Officer's written Determination, the City Attorney, the Director, the applicant, its authorized attorney or agent, or any resident of the City who appeared at the public hearing before the Hearing Officer may appeal the Determination of the Hearing Officer to the City Council by filing a written notice of appeal with the City Clerk. A fee of one hundred dollars ($100.00) shall be paid for the application and processing of any such appeal except an appeal filed by the City Attorney or the Director. The appeal shall be determined by the City Council at a hearing based solely upon the record of the proceedings before the Hearing Officer. The City Council shall adopt the Hearing Officer's Determination, with or without modifications or conditions, or reject the Hearing Officer's Determination. Such appeal shall be based upon the criteria established in Section 6.19.10 or Section 6.19.11, whichever is applicable.

### 6.19.9 WAIVER OF TIME LIMITS

Any time limit specified in the Determination Procedure may be waived upon receipt by the City Clerk of a written stipulation requesting such waiver and signed by the applicant and the Director.

### 6.19.10 CRITERIA FOR VESTED RIGHTS

(A) This Section is intended to strictly adhere to and implement existing case law and statutory law controlling in the State of Colorado as they relate to the doctrine of vested rights and equitable estoppel as applied to a home rule municipality exercising its authority and powers in land use planning, zoning, the provisions of adequate public facilities concurrent with development (APF), subdivision, site development, land development regulations and related matters addressed in this Code. It is the express intent of the City to require application of the provisions of this Division 6.19 to as much development and property in the City as is legally possible without violating the legally vested rights of an owner/developer under case law or statutory law. The criteria herein provided shall be considered in rendering a Vested Rights Determination hereunder. It is intended that each case be decided on a case-by-case factual analysis. An applicant shall be entitled to a positive Vested Rights Determination only if such applicant demonstrates, by clear and convincing evidence, entitlement to complete their development without regard to the otherwise applicable provisions of this Code by reason of: (A) the provisions of Title 24, Article 68, C.R.S.; (B) Section 6.3.11 of this Code; or (C) the existence of all three (3) of the following requirements:

(1) some authorized act of the City;

(2) reasonable good faith reliance upon such act by the applicant; and

(3) such a substantial change in position or expenditure by the applicant that it would be highly inequitable or unjust to destroy the rights acquired.

(B) In evaluating whether an applicant (property owner, developer or the successor in interest of either) has met the requirements as set forth in paragraph (A)(3) above, the Hearing Officer shall consider and give weight to the following factual matters

(1) the total investment made in the project, including all costs incurred subsequent to the act of the City relied upon by the applicant, which costs may include, without limitation, the costs of land acquisition, architectural and engineering fees and the costs of on-site and off-site infrastructure improvements to service the project;

(2) any dedication of property made to public entities in accordance with the approved overall development plan for the project or the approved project development plan or plat for the project;

(3) whether infrastructure improvements which have been installed have been sized to accommodate uses approved in the approved overall development plan or the approved project development plan or plat for the project;

(4) the acreage of the approved overall development plan or the approved project development plan or plat for the project and the number of phases within the overall development plan or the approved project development plan or plat and their respective acreages which have received final approval;

(5) whether the completion of the project has been timely and diligently pursued; and

(6) the effect of the applicant's existing development loans on the application of this Land Use Code to the project.

## 6.19.11 CRITERIA FOR TAKINGS

This Section is intended to strictly adhere to and implement existing case law and statutory law controlling in the State of Colorado as they relate to the takings doctrine as applied to a home rule municipality exercising its authority and powers in land use planning, zoning, the provision of adequate public facilities concurrent with development (APF), subdivision, site development, land development regulations and related matters addressed in this Land Use Code. It is the express intent of the City to require application of the provisions of this Land Use Code to as much development and property in the City as is legally possible without violating takings law.

The criteria herein provided shall be considered in rendering a Takings Determination hereunder. It is intended that each case be decided on a case-by-case factual analysis. While the criteria for takings established in this Section are intended to provide fair standards in a pre-litigation forum and to reflect the current state of the law for Colorado, the City's adoption or use of these criteria for takings shall not in any way be deemed an admission, concession or statement by the City that such criteria apply or are controlling in a court of law, and the City hereby unconditionally reserves all defenses and claims which would otherwise be available to it under the law. For example, but without limitation, the City does not concede for litigation purposes that the "reasonable nexus/rough proportionality" doctrines apply to monetary exactions or to legislative acts, although the City chooses to apply such criteria to the Takings Determination process described herein.

(A) ***Economically Beneficial Use***. With regard to the takings doctrine of "economically beneficial use," an applicant shall be entitled to the minimum increase in use, density, intensity or other possible concessions from this Land Use Code necessary to permit an economically beneficial use of the land or a use that is determined to be required by law. The highest use, or even an average or generally reasonable expectation, is not required or intended as the appropriate remedy.

The following factors shall be used to determine whether an economically beneficial use of such property is available:

(1) *Actual Condition of Land*. The actual condition of the land shall be considered. The reality of limited development potential, given the natural condition of the land, shall not be attributed to the regulations applied to the land. If the land is such that it cannot safely or properly accommodate development with normal grading and clearing practices, this fact shall lower the intensity of use that is considered a minimum economically beneficial use.

(2) *Common Land Use*. A land use commonly found in the City, although it may not involve further development of the land, is considered an economically beneficial use. Furthermore, a land use that is considered to be the lowest intensity in the City, but which use still provides for residence within the City, is considered an economically beneficial use.

(3) *No Government Subsidy*. A minimum economically beneficial use of the land is one that does not have any governmental subsidy attached to the long-term safe occupation or use of the land. If such a subsidy is needed, then that must be reflected by lowering the use intensity that is considered a minimum economically beneficial use on a market valuation basis, or by deducting the cost of such a subsidy from the otherwise established minimum economically beneficial use.

(4) *Potential for Damages*. The potential for damages to either residents or property shall be assessed in determining economically beneficial use. Such damage potential shall be calculated and must be reflected by deducting the damage potential from the otherwise established minimum economically beneficial use, or otherwise taking account of such damage.

(5) *No Investment-Backed Expectations.* Speculative expectations of land value and development potential shall not be considered. Reasonable development expectations backed by investments shall not be considered, unless required by the current state of the law.

(6) *Conservative Financial Investment.* The opportunity to make a return on the use of the land equivalent to that which would have been received from a conservative financial investment shall be indicative of an economically beneficial use. However, general downturns in the real estate market or the economy shall not be attributed to the regulations applied to the land.

(7) *No Diminution in Value.* The market value of the land, as established by the comparable sales approach, one (1) day prior to the adoption of this Land Use Code, shall be compared to the market value of the land, as established by the comparable sales approach, with the regulations as applied. Market value of the land one (1) day prior to the adoption of this Land Use Code shall constitute its highest and best use on the day prior to the adoption of this Land Use Code or the date of the purchase of the land by the applicant, whichever is later. All appraisals or other land value information, if any, shall be proposed by qualified licensed appraisers, and shall follow the best professional practices established by the profession. Mere diminution in market value shall not be sufficient to support a determination of denial of economically beneficial use.

(8) **Current State of Law.** The current state of law established by the United States Supreme Court, the Federal Circuit Court of Appeals, the Colorado Supreme Court and other controlling Colorado courts, and controlling statutory law, shall be considered.

(B) **Reasonable Nexus/Rough Proportionality.** With regard to the takings doctrines of "reasonable nexus" and "rough proportionality," an applicant shall be entitled to the minimum revision of any required dedication or reduction of its property, or the minimum revision of any payment of money to ensure "rough proportionality," or the reevaluation of the offending condition or action, including invalidation if necessary, to ensure that the "reasonable nexus" and "rough proportionality" doctrines are satisfied.

(1) In evaluating an applicant's "reasonable nexus/rough proportionality" takings claim, a determination shall first be made as to whether a "reasonable nexus" exists between a "legitimate state interest" and the condition imposed by the City.

(2) The second part of the "reasonable nexus/rough proportionality" takings analysis requires that a determination then be made as to whether the exaction or condition is reasonably related to the needs created by the development or the impacts of such development.

(3) Finally, a determination shall be made as to whether the degree of the exaction demanded by the City's condition is reasonably related to the projected impacts of the applicant's proposed development. No precise mathematical calculation is required, but the City must make some sort of individualized determination that the required exaction or condition is related both in nature and extent to the impact of the proposed development.

(4) The current state of law established by the United States Supreme Court, the Federal Circuit Court of Appeals, the Colorado Supreme Court and other controlling Colorado courts, and controlling statutory law, shall be considered in making each of these determinations.

# DIVISION 6.20 PREEMPTION USES

## 6.20.1 PREEMPTION USES

Any use that is not permitted under the provisions of Article 4, but that must be allowed because of preemption by a sovereign jurisdiction or because of a court order, shall be processed as a Planning and Zoning Commission Review (Type 2 review) and shall be approved, with or without conditions, as necessary to ensure that such use complies with all applicable Land Use Code standards as are or may reasonably be interpreted to be applicable to such use, provided that such standards are not preempted or ordered by a court not to be applied.

# DIVISION 6.21 PROJECT STOCKPILING PERMITS, DEVELOPMENT CONSTRUCTION PERMITS AND OFF-SITE CONSTRUCTION STAGING

## 6.21.1 PURPOSE

(A) A stockpiling permit is required in order to regulate the placement of fill dirt on properties not covered by a site specific development plan, to protect against adverse impacts to floodplains, drainage systems, natural areas, wildlife habitat, wetlands or other areas of public interest, and to assure that public nuisances will not be created by the stockpiling activities.

(B) A Development Construction Permit is required in order to coordinate the transition from completion of the development review process to the construction process.

(C) The purpose of requiring an off-site construction staging licensed under this Section 6.21.4 is to address the compatibility of off-site construction staging with the zone districts in which they are located, mitigate the impact off-site construction staging on adjacent parcels, the neighborhoods and environment, and ensure the health and safety of off-site construction staging.

## 6.21.2 APPLICABILITY

(A) A stockpiling permit shall be required for stockpiling soil or similar inorganic material upon property that is not subject to the provisions of a valid development construction permit.

(B) Development Construction Permit shall be required for all development that is required to construct public infrastructure improvements that, upon completion, will be owned or maintained by the City.

(C) Use of any parcel for off-site construction staging shall be permitted only in accordance with the provisions of an off-site construction staging license issued pursuant to this Section 6.21.4.

## 6.21.3 STOCKPILING PERMIT AND DEVELOPMENT CONSTRUCTION PERMIT REVIEW PROCEDURES

An application for a Stockpiling Permit or a Development Construction Permit shall be processed according to, in compliance with and subject to the provisions contained in Division 6.3 and Steps (1) through (12) of the Common Development Review Procedures (Sections 6.3.1 through 6.3.12, inclusive), as follows:

(A) ***Step 1*** (Conceptual Review): Not applicable.

(B) ***Step 2***(Neighborhood Meeting): Not applicable.

(C) ***Step 3(A)*** (Development Application Forms): Not applicable, and in substitution therefor, all applications for Stockpiling Permits or Development Construction Permits shall be in a form established by the City Engineer and made available to the public.
***Step 3(B)*** (Consolidated Development Applications and Review): Not applicable.
***Step 3(C)*** (Development Application Contents): Applicable.
***Step 3(D)*** (Submittal Hearing Date Schedule): Not applicable.
***Step 3(E)*** (Development Review Fees - Stockpiling Permit): Applicable.
***Step 3(E)*** (Development Review Fees - Development Construction Permit): Not applicable, and in substitution therefor, the applicant for a Development Construction Permit shall remit to the City an application fee and a construction inspection fee in the amounts as are authorized to be established pursuant to Chapter 7.5, Article I of the City Code.

(D) ***Step 4***(Review of Applications): Applicable except that the term "City Engineer" shall be substituted for the term "Director."

(E) ***Step 5*** (Staff Report): Not applicable.

(F) ***Step 6*** (Notice): Not applicable.

(G) ***Step 7*** (Public Hearing - Stockpiling Permit): Not applicable, and in substitution therefor, an application for a Stockpiling Permit shall be processed, reviewed, considered and approved, approved with modifications or denied by the City Engineer based on its compliance with the City Code and all regulations related to such permit adopted by the City by reference or otherwise, as amended, including, without limitation, the erosion control standards as contained in the Stormwater Design Criteria and Construction Standards Manual.
***Step 7*** (Public Hearing - Development Construction Permit): Not applicable, and in substitution therefor, an application for a Development Construction Permit shall be processed, reviewed, considered and approved, approved with modifications or denied by the City Engineer based on its compliance with the Site Specific Development Plan, the City Code and all regulations related to such permit adopted by the City by reference or otherwise, as amended.

(H) ***Step 8*** (Standards - Stockpiling Permit): Not applicable, and in substitution therefor, an application for a Stockpiling Permit shall be reviewed for compliance with the City Code and all regulations related to such permit adopted by the City by reference or otherwise, as amended, including, without limitation, the erosion control standards as contained in the Stormwater Criteria Manual and the dust control measures contained in the Dust Control Manual to the extent required therein.
***Step 8*** (Standards - Development Construction Permit): Not applicable, and in substitution therefor, an application for a Development Construction Permit shall be reviewed for compliance with the Site Specific Development Plan, the City Code and all regulations related to such permit adopted by the City by reference or otherwise as amended, including, without limitation, the erosion control standards as contained in the Stormwater Criterial Manual and the dust control measures contained in the Dust Control Manual to the extent required therein.

(I) ***Step 9*** (Conditions of Approval): Applicable.

(J) ***Step 10*** (Amendments): Not applicable, and in substitution therefor, amendments to Stockpiling Permits or Development Construction Permits may be authorized by the City Engineer only as allowed under the Stockpiling Permit or Development Construction Permit regulations adopted by the City by reference or otherwise, as amended, provided that the amended Stockpiling Permit or Development Construction Permit remains in compliance with the applicable standards.

(K) ***Step 11*** (Lapse - Stockpiling Permits): Not applicable, and in substitution therefor, a Stockpiling Permit shall be subject to the following lapse and extension provisions:

(1) ***Term of permit***. All Stockpiling Permit activity shall be commenced and completed within thirty (30) days of issuance of the Stockpiling Permit unless a longer term of permit is established by the City Engineer upon issuance of the permit.

(2) ***Extensions***. The applicant for a Stockpiling Permit may apply for an extension of the term of such permit if such application is filed with the City Engineer at least two (2) working days prior to the permit expiration date. Such application shall contain good and sufficient reasons as to why an extension is necessary. For good cause shown, the City Engineer may approve an extension application that has been timely filed; provided, however, that no extension shall be granted for a term in excess of thirty (30) days, and no extension shall be granted which, in the judgment of the City Engineer, would be detrimental to the public health, safety or welfare.

***Step 11*** (Lapse - Development Construction Permit): Not applicable, and in substitution therefor, a Development Construction Permit shall be subject to the following lapse and extension provisions:

(1) *Prior to commencement of construction*. If construction has not commenced within sixty (60) days from the date of issuance of the Development Construction Permit, such permit shall expire, and all fees paid therefor shall be forfeited.

(2) *Following commencement of construction*. If construction has timely commenced, the Development Construction Permit shall expire upon the passage of one (1) year from the date of issuance thereof.

(3) *Extensions*. The applicant for a Development Construction Permit may apply for an extension of the term of such permit if such application is filed with the City Engineer at least two (2) weeks prior to the permit expiration date. Such application shall contain good and sufficient reasons as to why an extension is necessary; and, for good cause shown, the City Engineer may grant extensions; provided, however, that no extension shall be granted for a term in excess of six (6) months, and no extension shall be granted which, in the judgment of the City Engineer, would be detrimental to the public health, safety or welfare.

(L) ***Step 12*** (Appeals): Not applicable, and in substitution therefor, appeals of any final decision of the City Engineer on a Stockpiling Permit or a Development Construction Permit application shall be in accordance with Division 6.18; provided, however, that such appeals may be filed only by persons who possess a legal or equitable interest in the specific real property which is the subject of the decision.

## 6.21.4 OFF-SITE CONSTRUCTION STAGING

(A) ***Location.*** Subject to issuance of and compliance with an off-site construction staging license under subsection (D) below, off-site construction staging shall be permitted in specified zone districts as listed in Article 4.

(B) ***Off-site construction staging license.***

(1) An application for an off-site construction staging license shall be accompanied by a site and grading plan that shows the following for the site on which the off-site construction staging is to occur:

(a) Existing grade contours of the site and of adjoining properties;

(b) Locations of different activities to be located on the site;

(c) List of materials and equipment to be stored on the site, including the means and methods to safely store any hazardous material or dangerous equipment;

(d) Any proposed grading necessary to stabilize the site;

(e) Proposed erosion control measures and storm drainage control measures to prevent wind and water erosion, drainage impacts and tracking mud onto streets;

(f) Flood ways and flood plains;

(g) Natural habitat and features;

(h) Fences;

(i) Restrooms;

(j) Existing trees;

(k) Existing easements and rights-of-way;

(l) Existing underground utilities;

(m) Other information necessary to describe the site;

(n) Traffic control plan reflecting means of ingress and egress to be used;

(o) Mitigation plan to address any adverse impacts to the site, or adjacent parcels, caused by the off-site construction staging during and after the staging; and

(p) Restoration and final site condition plan.

(2) An off-site construction staging license shall be issued, with or without conditions, if the Director finds that the off-site construction staging:

(a) is not detrimental to the public good; and

(b) will not cause substantial adverse impacts to the parcel on which it is located or adjacent parcels or the environment, with or without mitigation; and

(c) is located within a quarter (.25) of a mile of the construction or development site to be served by the off-site construction staging.

(3) An off-site construction staging license issued hereunder shall expire eighteen (18) months after the date of issuance unless an extension is granted.

(a) A six (6) month extension may be granted by the Director upon a finding that the conditions specified in Section 6.21.4(B)(2), including any conditions to mitigate adverse impacts, have been and continue to be satisfied.

(b) The Director may further extend the license up to an additional twelve (12) months beyond the first six (6) month extension, for a maximum total of not more than thirty-six (36) months, if a neighborhood meeting for which the neighborhood is notified in compliance with Section 6.3.2 is conducted and the Director determines: the extension is not detrimental to the public good; and that the license conditions specified in Section 6.21.4(B)(2), including any conditions to mitigate adverse impacts, have been and continue to be satisfied.

(4) After expiration of an off-site construction staging license, at least four (4) consecutive months shall lapse before a new license is issued for the same parcel.

(5) The Director may modify or revoke any off-site construction staging license issued by the City for any of the following:

(a) After issuance of the license, the site or activities thereon are found to be out of compliance with the approved application or license, including any conditions to mitigate adverse impacts; or

(b) An adverse impact not previously anticipated at the time the license or license extension was issued is identified and such adverse impact cannot be adequately mitigated and/or is detrimental to the public good.

The Director shall inform the license holder in writing of the decision to modify or revoke the license and the reasons for same.

(6) The license holder may appeal any decision denying, modifying or revoking an off-site construction staging license to the Zoning Board of Appeals pursuant to Section 6.14.

(C) ***Restoration of Site.*** Within fifteen (15) days after expiration of the license, the license holder must have completed restoration of the site consistent with the approved restoration or final site condition plan included in the application.

# DIVISION 6.22 EXPANSIONS AND ENLARGEMENTS OF EXISTING BUILDINGS

## 6.22.1 EXPANSIONS AND ENLARGEMENTS OF EXISTING BUILDINGS

(A) E***xpansions of Large Retail Establishments.*** No addition to an existing large retail establishment which would increase the gross square feet of floor area of such establishment by fifty (50) percent or more, and no addition to a building which would create a large retail establishment and which would increase the gross square footage of floor area of such building by fifty (50) percent or more, shall be approved for construction or occupancy unless the entire large retail establishment affected by the new construction has been determined by the Planning and Zoning Commission to be in compliance with the building standards for Section 5.15.3 Large Retail Establishments contained in this code whether the existing large retail establishment or building was approved under prior law or under this Land Use Code.

(B) ***Expansions and Enlargements of Other Nonresidential Buildings and of Multi-unit Dwellings***. Any proposal for the enlargement or expansion of a nonresidential building that was constructed pursuant to a basic development review, or use-by-right review under prior law, and that is not otherwise regulated by the above subparagraph (A) of this Section, and any proposal for the enlargement or expansion of a multi-unit dwelling that was constructed pursuant to a basic development review, or use-by-right review under prior law, must comply with the requirements contained in this code.

(C) ***Expansions and Enlargements of Single-Family Dwellings, Two-Family Dwellings and Accessory Buildings***. Any proposal for the enlargement or expansion of a single-unit dwelling, two-unit dwelling or accessory building shall be subject to Building Permit review in accordance with standards of this code.

# DIVISION 6.23 ABANDONMENT PERIOD/RECONSTRUCTION OF PERMITTED USES

## 6.23.1 PERMITTED USES: ABANDONMENT PERIOD/RECONSTRUCTION OF PERMITTED USES

(A) If active operations are not carried on in a permitted use during a period of twenty-four (24) consecutive months, or with respect to seasonal overflow shelters sixty (60) consecutive months, the building, other structure or tract of land where such permitted use previously existed shall thereafter be re-occupied and used only after the building or other structure, as well as the tract of land upon which such building or other structure is located, have, to the extent reasonably feasible, been brought into compliance with the applicable development standards contained in Articles 3 and 5 and the applicable district standards contained Articles 2 and 4 of this Code as determined by the Director. This requirement shall not apply to any permitted use conducted in a
building that was less than ten (10) years old at the time that active operations ceased. Intent to resume active

operations shall not affect the foregoing.

(B) A building or structure containing a permitted use which has been damaged by fire or other accidental cause or natural catastrophe may be reconstructed to its previous condition, provided that such work is started within twelve (12) months of the date of the occurrence of such damage. In the event such work is started later than twelve (12) months from the date of the occurrence, then the building or structure may be reconstructed, provided that, to the extent reasonably feasible, such reconstruction complies with the applicable standards of Articles 3 and 5 and Articles 2 and 4 of this Code as determined by the Director.

(C) Any determination of the Director under this Section shall constitute a building permit decision and as such shall be appealable as a building permit under Section 6.18.1(B)9.

## DIVISION 6.24 INTERPRETATIONS

### 6.24.1 AUTHORITY

The Director shall have the authority to make all interpretations of the text of this Land Use Code and the boundaries of zone districts on the zoning map.

### 6.24.2 INITIATION

An interpretation may be requested by any person.

### 6.24.3 PROCEDURES

(A) **Submission of request for interpretation.** before an interpretation may be provided by the Director, a request for interpretation must be submitted to the Director in a form established by the Director.

(B) **Determination of Sufficiency.** After receipt of a Request for Interpretation, the Director shall determine whether the request is complete, specific, clear and ready for review. If the Director determines that the request is not complete, they shall serve a written notice on the applicant specifying the deficiencies. The Director shall take no further action on the Request for Interpretation until the deficiencies are remedied.

(C) **Rendering of Interpretation.** After the Request for Interpretation has been determined to be sufficient, the Director shall review and evaluate the request in light of the terms and provisions of this Land Use Code and/or the Zoning Map, whichever is applicable, and render an interpretation. The Director may consult with the City Attorney and other City departments before rendering an interpretation.

(D) **Form.** The interpretation shall be in writing and shall be delivered to the applicant. Interpretations that are not in writing shall have no force or effect. Interpretations shall have no precedential value and shall be limited in their application to the property, if any, identified in the interpretation.

(E) **Official Record.** The Director shall maintain an official record of all interpretations in the Department. Such official record shall be available for public inspection during normal business hours.

(F) **Appeal.** Appeals of any interpretation under this Section shall be made only in accordance with Division 6.18.

### 6.24.4 RULES FOR INTERPRETATION OF BOUNDARIES

Interpretations regarding boundaries of zone districts on the Zoning Map shall be made in accordance with the provisions of this section.

(A) **District Regulations Extend to all Portions of Districts Surrounded by Boundaries.** Except as otherwise specifically provided, a district symbol or name shown within district boundaries on the Zoning Map indicates that district standards and other district regulations pertaining to the district extend throughout the whole area surrounded by the boundary line.

(B) **Boundaries.** Where uncertainty exists as to the boundaries of zone districts as shown on the Zoning Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerlines of dedicated streets, highways, alleys or rights-of-way shall be construed as following such centerlines as they exist on the ground, except where such interpretation would change the zoning status of a lot or parcel, in which case the boundary shall be interpreted in such a manner as to avoid changing the zoning status of any lot or parcel. In case of a street vacation, the boundary shall be construed as remaining in its location except where ownership of the vacated street is divided other than at the center, in which case the boundary shall be construed as moving with the ownership.

(2) Boundaries indicated as approximately following lot lines, public property lines and the like shall be construed as following such lines; provided, however, that where such boundaries are abutting a dedicated street, alley, highway or right-of-way and the zoning status of the street, highway, alley or right-of-way is not indicated, the boundaries shall be construed as running to the middle of the street, highway, alley or right-of-way. In the event of street vacation, interpretation shall be as provided in (1) above.

(3) Boundaries indicated as approximately following city limits shall be construed as following such city limits.

(4) Boundaries indicated as following the centerlines of streams, canals or other bodies of water shall be construed as following such centerlines. In case of a change of the course or extent of bodies of water, the boundaries shall be construed as moving with the change, except where such movement would change the zoning status of a lot or parcel; and in such case the boundary shall be interpreted in such a manner as to avoid changing the zoning status of any lot or parcel.

(5) Boundaries indicated as entering any body of water but not continuing to intersect with other zoning boundaries or with the limits of jurisdiction of the city shall be construed as extending in the direction in which they enter the body of water to the point of intersection with other zoning boundaries or with the limits of city jurisdiction.

(6) Boundaries indicated as following physical features other than those listed above shall be construed as following such physical features, except where such interpretation from mapped location would change the zoning status of a lot or parcel, in which case the boundary shall be interpreted in such manner as to avoid changing the zoning status of any lot or parcel.

(7) Boundaries indicated as parallel to or extensions of features indicated in (1) through (6) above shall be construed as being parallel to or extensions of such features.

(8) Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map on the page of the Zoning Map showing the property in question.

## 6.24.5 CASES NOT COVERED BY SECTION 6.24.4

In cases not covered by Section 6.24.4, or where the property or street layout existing on the ground is at variance with that shown on the Zoning Map, the interpretation of the Zoning Map shall be in accordance with the purpose and intent of this Land Use Code and the City Plan Principles and Policies.

### 6.24.6 DIVISION OF A LOT OF RECORD BY A BOUNDARY

Where a district boundary divides a lot of record at the time the boundary was established, and where the division makes impractical the reasonable use of the lot, the boundary may be adjusted by the Director in either direction not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

### 6.24.7 NONREGULATED LAND TRANSFERS

(A) Abutting portions of lots may be transferred to adjoining property owners without being subject to subdivision requirements; provided, however, that no such transfer shall imply or confer any right to develop, or create a new lot, create a nonconformity of any nature whatsoever, or circumvent the intent or requirements of this Land Use Code. (This type of transfer is commonly known as a "lot line adjustment" even though the legal lot lines are not changed and cannot be changed except through replatting.)

(B) Notwithstanding any provision of Colorado law to the contrary, any parcel of land, whether larger or smaller than thirty-five (35) acres, may be conveyed by metes and bounds description or by other usual and customary method of land description, without being subject to subdivision requirements; provided, however, that no such conveyance shall imply or confer any right to develop, or create a new lot upon which development can occur unless such development has, prior to the conveyance, been approved in accordance with this Land Use Code or prior law and provided further that such conveyance shall not be made if it creates nonconformities of any nature whatsoever, or circumvents the intent or requirements of this Land Use Code.

### 6.24.8 CONTINUITY OF ZONING

In the event any unincorporated property within the County shall hereafter become incorporated into the City, to ensure that there shall be no lapse of zoning, then, if the property is not zoned otherwise by the City, it shall be automatically zoned into the T-Transition zone district.

### 6.24.9 RULES OF CONSTRUCTION FOR TEXT

In construing the language of this Land Use Code, the rules set forth in Section 1-2 of the City Code and this Section shall be observed unless such construction would be inconsistent with the manifest intent of the Council as expressed in this Land Use Code or in City Plan Principles and Policies. The rules of construction and definitions set forth herein shall not be applied to any express provisions excluding such construction, or where the subject matter or context of such section is repugnant thereto. In the event of a conflict between these rules of construction and the rules of construction established in Section 1-2 of the City Code, these rules shall control.

(A) **Generally.** All provisions, terms, phrases and expressions contained in the Land Use Code shall be so construed in order that the intent and meaning of the Council may be fully carried out. Terms used in the Land Use Code, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of this state for the same terms.

In the interpretation and application of any provision of the Land Use Code, such provision shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Land Use Code imposes greater restrictions upon the subject matter than another provision of the Land Use Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling. In other words, the more stringent controls over the less stringent.

The definitions are intended to be generally construed within the context of the Land Use Code, except as shall be specified by the term itself within a given context for a select section of the Land Use Code.

(B) **Text.** In case of any difference of meaning or implication between the text of the Land Use Code and any figure or diagram, the text shall control.

(C) **Conjunctive/Disjunctive.** Unless the context clearly indicates the contrary, the following words shall be interpreted as follows:

(1) "And" indicates that all connected words or provisions apply.

(2) "Or" or "and/or" indicates that the connected words or provisions may apply singly or in any combination.

(3) "Either…or" indicates that the connected words or provisions apply singly but not in combination.

(D) **Day.** The word "day" shall mean a calendar day.

(E) **Delegation of Authority.** Whenever a provision appears requiring the Director or some other City officer or employee to do some act or perform some duty, such provision shall be construed as authorizing the Director or other officer or employee to designate, delegate and authorize another City employee to perform the required act or duty unless the terms of the provision specify otherwise. With respect to the review of development applications eligible for Type 1 review, in addition to or in substitution for delegation to City employees as above authorized, the Director may engage the services of an attorney with experience in land use matters.

(F) **Exhibits.** Any exhibit to this Code which is taken from another regulation of the City shall be automatically amended upon the making of any amendment to the document of origin, and the Director shall promptly replace such exhibit with the new amended exhibit.

(G) **Include.** The word "including," "includes," "such as," "additional" or "supplemental" is illustrative and is not intended as an exhaustive listing, unless the context clearly indicates the contrary.

(H) **Headings.** Article, division, section and subsection headings contained in the Land Use Code are for convenience only and do not govern, limit, modify or in any manner affect the scope, meaning or intent of any portion of the Land Use Code.

(I) **Shall, May, Should.** The word "shall," "will" or "must" is mandatory; "may" is permissive, "should" is suggestive but not mandatory.

(J) **Week.** The word "week" shall be construed to mean seven (7) calendar days.

(K) **Written or In Writing.** The term "written" or "in writing" shall be construed to include any representation of words, letters or figures whether by printing or other form or method of writing.

(L) **Year.** The word "year" shall mean a calendar year, unless a fiscal year is indicated or three hundred sixty-five (365) calendar days is indicated.

# DIVISION 6.25 AMENDMENT TO TEXT OF CODE AND/OR ZONING MAP

## 6.25.1 PURPOSE

The purpose of this division is to provide requirements for changing the text of this code or the boundaries of the zone districts shown on the zoning map.

### 6.25.2 APPLICABILITY

Any and all amendments to the text of this code and any and all changes to the zoning map must be processed in accordance with this division. only the Council may, after recommendation of the Planning and Zoning Commission, adopt an ordinance amending the text of this code or the Zoning Map in accordance with the provisions of this Division.

### 6.25.3 INITIATION

(A) **Amendment To Zoning Map.** An amendment to the Zoning Map may be proposed by the Council, the Planning and Zoning Commission, the Director or the owners of the property to be rezoned.
(B) **Text Amendment.** An amendment to the text of this Code may be proposed by the Planning and Zoning Commission or the Director.

### 6.25.4 TEXT AND MAP AMENDMENT REVIEW PROCEDURES

An amendment to the text of this Code or an amendment to the Zoning Map may be approved by the City Council by ordinance after receiving a recommendation from the Planning and Zoning Commission. Any such proposed amendment shall be processed through a public hearing before the Planning and Zoning Commission, which hearing shall be held either prior to City Council consideration of the proposed amendment or between first and second readings of the ordinance approving the amendment which will provide a recommendation to the City Council. (See Steps 1 through 12 below). The City Clerk shall cause the hearing by the City Council to be placed on the agenda for a future City Council meeting; and the public hearing before the City Council shall be held after at least fifteen (15) days' notice of the time, date and place of such hearing and the subject matter of the hearing and the nature of the proposed zoning change has been given by publication in a newspaper of general circulation within the City. On a proposal for a text amendment, the Planning and Zoning Commission shall hold a hearing, which hearing shall be held either prior to City Council consideration of the proposed amendment or between first and second readings of the ordinance approving the amendment. Notice shall be given as required for ordinances pursuant to the City Charter. The City Council shall then approve, approve with conditions or deny the amendment based on its consideration of the Staff Report, the Planning and Zoning Commission recommendation and findings and the evidence from the public hearings, and based on the amendment's compliance with the standards and conditions established in this Section. In the event that a protest is filed under the provisions of Section 31-23-305, C.R.S., any protested zoning change shall not become effective except by the favorable vote of a simple majority of the Councilmembers present and voting as provided in Article II, Section 11 of the City Charter. (See Steps 8 and 9 below).

The Planning and Zoning Commission processing of the proposed amendment shall be according to, in compliance with and subject to the provisions contained in Steps 1 through 12 of the Common Development Review Procedures (Sections 6.3.1 through 6.3.12, inclusive) as follows:

(A) ***Step 1*** (Conceptual Review): Not applicable.
(B) ***Step 2*** (Neighborhood Meeting): Not applicable, except that, with respect to a quasi-judicial map amendments only, the Director may convene a neighborhood meeting to present and discuss a proposal of known controversy and/or significant neighborhood impacts.
(C) ***Step 3*** (Development Application Submittal): All items or documents required for amendments to the text of this Code and/or the Zoning Map as described in the development application submittal Comprehensive list shall be submitted. The Director may waive or modify the foregoing submittal requirements if, given the facts and circumstances of the specific application, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary for the full and complete review of the application.
(D) ***Step 4*** (Review of Applications): Applicable.
(E) ***Step 5*** (Staff Report): Applicable.
(F) ***Step 6*** (Notice):

(1) *Text Amendments*. Not applicable, and in substitution therefor, notice of the Planning and Zoning Commission hearing shall be given in accordance with Section 2-74 of the City Code. (However, for text amendments proposed pursuant to Division 6.9, subsection 6.3.6(C) shall apply, and in addition the notice shall name the specific proposed new use [or uses] to be added to the zone district list of permitted uses.)

(2) *Zonings or Rezonings of No More Than Six Hundred Forty (640) Acres (Quasi-judicial)*. Subsection 6.3.6(A) shall apply and such notices shall identify the proposed new zone district(s), as well as the uses permitted therein, shall indicate whether a neighborhood meeting will be held with regard to the proposed zoning or rezoning, and shall inform the recipient of the notice of the name, address and telephone number of the Director to whom questions may be referred with regard to such zoning change. Subsections 6.3.6(B), (C) and (D) shall apply, and the published notice given pursuant to subsection 6.3.6(C) shall provide the time, date and place of the hearing, the subject matter of the hearing and the nature of the proposed zoning change.

(3) *Zonings or Rezonings of More Than Six Hundred Forty (640) Acres (Legislative)*. Subsection 6.3.6(C) shall apply. Subsections 6.3.6(A), (B) and (D) shall not apply.

(G) ***Step 7(A)*** (Decision Maker): Planning and Zoning Commission Review applies.
***Step 7(B)*** (Conduct of Public Hearing): Applicable.
***Step 7(C)*** (Order of Proceedings at Public Hearing): Applicable.
***Step 7(D)*** (Decision and Findings): Applicable, except that the Planning and Zoning Commission's decision shall be in the form of a recommendation, not a decision, to Council. In making its recommendation, the Planning and Zoning Commission shall consider whether the application or proposal complies with the standards contained in Step 8 of this Section.
***Step 7(E)*** (Notification to Applicant): Not applicable.
***Step 7(F)*** (Record of Proceedings): Applicable.
***Step 7(G)*** (Recording of Decisions and Plats): Not applicable.

(H) ***Step 8*** (Standards): Applicable, as follows:

(1) *Text Amendments and Legislative Zonings or Rezonings.* Amendments to the text of this Code, and amendments to the Zoning Map involving the zoning or rezoning of more than six hundred forty (640) acres of land (legislative rezoning), are matters committed to the legislative discretion of the City Council, and decisions regarding the same are not controlled by any one (1) factor.

(2) *Mandatory Requirements for Quasi-judicial Zonings or Rezonings.* 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 Commission 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 Rezonings.* In determining whether to recommend approval of any such proposed amendment, the Planning and Zoning Commission 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.

(I) ***Step 9*** (Conditions of Approval): Applicable.
(J) ***Step 10*** (Amendments): Not applicable.
(K) ***Step 11*** (Lapse): Not applicable.
(L) ***Step 12*** (Appeals): Not applicable.

# DIVISION 6.26 ENFORCEMENT

## 6.26.1 METHODS OF ENFORCEMENT

The provisions of this Land Use Code shall be enforced by the following methods:

(A) requirement of a Building Permit;

(B) requirement of a certificate of occupancy;

(C) inspection and ordering removal of violations;

(D) criminal or civil proceedings; and

(E) injunction or abatement proceedings.

## 6.26.2 PERMITS AND CERTIFICATES OF OCCUPANCY

(A) No building shall be erected, moved or structurally altered unless a Building Permit has been issued by the Director. All permits shall be issued in conformance with the provisions of this Land Use Code and shall expire six (6) months after the date that such Building Permit was issued unless properly acted upon in accordance with the provisions of the International Building Code, as amended. One (1) six-month extension may be granted by the Director.

(B) No land or building shall be changed in use, nor shall any new structure, building or land be occupied or used, unless the owner (or the owner's contractor, if any) shall have obtained a certificate of occupancy from the Director. If the use is in conformance with the provisions of this Land Use Code, a certificate of occupancy shall be issued within three (3) days of the time of notification that the building is completed and ready for occupancy. A copy of all certificates of occupancy shall be filed by the Director and shall be available for examination by any person with either proprietary or tenancy interest in the property or building.

## 6.26.3 INSPECTION

The City Manager is hereby empowered to cause any building, other structure or tract of land to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this Land Use Code. after any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to correct such violation or comply with the order.

With regards to inspections of oil and gas facilities, the operator of any oil and gas facility or oil and gas pipeline that has been inspected shall pay to the City the costs for such inspection within sixty (60) days of receiving an invoice for the cost of the inspection. Inspections of oil and gas facilities and oil and gas pipelines may be conducted by City staff or non-City inspectors authorized by the City to conduct such inspections.

## 6.26.4 CRIMINAL AND CIVIL LIABILITY; PENALTIES

(A) Except as otherwise specified in this Land Use Code, any person (including, without limitation, the developer of, owner of, or any person possessing, occupying or trespassing upon, any property which is subject to this

Code, or any agent, lessee, employee, representative, successor or assign thereof) who violates this Code or who fails to comply with any of its requirements or who fails to comply with any orders made thereunder, shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties provided in Section 1-15 of the City Code. Each day that such a violation occurs shall constitute a separate offense. Nothing contained herein shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violations of this Land Use Code.

(B) An owner, property manager or occupant commits a civil infraction by violating any provision of Section 5.14.1 of this Land Use Code. Each day during which the limitation on the number of occupants is exceeded shall constitute a separate violation. A finding that such civil infraction has occurred shall subject the offender(s) to the penalty provisions of Section 1-15(f) of the Code of the City of Fort Collins and any or all of the following actions:

(1) the imposition of a civil penalty of not less than five hundred dollars ($500.00) and not more than one thousand dollars ($1,000.00) for each violation;

(2) an order to comply with any conditions reasonably calculated to ensure compliance with the provisions of Section 5.14.1 of this Land Use Code or with the terms and conditions of any permit or certificate granted by the City;

(3) an injunction or abatement order; and/or

(4) denial, suspension or revocation of any city permit or certificate relating to the dwelling unit.

## 6.26.5 LIABILITY OF CITY AND INJUNCTION

(A) In addition to any of the foregoing remedies, the City Attorney acting on behalf of the City Council may maintain an action for an injunction to restrain any violation of this Land Use Code.

(B) This Land Use Code shall not be construed to hold the city responsible for any damage to persons or property by reason of the inspection or reinspection authorized herein or failure to inspect or reinspect or by reason of issuing a Building Permit as herein provided, or by reason of pursuing or failing to pursue an action for injunctive relief as authorized in (A), above.

## 6.26.6 ENFORCEMENT OF THE REQUIREMENTS AND CONDITIONS OF DEVELOPMENT APPROVAL

The occurrence of either of the following events may subject the developer of, owner of, or any person possessing, occupying or trespassing upon, any property which is subject to this Land Use Code, or any agent, lessee, employee, representative, successor or assign thereof to the enforcement remedies contained in this Division:

(A) failure to comply with any terms, conditions or limitations contained on the site plan, landscape plan, building elevations or other approved documents pertaining to a development which has received final approval from the city, whether under the provisions of this Land Use Code or under the provisions of prior law.

(B) failure to comply with any conditions of record imposed by the appropriate decision maker upon its review of the site specific development plan for the development, whether under the provisions of this Land Use Code or under the provisions of prior law.

# DIVISION 6.27 GUIDELINES AND REGULATIONS FOR AREAS AND ACTIVITIES OF STATE INTEREST

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## SECTION 6.27.1 INTRODUCTORY AND GENERAL PROVISIONS

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## SECTION 6.27.1.1 TITLE AND CITATION

The various regulations constituting Sections 6.27.1 through 6.27.13 of Division 6.27 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."

## SECTION 6.27.1.2 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 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.

(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.

## SECTION 6.27.1.3 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.

## SECTION 6.27.1.4 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 FONSI pursuant to Section 6.27.6.5 or an exemption as set forth in Section 6.27.4.1 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 FONSI is issued pursuant to Section 6.27.6.5 or an exemption applies pursuant to Section 6.27.4.1.

(C) Certain work exempt from the definition of development set forth in Article 7 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 6.27.1.9.

(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 6.27.1.9.

## SECTION 6.27.1.5 PERMIT REQUIRED; ALLOWED USE NOT REQUIRED; STAY ON ISSUANCE OF EASEMENTS AND OTHER PERMITS

(A) Permit Required.

Other than as stated in Sections 6.27.1.4, 6.27.4.1, and 6.27.6.5, 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 6.27.4.1(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 6.16 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.

## SECTION 6.27.1.6 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.

## SECTION 6.27.1.7 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.

## SECTION 6.27.1.8 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.

## SECTION 6.27.1.8 DEFINITIONS

The words and terms used in these Regulations shall have the meanings set forth below subject to Section 6.24.9 regarding the rules of construction for text. The definitions set forth below are specifically applicable to this Division 27 and other Land Use Code provisions referencing Division 27, including Division 28, 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.

*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.

*Finding of no significant impact (or FONSI)* shall mean the decision by the Director as to whether a potential impact is not significant based on the scale and context of the proposed development plan as well as the magnitude, duration or likelihood of an impact occurring.

*High priority habitat* shall mean habitat areas identified by City Natural Areas or Colorado Parks and Wildlife where measures to avoid, minimize, and mitigate 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* shall mean the direct or indirect negative effect or consequence resulting from development that may or may not be avoidable or fully mitigated.

*Impact area* shall mean the geographic areas within the City, including the development site, in which any significant 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) Will require a new public right-of-way or easement greater than 30-feet in width and 1,452 linear feet in length in the aggregate for the proposed development plan; or

(b) Will require a new, or utilize an existing, easement within any City natural area or conserved land greater than 30-feet in width and 1,452 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) Will require a new public right-of-way or easement greater than 30-feet in width and 1,452 linear feet in length in the aggregate for the proposed development plan; or

(b) Will require a new, or utilize an existing, easement within any City natural area or conserved land greater than 30-feet in width and 1,452 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 public right-of-way or easement not greater than 30-feet in width and for a distance of 1,452 linear feet or less;

(3) A new pipeline or facility within an existing public right-of-way;

(4) A new pipeline or facility within easements not greater than 30-feet or less and for a distance of 1,452 linear feet or less; or

(5) A new pipeline or facility constructed partially within an existing public right-of-way and partially within adjoining easements that are not greater than 30-feet in width and for a distance of 1,452 linear feet or less.

*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 public right-of-way or easement not greater than 30-feet in width and for a distance of 1,452 linear feet or less;

(3) A new pipeline or facility within an existing public right-of-way;

(4) A new pipeline or facility within easements not greater than 30-feet or less and for a distance of 1,452 linear feet or less;

(5) A new pipeline or facility constructed partially within an existing public right-of-way and partially within adjoining easements that are not greater than 30-feet in width and for a distance of 1,452 linear feet or less; or

(6) Any sewage system facility 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 significant 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 a significant 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 6.27.5.1.

*Public right-of-way* shall mean an area dedicated to public use or impressed with an easement for public use which is owned or maintained by the City and is primarily used for pedestrian or vehicular travel for public utilities or other infrastructure. Right-of-way shall include, but not be limited to, the street, gutter, curb, shoulder, sidewalk, sidewalk area, parking area and any other public way.

*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.

## SECTION 6.27.2 PROCEDURE FOR DESIGNATION OF MATTERS OF STATE INTEREST

6.27.2.1 City Council to Make Designations
6.27.2.2 Public Hearing Required
6.27.2.3 Notice of Public Hearing; Publication
6.27.2.4 Matters to be Considered at Designation Hearing
6.27.2.5 Adoption of Designation and Regulations
6.27.2.6 Effect of Notice of Designation – Moratorium until Final Determination
6.27.2.7 Mapping Disputes

## SECTION 6.27.2.1 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.

### SECTION 6.27.2.2 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.

### SECTION 6.27.2.3 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.

### SECTION 6.27.2.4 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.

### SECTION 6.27.2.5 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.

## SECTION 6.27.2.6 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.

## SECTION 6.27.2.7 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 6.27.2.3.

## SECTION 6.27.3 DESIGNATED ACTIVITIES OF STATE INTEREST

6.27.3.1 Designated Areas and Activities of State Interest

## SECTION 6.27.3.1DESIGNATED 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)

## SECTION 6.27.4 EXEMPTIONS

6.27.4.1 Exemptions

## SECTION 6.27.4.1 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 6.16, 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 FONSI 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 6.16.5 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 FONSI pursuant to Section 6.27.6.5.

## SECTION 6.27.5 PERMIT AUTHORITY

6.27.5.1 Established Permit Authority

## 6.27.5.1 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 FONSI.

(C) The Planning and Zoning Commission shall be the decision maker regarding appeals of Director decisions to issue or not issue a FONSI 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 FONSI. Permit applications are reviewed by the City Council pursuant to the procedure set forth in these Regulations.

## SECTION 6.27.6 PERMIT APPLICATION PROCEDURES

6.27.6.1 Preliminary Design Review
6.27.6.2 Application Fee; Financial Security Waiver
6.27.6.3 Pre-Application Area or Activity Review
6.27.6.4 FONSI Public Comment Period
6.27.6.5 Determination of Applicability of Regulations- FONSI
6.27.6.6 Neighborhood Meeting
6.27.6.7 Application Submission Requirements
6.27.6.8 Determination of Completeness
6.27.6.9 Referral Agencies
6.27.6.10 Simultaneous Processing of Associated Development Applications
6.27.6.11 Combined Application for Multiple Activities or Development in More than One Area of State Interest.
6.27.6.12 Permit Decision Making Procedures
6.27.6.13 Conduct of Permit Hearings
6.27.6.14 Approval or Denial of Permit Application
6.27.6.15 Issuance of Permit, Conditions

## SECTION 6.27.6.1 APPLICATION PROCEDURES

The application procedures for activities and areas of state interest are described in Land Use Code Division 6.28 and in these Regulations.

## SECTION 6.27.6.2 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 6.3.3(D). The Director may determine at any time during the pre-application review and development application review process that it is necessary to retain a third-party consultant to assist in reviewing the application pursuant to Section 6.3.3(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.

## SECTION 6.27.6.3 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 significant 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 5.6.1 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) A written summary as to whether the proposed development plan has the potential for a significant impact or not. The review of significance must include specifics related to the scale, magnitude, duration, or likelihood of the impact occurring.

(7) 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.

(8) Any conceptual mitigation plans for the preferred location of the proposed development plan;

(9) 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 FONSI determination pursuant to Section 6.27.6.5; (2) the Director retaining third-party consultants necessary to assist the Director with the completeness review of any submitted application pursuant to Section 6.27.6.8; 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

(10) Any additional information requested by the Director as necessary to make a FONSI determination pursuant to Section 6.27.6.5.

## SECTION 6.27.6.4 FONSI PUBLIC COMMENT PERIOD

(A) Upon the Director deeming the application for a pre-application area or activity review as complete, written notice shall be mailed pursuant to (B). The Director shall not issue a FONSI determination pursuant to Section 6.27.6.5 for at least fourteen (14) days from the date of mailing to allow for any person to submit written comments for the Director's consideration.

(B) At the applicant's cost, notifications for the Director's pending FONSI determination 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.

## SECTION 6.27.6.5 DETERMINATION OF APPLICABILITY OF REGULATIONS - FONSI

The Director shall determine the applicability of these Regulations based upon the pre-application area or activity review meeting described in Section 6.27.6.3, information provided as part of the application or third-party consultants retained by the Director, and any written public comments.

(A) The Director shall make a finding related to whether the proposed development plan will result in significant impacts. In order for the Director to determine that a proposed development plan will not result in significant impacts and to issue a FONSI, 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 significant 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 FONSI 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 5.6.1;

(4) Is located within a buffer of a high priority habitat as identified by Colorado Parks and Wildlife;

(5) Has potential to significantly impact a natural feature as defined by the Land Use Code;

(6) Has the potential to significantly impact natural habitat corridors identified by the City's Natural Area Department;

(7) Has potential to significantly impact historic or cultural resources within a two hundred (200) foot outer boundary of the proposed development plan; or

(8) Has potential to significantly impact disproportionally impacted communities.

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

(C) If the Director issues a FONSI 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 6.27.6.3 to discuss the changes. Based on the new information and whether the revised development could result in significant impacts, the Director may rescind the FONSI 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 no significant impacts, or FONSI, 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. If the Director's decision includes consideration of proposed mitigation, the applicant must provide to the City a guarantee in the form of a development bond, performance bond, letter of credit, cash, certificate of deposit or other city-approved means to guarantee the completion of all mitigation to be constructed as shown on the approved development plan.

(E) Permit Required. If the Director determines a FONSI 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 6.27.6.7, and additional research questions to address common review standards pursuant to Section 6.27.7.1.

(F) Notice of Director's Determination.

(1) The Director's determination to either issue a FONSI and not require a permit or to not issue a FONSI and require a permit shall be in writing and describe in detail the reasons for the determination. Subject to the fourteen (14) day comment period described in Section 6.27.6.4, the Director shall make this determination within twenty-eight (28) days after the date the preapplication review has occurred or any

requested additional information or third-party consultation is received, whichever is later.

(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 FONSI is subject to appeal to the Planning and Zoning Commission pursuant to Land Use Code Section 6.3.12(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 6.3.12(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 6.27.6.8 and 6.27.6.12 and such time period shall begin from the date the appeal is decided as previously described.

## SECTION 6.27.6.6 NEIGHBORHOOD MEETING

(A) Before the Director may determine that a permit application is complete pursuant to Section 6.27.6.8, a neighborhood meeting is required pursuant to Land Use Code Section 6.3.2. The neighborhood meeting may be held no sooner than fifteen (15) days after the date of the Director FONSI determination pursuant to Land Use Code Section 6.27.6.5 that a permit is required pursuant to these Regulations. Should a FONSI determination requiring a permit be appealed, the neighborhood meeting requirement will be paused until the appeal has been decided. Should a FONSI determination that no permit is required be reversed on appeal, a neighborhood meeting is required.

(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.

## SECTION 6.27.6.7 APPLICATION SUBMISSION REQUIREMENTS

In addition to specific submission requirements for the activities addressed in Sections 6.27.8 and 6.27.9, 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.

## SECTION 6.27.6.8 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. The applicant may submit an application only after at least fifteen (15) days have passed since the FONSI 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.

## SECTION 6.27.6.7 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.

## SECTION 6.27.6.8 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.

## SECTION 6.27.6.9 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 6.27.6.2 of these Regulations for each activity or area that is the subject of a combined application.

## SECTION 6.27.6.10 PERMIT DECISION MAKING PROCEDURES

When an application has been determined complete by the Director pursuant to Section 6.27.6.8 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.

(D) 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.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 6.3.6. Notice of the Planning and Zoning Commission hearing where a recommendation will be made shall also be mailed at least fourteen (14) days prior to such hearing pursuant to Section 6.3.6 and may be combined with the mailed notice for the City Council hearing.

## SECTION 6.27.6.11 CONDUCT OF PERMIT HEARING.

(A) Planning and Zoning Commission hearings where a recommendation is made shall follow the requirements and procedures of Section 6.3.7.

(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.

## SECTION 6.27.6.12 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 6.27.6.15 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 6.27.6.15 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 6.27.6.15 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 6.27.6.15 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.

## SECTION 6.27.6.13 ISSUANCE OF PERMIT; CONDITIONS

(A) City Council may attach conditions to the permit pursuant to Section 6.3.9 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 6.27.11.1, 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 6.27.11.1. This time may be extended by the Director for only one (1) additional year upon a showing of substantial progress.

## SECTION 6.27.7 COMMON REVIEW STANDARDS

6.27.7.1 Review Standards for All Applications

## SECTION 6.27.7 REVIEW STANDARDS FOR ALL APPLICATIONS

In addition to the review standards for specific activities listed at Divisions 6.27.8 and 6.27.9, 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. The standards shall be evaluated for significant impacts within the geographic context of the development plan, and relate to the magnitude, duration or likelihood of such an impact. 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 6.27.6.15 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 6.27.6.15 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 have a significant 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 a significant 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 a significant 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 a significant 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 a significant 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 a significant 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 a significant 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 a significant 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 a significant 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 a significant impact on natural habitats and features as defined in Land Use Code Section 5.6.1.

(O) The development plan will not have a significant impact on historic or cultural resources as defined in Section 6.27.1.9 of these Regulations.

(P) The development plan will not have a significant impact on significant trees as defined in Land Use Code Section 5.10.1.

(Q) The development plan will not have a significant 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 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 significant 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 significant 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 significant 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 significant 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.

## SECTION 6.27.8 SITE SELECTION AND CONSTRUCTION OF MAJOR NEW DOMESTIC WATER AND SEWAGE TREATMENT SYSTEMS AND MAJOR EXTENSIONS OF SUCH SYSTEMS

6.27.8.1 Applicability
6.27.8.2 Purpose and Intent

6.27.8.3 Specific Review Standards for Major New Domestic Water or Sewage Treatment Systems or Major Extensions

## SECTION 6.27.8.1 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.

## SECTION 6.27.8.2 PURPOSE AND INTENT

The specific purpose and intent of this Section 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;

(C) To ensure that the off-site significant impacts of new domestic water and sewage treatment systems are avoided or fully mitigated; and

(D) To ensure that the surface and groundwater resources of the City are protected from any significant impact of the development of major water and sewage treatment systems and major extensions of such systems.

## SECTION 6.27.8.3 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 6.27.7.1 and the below standards, to the extent applicable or relevant. The standards shall be evaluated for significant impacts within the geographic context of the development plan, and relate to the magnitude, duration or likelihood of such an impact. 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 6.27.6.15 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 6.27.6.15 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.

## SECTION 6.27.9 SITE SELECTION OF ARTERIAL HIGHWAYS AND INTERCHANGES AND COLLECTOR HIGHWAYS

6.27.9.1 Applicability
6.27.9.2 Purpose and Intent
6.27.9.3 Specific Review Standards for Arterial Highway, Interchange or Collector Highway Projects

### SECTION 6.27.9.1 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.

### SECTION 6.27.9.2 PURPOSE AND INTENT

The specific purpose and intent of this Section 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.*

### SECTION 6.27.9.3 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 6.27.7.1 and the below standards, to the extent applicable or relevant. The standards shall be evaluated for significant impacts within the geographic context of the development plan, and relate to the magnitude, duration or likelihood of such an impact. 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 6.27.6.15 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 6.27.6.15 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 a significant 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.

## SECTION 6.27.10FINANCIAL SECURITY

6.27.10.1Financial Security

## SECTION 6.27.10.1 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.

## SECTION 6.27.11 SUSPENSION OR REVOCATION OF PERMITS

6.27.11.1 Suspension or Revocation of Permits

## SECTION 6.27.11.1 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.

## SECTION 6.27.12 PERMIT REVIEW, RENEWAL, AMENDMENT, TRANSFER

6.27.12.1 Annual Review; Progress Reports
6.27.12.2 Permit Renewal
6.27.12.3 Permit Amendment
6.27.12.4 Minor Revision Not Constituting a Material Change
6.27.12.5 Transfer of Permits
6.27.12.6 Inspection

## SECTION 6.27.12.1 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 6.27.11.1.

(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.

## SECTION 6.27.12.2 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 FONSI review pursuant to Section 6.27.6.5.

## SECTION 6.27.12.3 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 FONSI review pursuant to Section 6.6.5 shall not occur.

## SECTION 6.27.12.4 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 6.27.12.3. 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.

## SECTION 6.27.12.5 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.

## SECTION 6.27.12.6 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 6.26.3.

## SECTION 6.27.13 ENFORCEMENT

6.27.13.1 Enforcement

## SECTION 6.27.13.1 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 6.26 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.

# DIVISION 6.28 GUIDELINES AND REGULATIONS FOR AREAS AND ACTIVITIES OF STATE INTEREST: PURPOSE, APPLICABILITY, AND APPLICABLE COMMON DEVELOPMENT REVIEW PROCEDURES

## SECTION 6.28.1 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.

## SECTION 6.28.2 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 Division 6.27 unless an exemption exists pursuant to Section 6.27.4.1 or the Director issues a finding of no significant impact ("FONSI") pursuant to Section 6.27.6.5. Proposed development plans for which the Planning and Zoning Commission denied a Site Plan Advisory Review application prior to the effective date of Division 6.27 shall be subject to such regulations unless an exemption exists or a FONSI 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.

## SECTION 6.28.3 PROCESS.

(A) ***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 6.27.6.3(A). The Director may retain the services of third-party consultants pursuant to the terms of Land Use Code Section 6.3.3(D)(3) to assist the Director during the pre-application areas and activities review.

(B) ***Step 2*** (Neighborhood Meeting): Pursuant to Section 6.27.6.6, a neighborhood meeting is required before the Director may determine that a permit application is complete pursuant to Section 6.6.8 and no sooner than fifteen (15) days after the date the Director issues a FONSI determination. The ten (10) day period after the neighborhood meeting before an application may be submitted shall not apply.

(C) ***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 6.27.6.10, and combined applications for a permit to conduct multiple activities or develop in multiple areas of state interest is addressed in Section 6.27.6.11.

(D) ***Step 4*** (Review of Application): Applicable except that Section 6.27.6.8 shall substitute for Land Use Code Section 6.3.4(A).

(E) ***Step 5*** (Staff Report): Applicable.

(F) ***Step 6*** (Notice): Applicable with particular timing for published and mailed notice as set forth in Section 6.27.6.12.

(G) ***Step 7*** (Public Hearing):

***7(A)*** (Decision Maker): Not applicable and in substitution therefor, City Council is the decision maker on permits pursuant to Division 6.27 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 FONSI determinations to the Planning and Zoning Commission as modified pursuant to Section 6.3.12(D)(5).

Not applicable to appeals to City Council of Planning and Zoning Commission decisions on appeals of Director FONSI 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 6.27.6.5 regarding Director FONSI determinations, Section 6.3.12(D) regarding appeals of Director FONSI decisions, and Section 6.27.6.12 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.*

(H) ***Step 8*** (Standards): Applicable except that the applicable standards that must be met are set forth in Division 6.27.

(I) ***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 6.27.6.15.

(J) ***Step 10*** (Amendments): Not applicable and in substitution thereof, the requirements of Sections 6.27.12.3 and 6.27.12.4 shall apply.

(K) ***Step 11*** (Lapse): Only 6.3.11(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 6.27.6.15 and 6.27.11.1 require that the permittee make substantial steps toward initiating and completing the proposed development plan or the permit may be subject to revocation.

(L) **Step 12** (Appeals): Applicable pursuant to Section 6.3.12(D).

# ARTICLE 7

# RULES OF MEASUREMENT and DEFINITIONS

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# ARTICLE 7
# RULES OF MEASUREMENT and DEFINITIONS

## DIVISION 7.1 MEASUREMENT

### 7.1.1 GENERAL.

The rules of measurement set forth in 7.1.2 shall generally apply to this Code unless otherwise specified. For words, terms, and phrases words used in the Rules of Measurement that are not defined in Sections 7.1.2, or Division 7.2, the Director shall have the authority and power to interpret or define such words, terms and phrases. In making such interpretations or definitions, the Director may consult appropriate secondary sources.

### 7.1.2 RULES OF MEASUREMENT.

**The following words, terms and phrases, when used in this Code, shall have the meanings ascribed to them in this section:**

*Block* shall mean a unit of land bounded by streets or by a combination of streets and public lands, railroad rights-of-way, waterways or any barrier to the continuity of development, but shall not include in the calculation of the block size measurement the barriers creating the boundary.

*Building frontage* shall mean that side of a building that faces and is parallel to or most nearly parallel to a public or private street. The length of the frontage is determined by measuring along the outside walls of the building and including eaves that are at least eight (8) feet above grade and are an integral part of the roof or building wall. There can be only one (1) building frontage for each street upon which a building faces.

*Build-to line* shall mean the line on which the front of a building or structure must be located or built and which is measured as a distance from a public right-of-way street. To establish "build-to" lines, buildings shall be located and designed to align or approximately align with any previously established building/sidewalk relationships that are consistent with this standard. block patterns. Accordingly, at least thirty (30) percent of the total length of the building along the street shall be extended to the build-to line area. If a parcel, lot or tract has multiple streets, then the building shall be built to at least two (2) of the built to lines m according to (A) through (C) below, i.e. to a street corner. If there is a choice of two (2) or more corners, then the building shall be built to the corner that is projected to have the most pedestrian activity associated with the building.

(A) Buildings shall be located no more than fifteen (15) feet from the right-of-way of an adjoining street if the street is smaller than a full arterial or has on-street parking.
(B) Buildings shall be located at least ten (10) and no more than twenty-five (25) feet behind the street right-of-way of an adjoining street that is larger than a two-lane arterial that does not have on-street parking.
(C) Exceptions to the build-to line standards shall be permitted:

(1) in order to form an outdoor space such as a plaza, courtyard, patio or garden between a building and the sidewalk. Such a larger front yard area shall have landscaping, low walls, fencing or railings, a tree canopy and/or other similar site improvements along the sidewalk designed for pedestrian interest, comfort and visual continuity.

(2) if the building abuts a four-lane or six-lane arterial street, and the Director has determined that an alternative to the street sidewalk better serves the purpose of connecting commercial destinations due to one or more of the following constraints:

(a) high volume and/or speed of traffic on the abutting street(s),

(b) landform,

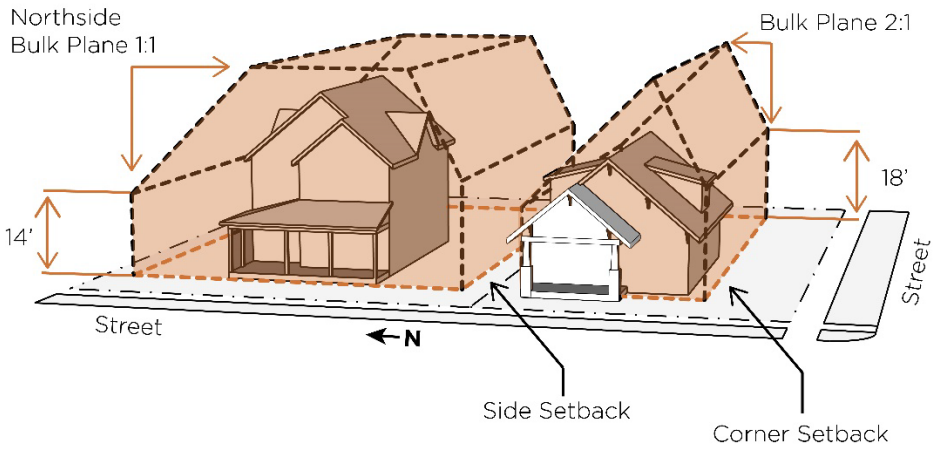
(c) an established pattern of existing buildings that makes a pedestrian-oriented streetfront infeasible. Such an alternative to the street sidewalk must include a connecting walkway(s) and may include internal walkways or other directly connecting outdoor spaces such as plazas, courtyards, squares or gardens.

(3) in the case of Large Retail Establishments, Supermarkets or other anchor-tenant buildings that face internal connecting walkways with pedestrian frontage in a development that includes additional outlying buildings abutting the street(s).

(4) if a larger or otherwise noncompliant front yard area is required by the City to continue an established drainage channel or access drive, or other easement.

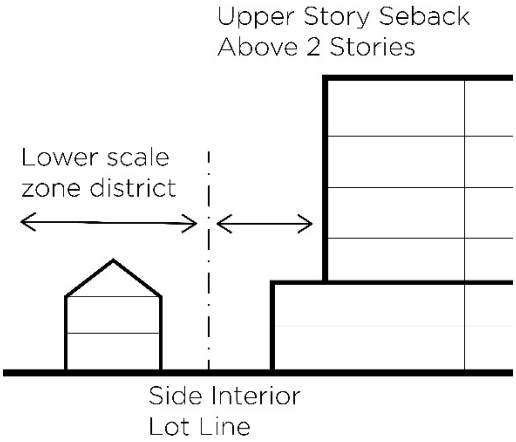
(5) in order to conform to an established pattern of building and street relationships, a contextual build-to line may fall at any point between the required build-to line and the build-to line that exists on a lot that abuts, and is oriented to, the same street as the subject lot. If the subject lot is a corner lot, the contextual build-to line may fall at any point between the required build-to line and the build-to line that exists on the lot that is abutting and oriented to the same street as the subject lot. A contextual build-to line shall not be construed as allowing a vehicular use area between the building and the street.

*Bulk plane* shall mean the imaginary plane that limits the allowable space a building may occupy. Dormer, eaves, chimneys and other architectural details are exempt from the bulk plane requirements. Bulk Plane requirements vary by zone district. Specific dimensions vary for lots with north facing walls along side-interior lot lines with an adjoining property.



*Contextual build-to line* shall mean a build-to line that falls at any point between the required build-to line and the build-to line that exists on a lot that abuts, and is oriented to, the same street as the subject lot, in order to conform to an established pattern of building and street relationships. A contextual build-to line shall not be construed as allowing a vehicular use area between the building and the street.

*Contextual Height Setback.* Properties adjacent to lower scaled residential zone districts shall comply with the Contextual Height Setback, which requires floors above the second story to be setback an additional 25' from the property line. This does not apply to detached homes, duplexes, or accessory structures.




*Density* shall mean the overall number of dwelling units located on the gross or net residential acreage (as applicable) contained within the development and calculated on a per-acre basis.

(A) Calculation of the gross residential density shall be performed (and included on the development plan) in the following manner:

(1) Determining the gross acreage. The gross acreage of all the land within the boundaries of the development shall be included in the density calculation except:

(a) any interest in land that has been deeded or dedicated to any governmental agency for public use prior to the date of approval of the development plan; provided, however, that this exception shall not apply to any such acquisition of an interest in land solely for open space, parkland or stormwater purposes; and

(b) land devoted to nonresidential uses such as commercial, office, industrial or civic uses.

(2) The foregoing gross acreage calculation shall be shown in a table format on the development plan and shall form the basis for calculating the gross residential density.

(3) The total number of dwelling units shall be divided by the gross residential acreage. The resulting gross residential density shall also be shown in a table format on the development plan.

(B) Calculation of the net residential density shall be performed (and included on the development plan) in the following manner:

(1) Determining the net residential acreage. The net residential acreage shall be calculated by subtracting the following from the gross acreage, as determined in subsection (A) above:

(a) land to be dedicated for arterial streets;

(b) land containing natural areas or features that are to be protected from development and disturbance in accordance with the requirements of LUC Section 5.6.1, "Natural Habitats and Features,";

(c) land set aside from development due to a geologic hazard in accordance with the requirements of LUC Section 5.6.5, "Hazards,";

(d) land containing outdoor spaces that are to be dedicated to the public or deeded to the homeowner's association and preserved for a park or central green, but only if the total area of land does not exceed twenty-five (25) percent of the gross acreage of the project development plan and the outdoor space meets the following criteria:

(I) At least thirty-five (35) percent of the boundary of the outdoor space is formed by nonarterial, public streets, and the rear facades and rear yards of houses abut not more than two (2) sides or more than fifty (50) percent of the boundary frontage of the outdoor space.

(II) At a minimum, the outdoor space consists of maintained turf. In addition, such outdoor spaces may include features such as: buildings containing recreation or meeting rooms;, playgrounds;, plazas;, pavilions;, picnic tables;, benches;, orchards;, walkways or other similar features.

(III) The outdoor space is no less than ten thousand (10,000) square feet in area.

(IV) The outdoor space does not consist of a greenbelt or linear strip but has a minimum dimension of fifty (50) feet in all directions in any nonrectangular area, or seventy-five (75) feet in any rectangular area.

(V) The outdoor space is located and designed to allow direct, safe and convenient access to the residents of surrounding blocks.

(VI) Storm drainage functions that are integrated into outdoor spaces allow adequate space for active recreation purposes and do not result in slopes or gradients that conflict with active recreation. Stormwater retention areas (which have no outlet) shall not be allowed. No more than ten (10) percent of an outdoor space shall consist of gradients greater than four (4) percent.

(e) land dedicated to public alleys.

(f) land dedicated to pedestrian/bicycle path connections when required pursuant to subsection 5.9.1(C)(6) or subsection 5.3.2(E)(3) or when provided voluntarily by the applicant to connect cul-de-sacs to nearby streets, provided that such connections do not exceed two hundred fifty (250) feet in length.

(g) land dedicated to landscaped traffic circles, squares, islands and boulevard strips separating the travel lanes of collector or local streets, provided that such features have the following minimum width dimensions:

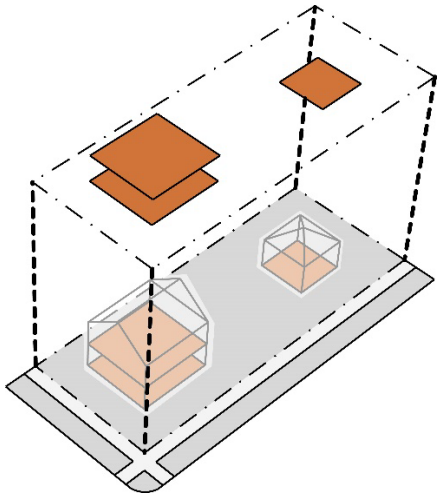
(I) boulevard strips: twenty-five (25) feet at any point; and.

(II) traffic circles, squares, or islands: forty (40) feet at any point.

(2) The foregoing net acreage calculation shall be shown in a table format on the development plan and shall form the basis for calculating the net residential density.

(3) The total number of dwelling units shall be divided by the net residential acreage. The resulting density shall also be shown in a table format on the development plan.

*Floor area* shall mean the gross floor area of all buildings on the property, greater than 120sf or greater than 8ft in height, as measured along the outside walls of a building and shall be calculated to include each floor level.



Floor area shall be calculated as follows:

(A) In all zone districts except in the Old Town zone district Floor area calculations shall not include open balconies, the first seven hundred twenty (720) square feet of the total of all sheds, garages or other enclosed automobile parking areas, basements and one-half (½) of all storage and display areas for hard goods.

(B) In the Old Town Zone district floor area shall be calculated to include the floor area of the following spaces and building elements.

(1) One hundred (100) percent of the floor area of the following spaces and building elements:

(a) The total floor area of all principal buildings as measured along the outside walls of such buildings; and
(b) each finished floor level at and above grade; and
(c) unfinished floor levels at and above grade excluding unfinished attic space; and

(d) basement floor areas where any exterior basement wall is exposed by more than three (3) feet above the existing grade at the interior side lot line adjacent to the wall; and

(e) roofed porches, balconies and breezeways that are enclosed on more than two (2) sides; and

(f) attached carports, garages and sheds; and

(g) Detached accessory buildings larger than one hundred and twenty (120) square feet, including the area of the uppers story having a ceiling of height of seven and one-half (7½) feet. **Detached accessory building floor area shall not be calculated into the allowed floor area of the primary building.**

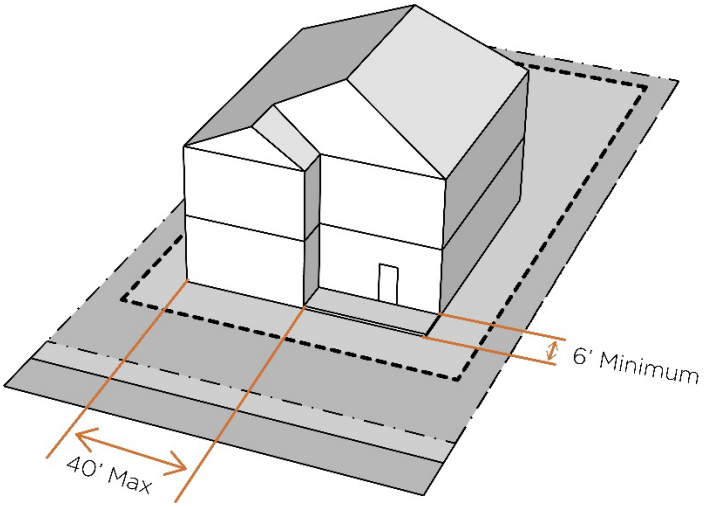
(2) Two hundred (200) percent for the floor area of the following spaces and building elements:

(a) High volume spaces on the first or second floor where the distance between the floor and the ceiling or roof rafters directly above is greater than fourteen (14) feet.

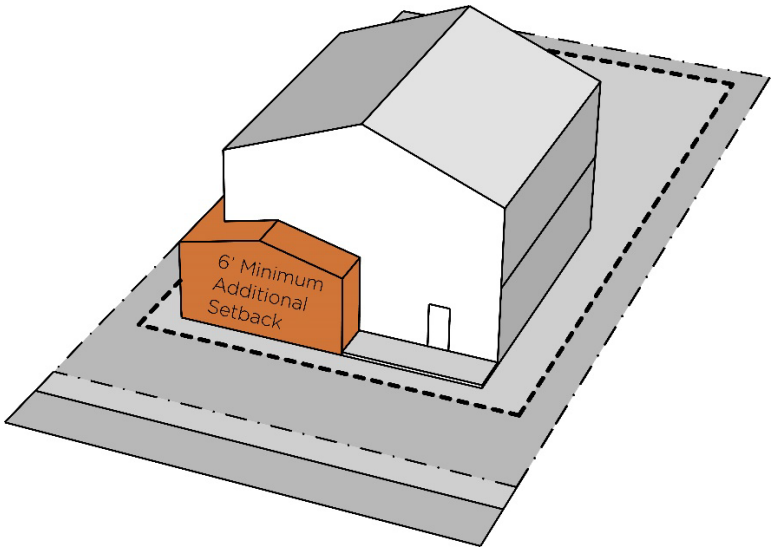
*Floor Area Ratio (FAR)* shall mean the amount of gross floor area of all principal buildings on a lot or block, as the case may be, divided by the total area of such lot, or the block size, respectively, on which such buildings are located. For mixed-use blocks, the residential square footage shall be added to the commercial development for a total block FAR.

*Front Facade Design.* At least one (1) front façade feature from the menu below shall be included to promote pedestrian orientation and compatibility with the character of the structures on the block face:

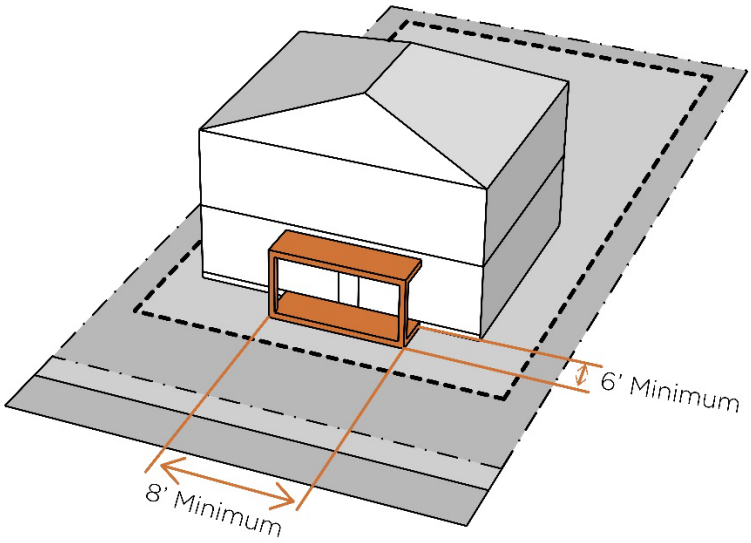
(A) *Limited 2-story facade.* Two-story front-facade width is no more than 40', with any remaining two-story front facade setback an additional six (6) feet.



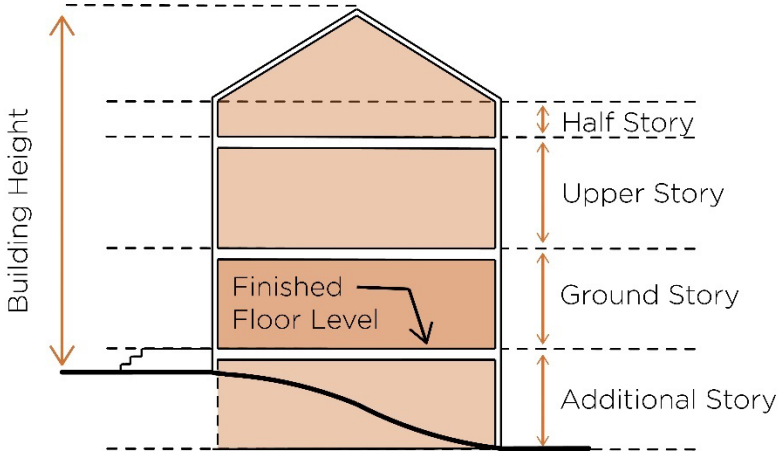

(B) *1-story element.* The portion of the facade closest to the street is one- story, with any two-story facade setback an additional six (6) feet from the street.



(C) *Covered entry.* The portion of the facade closest to the street is one- story, with any two-story facade setback an additional six (6) feet from the street.




*Half story.* When the floor area of the top story is less than, or equal to half of the ground floor area.




*Height* shall mean the distance above a given level. Depending upon the context, height may be measured according to any of several methods, as follows:

(A) Building Height Measured in Stories. In measuring the height of a building in stories the following measurement rules shall apply:

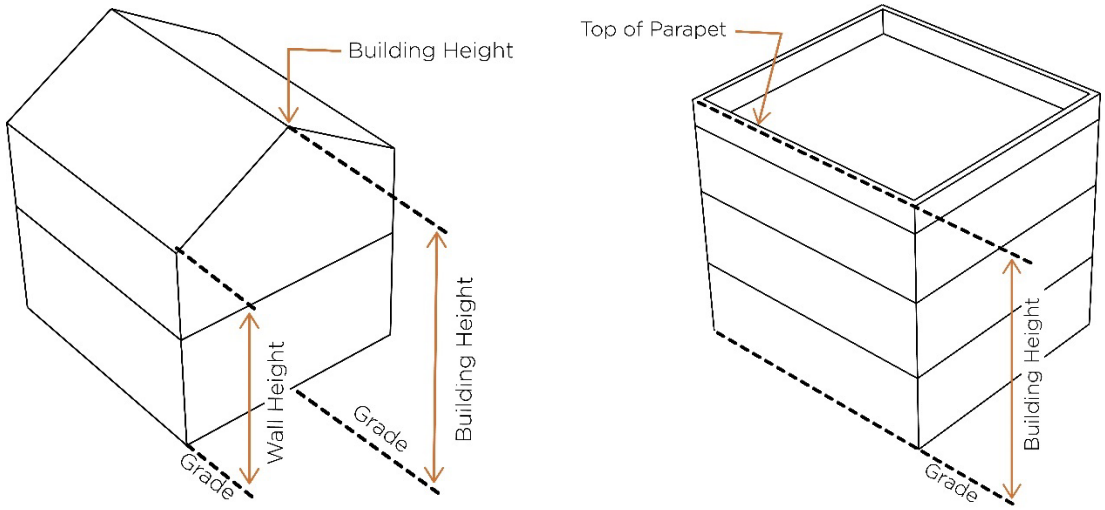
(1) A balcony or mezzanine shall be counted as a full story when its floor area is in excess of one-third (1/3) of the total area of the nearest full floor directly below it.

(2) Half (1/2) story shall mean a space under a sloping roof that has the line of intersection of the roof and wall face not more than three (3) feet above the floor level, and in which space the possible floor area with head room of five (5) feet or less occupies at least forty (40) percent of the total floor area of the story directly beneath.

(3) No story of a commercial or industrial building shall have more than twenty-five (25) feet from average ground level at the center of all walls to the eave/wall intersection or wall plate height if there is no eave, or from floor to floor, or from floor to eave/wall intersection or wall plate height as applicable.

(4) A maximum vertical height of twelve (12) feet eight (8) inches shall be permitted for each residential story measured from average ground level at the center of all walls to the eave/wall intersection or wall plate height if there is no eave, or from floor to floor, or from floor to eave/wall intersection or wall plate height as applicable. This maximum vertical height shall apply only in the following zone districts: U-E; R-F; R-L; L-M-N; M-M-N; OT-A; OT-B; OT-C; R-C; C-C-N; N-C; H-C; and M-H.

(B) Building Height Measured in Feet. When measured in feet, building height shall be measured from the average of the finished ground level at the center of all walls of a building or structure to the highest point of the roof surface or structure.




(C) Transitional Height. Regardless of the maximum building height limit imposed by the zone district standards of this Land Use Code, applicants shall be allowed to use a "transitional" height limit. The allowed "transitional" height may fall at or below the midpoint between the zone district maximum height limit and the height, in feet, of a building that exists on a lot that abuts the subject lot and faces the same street as the building on the subject lot. This provision shall not be interpreted as requiring greater minimum heights or lower maximum heights than imposed by the underlying zone district.

*Integrate with existing structure* shall mean using the existing structure to achieve a new use and/or using the existing structure to achieve an increase in the number of dwelling units at an existing use. In order to meet the definition of *integrate existing structure*, the following requirements must be met:

(A) Exterior walls must remain and cannot be demolished except for the following:
(1) New windows, doors, or entry features may be added and only the area of the new features may be removed from the existing wall;
(2) 0% of front walls, 25% of side walls, and 100% of rear walls may be removed; and
(3) Exterior finishes may be maintained or replaced without increasing the footprint.

(B) In conjunction with the demolition exceptions in (A), additions to existing structure may occur. Additions shall be subordinate to the existing structure by satisfying all of the following requirements:

(1) The addition must be the same height as the existing structure or lower;
(2) The addition must be placed to the rear of the existing structure;
(3) The addition must be designed to be compatible with defining features including but not limited to materials, finishes, windows, doors, entries, porches, decks, and balconies of the existing structure; and
(4) The addition may not increase the footprint of the existing structure by more than 50%.

(C) Any allowed demolition or additions shall be identified in the building permit submittal.

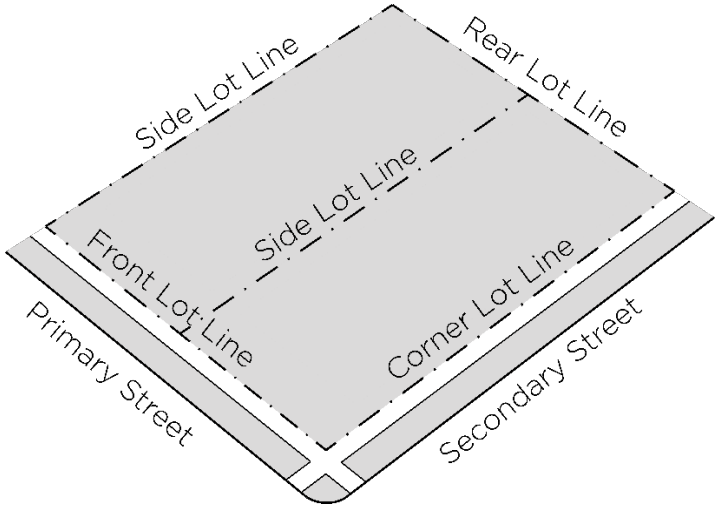
*Lot* shall mean a designated parcel, tract or area of land established by plat, subdivision or otherwise permitted by law to be used, occupied or designed to be occupied by one (1) or more buildings, structures or uses, that abuts a dedicated right-of-way, private street or private drive, any of which is at least twenty (20) feet wide at all points.

*Lot area* shall mean the amount of horizontal (plan view) land area within lot lines. (See also Section 5.7.4)

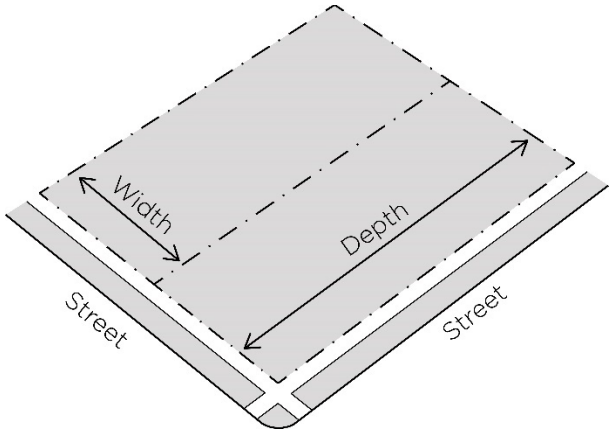
*Lot line, front* shall mean the property line dividing a lot from a street. On a corner lot only one (1) street line shall be considered as a front line, and the street to which the primary entrance of the principal building faces or to which the building is addressed, shall be considered the front line.

*Lot line, rear* shall mean the line opposite the front lot line.

*Lot line, side* shall mean any lot lines other than front lot line or rear lot line.




*Lot width* shall mean the horizontal (plan view) distance between the side lot lines as measured along a straight line parallel to the front lot line or the chord thereof. The minimum lot width shall be measured between the side lot lines along a line that is parallel to the front lot line and located at the minimum front setback distance from the front lot line. In the case of cul-de-sac lots, the minimum lot width may be measured between the side lot lines along a line that is parallel to the front lot line and located at the actual front building line.




*Measuring distances between uses.* When a distance is required between uses, the distance shall be measured in a straight line from the closest point on the boundary line of one (1) property to the closest point on the boundary line of the other property.

*Minimum frontage or minimum building frontage* shall mean a measurement equal to a fraction, the denominator of which is the sum of the length of all perimeter streets bounding the block, and the numerator of which is the sum of the length (as measured within twenty [20] feet of the perimeter street right-of-way) of all buildings that have windows and entries oriented to the street, plus twenty (20) percent of the length (as measured within thirty [30] feet of the perimeter street right-of-way) of any plazas or pedestrian accessible landscaped areas within the block. In no case shall parking lots or blank rear or side walls be included in the minimum frontage calculation.

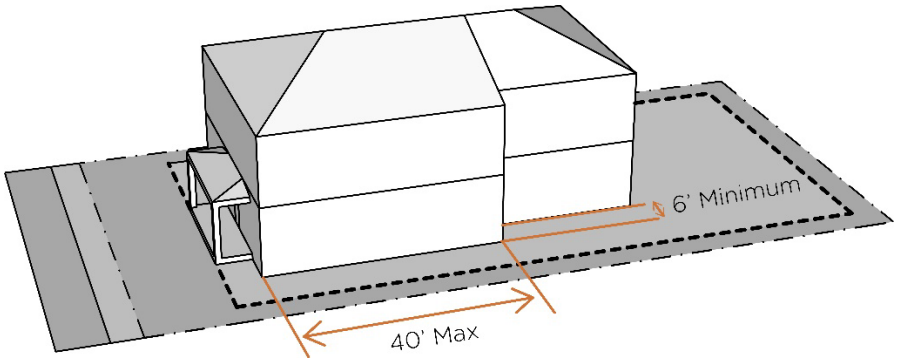
*Mounting height (MH)* shall mean the vertical distance between the finish grade and the center of the apparent light source of the luminaire.

*Secondary roof* shall mean a flat roof structure that is at least 10 feet lower than another roof structure on the same building.

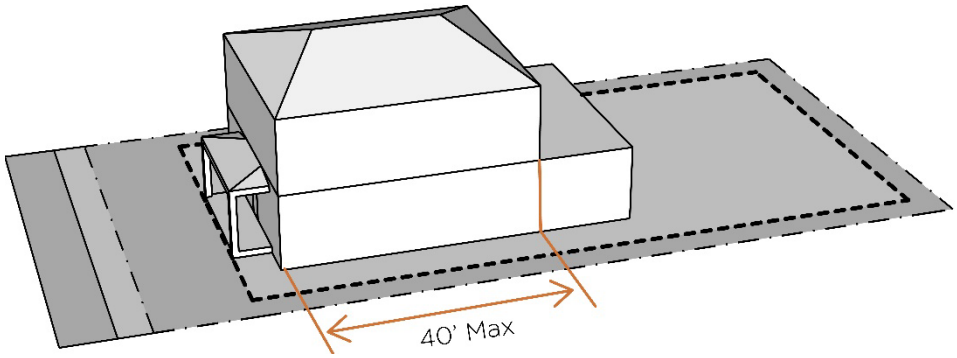
*Setback* shall mean the required unoccupied open space between the nearest projection of a structure and the property line of the lot on which the structure is located, except as modified by the standards of this Code. Required setbacks shall be unobstructed from the ground to the sky except as specified in Section 5.13.2.

*Side Facade Design.* Side facade design can be accomplished by offsetting the floor plan, recessing or projection of design elements, change in materials and/or change in contrasting colors. Projections shall fall within setback requirements.

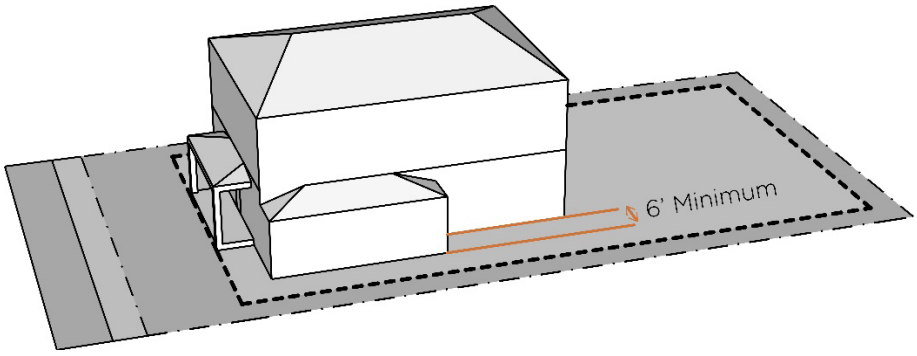
(A) *Wall Offset.* Two-story facade width at minimum is no more than forty (40) feet, with any remaining two-story facade setback an additional six (6) feet beyond the minimum required side yard.



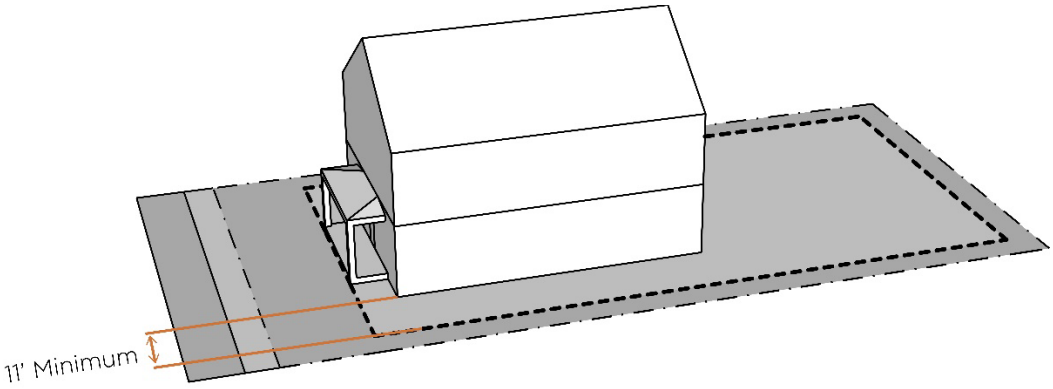

(B) *Step Down in Height.* Two story facade width at minimum is no more than forty (40) feet, with any remaining facade width at the side yard reduced to one-story.




(C) *One-Story Element.* One-story building element with a minimum depth of six (6) feet is located at the minimum side yard.




(D) *Additional Setback.* Any two-story facade is set back an additional six (6) feet beyond the minimum required side yard.


11' Minimum

# DIVISION 7.2 DEFINITION

## 7.2.1 GENERAL.

For words, terms and phrases used in this Land Use Code that are not defined in Section 7.2.2 or elsewhere in this Land Use Code, the Director shall have the authority and power to interpret or define such words, terms and phrases. In making such interpretations or definitions, the Director may consult appropriate secondary sources.

## 7.2.2 DEFINITIONS.

**The following words, terms and phrases, when used in this Code, shall have the meanings ascribed to them in this section:**

*Abut or abutting* shall mean touching. An abutting condition shall not be affected by the parcelization or division of land that results in an incidental, nonbuildable, remnant lot, tract or parcel.

*Accessory building (or structure)* shall mean a building (or structure) detached from a principal building and customarily used with, and clearly incidental and subordinate to, the principal building, and ordinarily located on the same lot with such principal building.

*Accessory dwelling unit (ADU), detached* shall mean an additional, subordinate dwelling unit created on a lot with a primary dwelling unit. The additional unit is smaller than the primary dwelling unit (except when the accessory dwelling unit is in an existing basement). The accessory dwelling unit includes its own independent living facilities including habitable space. It is designed for residential occupancy by one or more people, independent of the primary dwelling unit.

*Accessory dwelling unit (ADU), attached* shall be defined as an additional, subordinate dwelling unit created on a lot with a primary dwelling unit. The additional unit is smaller than the primary dwelling unit (except when the accessory dwelling unit is in an existing basement). The accessory dwelling unit includes its own independent living facilities which constitute habitable space. It is designed for residential occupancy by one or more people, independent of the primary dwelling unit. The unit may have a separate exterior entrance or an entrance to an internal common area accessible to the outside.

*Accessory use* shall mean a use of land or of a building or portion thereof customarily used with, and clearly incidental and subordinate to, the principal use of the land or building and ordinarily located on the same lot with such principal use.

*Adequate* shall mean a water supply that will be sufficient for build-out of the proposed development in terms of quality, quantity, dependability, and availability to provide a supply of water for the lifetime of the type of development proposed and may include reasonable conservation measures and water demand management measures to account for hydrologic variability.

*Adequate public facilities ("APF")* shall mean the public facilities and services necessary to maintain the adopted level of service standards.

*Adequate public facilities management system ("APF management system")* shall mean the procedures and/or process that the city utilizes to assure that development approvals and permits, including but not limited to building permits and site-specific development plans, are not issued unless the necessary facilities and services are available concurrently with the impacts of development.

*Adjacent* shall mean nearby, but not necessarily touching. The determination of "nearby" shall be made by the City on a case-by-case basis, taking into consideration the context in which the term is used and the variables (such as but not limited to size, mass, scale, bulk, visibility, nature of use, intensity of use) that may be relevant to deciding what is "nearby" in that particular context. Adjacency shall not be affected by the existence of a

platted street or alley, a public or private right-of-way, or a public or private transportation right-of-way or area.

*Administrative review* shall mean review by the Director in accordance with the provisions of Article 6. Also known as Type 1 review.

*Adult day/respite care center* shall mean a nonresidential facility providing for the care, supervision, protection and social activities of adults and persons over sixteen (16) years of age during normal daytime working hours and allowing overnight stay on a short-term basis as a subordinate function.

*Adult material* shall mean any material including, but not limited to, books, magazines, newspapers, movie films, slides or other photographic or written materials, video tapes, video disks, computer software and/or other items or devices that are distinguished or characterized by their emphasis on depicting, describing or relating to "specified anatomical areas" or "specified sexual activities."

*Adult-oriented use* shall mean a use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental or display of adult material, or is an offering of live entertainment, dancing or material that is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to "specified sexual activities" or "specified anatomical areas" as the primary attraction to the premises, including, but not limited to:

(A) *Adult bookstore, adult novelty store or adult retail store:* any establishment that has adult material as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues from such material, or devotes a significant or substantial portion of its interior business or interior advertising to such material, or maintains a substantial or significant portion of its gross floor area or display space for the sale or rental, for any form of consideration, of such material, including, but not limited to, books, magazines, newspapers, movie films, slides or other photographic or written material, video tapes, video disks, computer software and/or other items or devices. For the purpose of this subparagraph (1), "significant or substantial" shall mean more than twenty (20) percent.

(B) *Adult cabaret, restaurant or place of business:* a cabaret, restaurant or place of business that features waitresses, waiters, dancers, go-go dancers, exotic dancers, strippers, gender impersonators or similar entertainers attired in such manner as to display "specified anatomical areas."

(C) *Adult hotel or motel:* any hotel or motel in which the presentation of adult material is the primary or principal attraction.

(D) *Adult mini-motion picture theater:* any theater or establishment with a capacity of less than fifty (50) persons in which the presentation of adult material is the primary or principal attraction.

(E) *Adult motion picture theater:* any theater or establishment with a capacity of fifty (50) or more persons in which the presentation of adult material is the primary or principal attraction.

(F) *Adult photo studio:* any establishment that, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing, sketching, drawing, painting or sculpturing "specified anatomical areas," but shall not include a private school licensed by the State of Colorado or a college, junior college or university supported entirely or in part by public funds or a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or in part by public funds.

(G) *Other adult amusement or entertainment:* any other amusement, entertainment or business which is distinguished or characterized by an emphasis on acts or adult material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

*Adverse effect*, for purposes of Section 5.8.1 only, shall mean that a project or undertaking may alter, directly or indirectly, any of the characteristics that qualify a property for designation in a manner that would diminish the property's integrity. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be removed in distance, or be cumulative.

*Affordable housing development* shall mean a development project in which at least ten (10) percent of said dwelling units (the "affordable housing units") are to be available for rent or purchase on the terms described in the definitions of affordable housing unit for rent or affordable housing unit for sale (as applicable).

*Affordable housing unit for rent* shall mean a dwelling unit that is available for rent on terms that would be affordable to households earning eighty (80) percent or less of the Area Median Income (AMI) as calculated for Fort Collins by the Department of Housing and Urban Development (HUD) and adjusted for household size, and at a cost that results in a household paying thirty (30) percent or less of their gross income for housing, including rent and utilities.

*Affordable housing unit for sale* shall mean a dwelling unit that is available for purchase on terms that would be affordable to households earning one hundred (100) percent or less of the Area Median Income (AMI) as calculated for Fort Collins by the Department of Housing and Urban Development (HUD) and adjusted for household size, and at a cost that results in a household paying less than thirty-eight (38) percent of their gross income for housing, including principal, interest, taxes, insurance, utilities and homeowners' association fees.

*Air contaminant* shall mean any fume, smoke, particulate matter, vapor, gas or any combination but not including water vapor or steam condensation.

*Air contamination source* shall mean any source whatsoever at, from or by reason of which there is emitted or discharged into the atmosphere any air contaminant.

*Alley* shall mean a minor way used primarily for vehicular service access to the back of properties abutting on a street.

*Animal boarding* shall mean the operation of an establishment in which domesticated animals other than household pets are housed, groomed, bred, boarded, trained or sold. This term shall not include the operation of a kennel.

*Antenna(s)* shall have the meaning set forth in § 29-27-402, Colorado Revised Statutes.

*Architectural Features* shall mean the architectural elements embodying style, design, general arrangement, and components of the exterior of any building or structure, include, but not limited to, the kind, color, and texture of the building materials, and the style and type of such items as a porch, covered stoop, portico or other similar feature.

*Arterial street* shall mean a street that is anticipated to carry in excess of three thousand five hundred (3,500) vehicles per day in traffic volume, at desirable speeds ranging from thirty (30) to forty-five (45) miles per hour, and that is defined specifically as such on the Master Street Plan of the City and is used for travel between areas within and outside the City.

*Artisan and photography studio and gallery* shall mean the workshop or studio of an artist, craftsperson, sculptor or photographer, which workshop is primarily used for on-site production of unique custom goods through the use of hand tools or small-scale equipment, and only incidentally used, on an infrequent basis if at all, as an accessory gallery or for incidental sales.

*Auto-oriented development* shall mean development that is designed primarily to attract or accommodate customers, workers or residents who travel to the site by automobile, rather than pedestrians.

*Auto-related and roadside commercial* shall mean those retail and wholesale commercial activities that are typically found along highways and arterial streets. Uses include freestanding department stores; auction rooms; automobile service stations; repair facilities, car washes; boat, car, trailer, motorcycle showrooms, sales and repair; fuel and ice sales; greenhouses and nurseries; warehouses and storage; repair or rental of any article; exterminating shops; drive-in restaurants; adult-oriented uses; and other uses that are of the same general character. *This definition applies only for the purpose of clarifying the classification and measurement system as found in the Sign Regulations of this Code, and shall not be deemed to permit such uses under this Code.*

*Auto-related uses* shall mean establishments primarily engaged in the sale, rental, service, repair, storage or salvage of automobiles and trucks.

*Banner* shall mean a type of temporary sign that is painted or printed on cloth, vinyl, or other flexible material, which is designed to be stretched between poles, fence posts or wire, mounted in a freestanding frame, or hung on walls with ties, clips, rails, brackets, hooks, or frames.

*Banner frame* shall mean a type of wall sign composed of a frame that is secured to a building wall and used to stretch banners such that they are tightly stretched and their mounting hardware is hidden from view.

*Bar* shall mean an establishment providing or dispensing fermented malt beverages, and/or malt, special malt, vinous or spirituous liquors and in which the sale of food products such as sandwiches or light snacks is secondary (also known as a tavern).

*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.

*Basic development review* shall mean a review without a public hearing by the Director for the purpose of determining compliance with the applicable standards of this Code for any use that is not subject to a Type 1 or Type 2 review.

*Bay (building bay)* shall mean a wall plane projection or recess that forms an articulated wall surface on a building elevation, and that can be formed by pilasters, columns or other vertical elements such as a group of windows. Building bay does not mean a service bay for autos or trucks and does not mean a bay window.

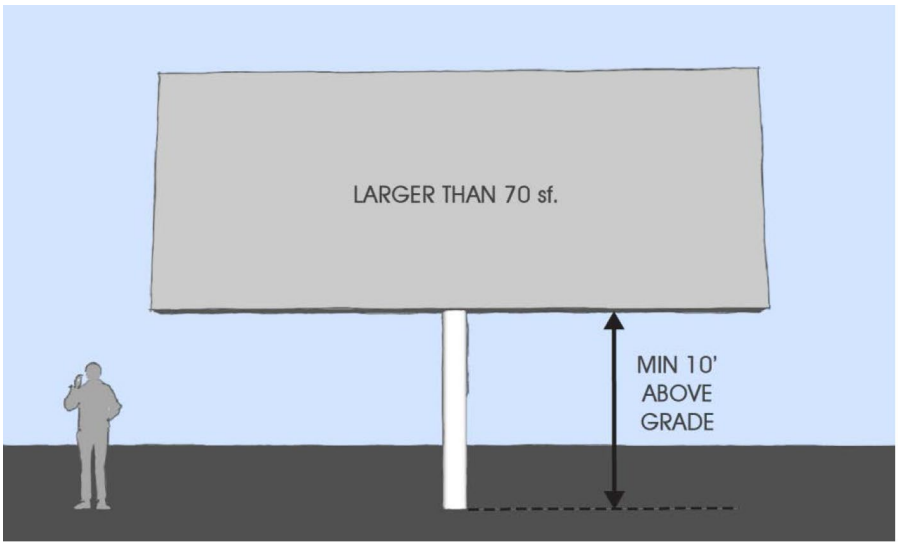
*Bed and breakfast* shall mean an establishment operated in a private residence or portion thereof, that provides temporary accommodations for a fee to overnight guests, a morning meal limited to guests only, and that is occupied by the operator of such establishment. A bed and breakfast may provide accommodations to individuals or multiple separate parties concurrently on both a reservation and walk-in basis. The term party as used in this definition shall mean one (1) or more persons who stay at a bed and breakfast as a single group pursuant to a single reservation and payment.

*Bicycle parking, enclosed* shall mean bicycle storage in lockers, a garage, a room or other space within a parking structure or other building, including a shed or carport. All types of enclosed bicycle storage must be easily accessible to entrances and walkways, secure, lighted and protected from the weather. Each storage space shall provide a minimum of six (6) square feet in area. The storage space shall not impede fire exits or be located so that parked bicycles interfere with public access.

*Bicycle parking, fixed* shall mean bicycle parking that allows the bicycle frame and both wheels to be securely locked to the parking structure. The structure shall be of permanent construction such as heavy gauge tubular steel with angle bars permanently attached to the pavement foundation. Fixed bicycle parking facilities shall be at least two (2) feet in width and five and one-half (5½) feet in length, with additional back-out or maneuvering space of at least five (5) feet.

*Billboard* shall mean a type of freestanding sign that incorporates a sign face that is larger than seventy (70) square feet, mounted on one or more pole structures, such that the lowest part of the sign face is ten (10) feet or more above adjacent grade.

**Illustrative Billboard**




*Blank wall* shall mean an exterior building wall with no openings and a single material and uniform texture on a single plane.

*Block* (See Section 7.1.2)

*Block face* shall mean the portion of a block that abuts a street.

*BUG (Backlight, Uplight, Glare) Rating* shall mean the quantity of light within various beam angles, consisting of:

(A) Backlight - the percent lamp lumens (non-LED luminaires) or the luminaire initial lumens (LED luminaires) distributed behind a luminaire between zero (0) degrees vertical (nadir) and ninety (90) degrees vertical.

(B) Uplight - the percent lamp lumens (non-LED luminaires) or the luminaire initial lumens (LED luminaires) distributed above a luminaire between ninety (90) and one hundred eighty (180) degrees vertical.

(C) Glare - the percent lamp lumens (non-LED luminaires) or the luminaire initial lumens distributed sixty (60) and ninety (90) degrees vertical.

*Buffer yards* shall mean land area devoted to providing separation between two (2) land uses of different intensity for the purpose of providing a transition. Such area may consist of passive open space, landscaping, fences, walls, earthen berms, topographic elevation changes or any combination thereof used to physically separate one (1) use or property from another so as to visually shield or block or mitigate noise, lights or other aspects of the urban environment.

*Building* shall mean any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, that is governed by the following characteristics:

(A) Is permanently affixed to the land;

(B) Has one (1) or more floors and a roof; and

(C) Is bounded by either open space or the lot lines of a lot.

*Building elevation*, for the purposes of Division 5.16 only, shall mean the external face of a building, projected onto a two-dimensional plane. For purposes of calculating allowed sign area, the building elevation is the two-dimensional representation of the side of the building upon which the sign is proposed.

*Building mass* shall mean the three-dimensional bulk of a building: height, width and depth.

*Building permit valuation* shall mean the dollar amount used for the valuation of Building Permit fees as calculated by the city's Building and Zoning Director for the issuance of a Building Permit.

*Building-mounted solar energy system* shall mean a solar energy system mounted on a building.

*Bulletin board* shall mean a type of wall sign composed of a cork, letter board, white board, or comparable surface that is within a secured, weather-resistant enclosure and used for the display of temporary messages. Bulletin board does not include manual changeable copy center.

*Caliper* shall mean the American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at six (6) inches above the ground for trees up to and including four-inch caliper size, and as measured at twelve (12) inches above the ground for larger sizes.

*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.

*Candela (see luminous intensity), (cd)* shall mean the unit of luminous intensity.

*Carport* shall mean an accessory building attached or detached from a principal building and customarily used with, and clearly incidental and subordinate to the principal building or use, consisting of a roof but no more than one (1) wall and typically intended to provide weather protection for vehicles, boats, trailers, and the like.

*Certified xeriscape landscaping* shall mean a plant (or grouping of plants) that does not require any supplemental irrigation for survival, as determined by the City Forester, and that is used to meet the standards of Section 5.10.1, Landscaping and Tree Protection.

*Change of use* shall mean the act of changing the occupancy of a building or land to a different use that is specifically listed as a "Permitted Use" in Article 4. A change of use occurs whenever:

(A) The occupancy of a single-tenant building or of a parcel of land changes from the most recent previously existing use to a different use;

(B) The occupancy of a tenant space in a multi-tenant building changes to a use that is not currently existing in another tenant space of the building or that did not previously exist in any tenant space of the building within the last twenty-four (24) months; or

(C) The most recent previously existing use of a building or land has been abandoned, by cessation of active and continuous operations during a period of twenty-four (24) consecutive months, and either the same type of use is proposed to be reestablished or a different use that did not exist on the property is proposed to be established.

*Character* shall mean those attributes, qualities and features that make up and distinguish a development project and give such project a sense of purpose, function, definition and uniqueness.

*Child care center* shall mean a facility, by whatever name known, that is maintained for the whole or part of a day for the care of seven (7) or more children under the age of sixteen (16) years who are not related to the owner, operator or manager, whether such facility is operated with or without compensation for such care and with or without stated educational purposes, except that a child care center shall not include any of the following five (5) types of family child care homes as defined by the State of Colorado: regular family child care home, three under two family child care home, infant/toddler home, experienced family child care provider home or large family child care home. The term includes, but is not limited to, facilities commonly known as day care centers, day nurseries, nursery schools, preschools, play groups, day camps, summer camps, centers for developmentally disabled children and those facilities that give twenty-four-hour-per-day care for dependent and neglected children. Child care centers are also those facilities for children under the age of six (6) years with stated educational purposes that are operated in conjunction with a public, private or parochial college or a private or parochial school, except that the term shall not apply to a kindergarten maintained in connection with a public, private or parochial elementary school system of at least six (6) grades.

*Clubs and lodges* shall mean organizations of persons for special purposes or for the promulgation of sports, arts, literature, politics or other common goals, interests or activities, characterized by membership qualifications, dues or regular meetings, excluding clubs operated for profit and/or places of worship or assembly.

*Cohesive* shall mean having a natural or logical agreement of parts; connected; as in a cohesive neighborhood. If used in this Land Use Code, coherent shall mean cohesive.

*Collector street* shall mean a street that is anticipated to carry from two thousand five hundred (2,500) to five thousand (5,000) vehicles per day in traffic volume at desirable speeds ranging from twenty-five (250 to thirty-five (35) miles per hour and that serves a collecting function by distributing traffic between local streets and arterial streets, thereby providing access to adjacent properties and linking neighborhoods with arterial streets.

*Collector street system* shall mean a system of one (1) or more collector street(s) that allows traffic to be distributed to at least two (2) arterial streets.

*Collocation* shall mean:

(A) 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.

(B) 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.

*Color shade* shall mean the degree of lightness or brightness, as opposed to darkness or neutrality, of a color as determined by the proportion of black, white or gray.

*Commercial development* shall mean any land development activity except development activity intended solely for residential, industrial and/or light industrial use.

*Commercial speech* shall mean expression by a speaker for the purposes of commerce, where the intended audience is actual or potential consumers, and where the content of the message is commercial in character. Commercial speech typically advertises a business or business activity or proposes a commercial transaction.

*Community based shelter services* shall mean an accessory use to a facility owned and operated by a place of worship, public benefit corporation as defined by the Colorado Revised Statutes, or a tax exempt corporation as defined by Section 503 of the U.S. Internal Revenue Code, that provides overnight accommodations on a temporary basis for a maximum of fifteen (15) persons.

*Community facility* shall mean a publicly owned or publicly leased facility or office building that is primarily intended to serve the recreational, educational, cultural, administrative or entertainment needs of the community as a whole.

*Community park* shall mean a city-owned park of not less than thirty (30) acres that serves the recreational and open space needs of the community as a whole.

*Community shopping center* shall mean a shopping and service center located in a complex that is planned and developed as a unit, and that is intended to serve consumer demands from residents and employees who live and work in surrounding neighborhoods as well as the community as a whole. A community shopping center provides, in addition to the convenience goods of a neighborhood service center, a wider range of facilities for the sale of goods, such as, but not limited to, food, books, apparel and furniture. A community shopping center may include multi-unit residential, as well as nonretail employment generating uses (such as professional offices) within the retail component of the center.

*Compatibility* shall mean the characteristics of different uses or activities or design that allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass and bulk of structures. Other characteristics include pedestrian or vehicular circulation, access and parking design. Other important characteristics that affect compatibility are landscaping, lighting, noise, odor and architecture. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of development proposals in respecting the character of existing development.

*Composting facility* shall mean any site where decomposition processes are used on solid waste (including leaves, grass, manures and nonmeat food production wastes received from residential, commercial, industrial nonhazardous and community sources, but not including bio-solids) to produce compost; provided, however, that the term composting facility shall not include composting as an accessory use.

*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.

*Connecting walkway* shall mean (1) any street sidewalk, or (2) any walkway that directly connects a main entrance of a building to the street sidewalk without requiring pedestrians to walk across parking lots or driveways, around buildings or around parking lot outlines that are not aligned to a logical route.

*Connector street* shall mean a local street for residential areas that is anticipated to carry from one thousand (1,000) to two thousand five hundred (2,500) vehicles per day in traffic volume at desirable speeds of up to twenty-five (25) miles per hour and that connects with collector and arterial streets and adjoining neighborhoods.

*Convenience retail store (also known as convenience store)* shall mean a retail store containing less than five thousand (5,000) square feet of gross floor area that sells everyday goods and services which may include, without limitation, ready-to-eat food products, groceries, over-the-counter drugs and sundries.

*Convenience shopping center* shall mean a shopping and service center situated on seven (7) or fewer acres with four (4) or more business establishments with separate exterior entrances, located in a complex that is planned, developed and managed as a single unit, and located within and intended to primarily serve the consumer demands of adjacent employment areas. The principal uses permitted include retail stores; business services; convenience retail stores with fuel sales (possibly including an accessory one-bay automatic carwash); personal business and service shops; standard or fast food restaurants (without drive-up windows); vehicle minor repair, servicing and maintenance uses; liquor sales (for on- or off-premise consumption); beauty or barber shops; dry-cleaning outlets; equipment rental (not including outdoor storage); limited indoor recreational uses; pet shops; and uses of similar character. Secondary uses may include professional offices; limited banking services such as branch banks (with limited drive-up facilities) and automated teller machines; multi-unit dwellings; medical offices and clinics; small animal veterinary clinics; child care centers; and elderly day care facilities.

*Convenience stores with fuel sales* shall mean a convenience retail store that also sells gasoline or other fuel products.

*Convention and conference center* shall mean a facility used for business or professional conferences and seminars, often with accommodations for sleeping, eating and recreation.

*Correlated color temperature (CCT)* shall mean the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

*Day shelter* shall mean a facility that provides temporary daytime shelter and/or food and that may also provide personal care, social or counseling services to those experiencing homelessness or indigency, provided that such a facility contains a private, outdoor space.

*Department* shall mean the Community Development and Neighborhood Services Department, or the successor department existing from time-to-time in the City's organizational structure.

*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 LUC Section 6.24.7, the dividing of land into two (2) or more parcels.

(A) Development shall also include:

(1) Any construction, placement, reconstruction, alteration of the size, or material change in the external appearance of a structure on land;

(2) 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;

(3) Any change in use of land or a structure;

(4) Any alteration of a shore or bank of a river, stream, lake, pond, reservoir or wetland;

(5) The commencement of drilling (except to obtain soil samples), mining, stockpiling of fill materials, filling or excavation on a parcel of land;

(6) The demolition of a structure;

(7) The clearing of land as an adjunct of construction;

(8) The deposit of refuse, solid or liquid waste, or fill on a parcel of land;

(9) The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property;

(10) The construction of a roadway through or adjoining an area that qualifies for protection by the establishment of limits of development.

(B) Development shall not include:

(1) 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. Nothwithstanding, such work shall be considered development if it is determined to require a permit pursuant to Land Use Code Division 6.27, *Guidelines and Regulations for Areas and Activities of State Interest*;

(2) 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. Nothwithstanding, such work shall be considered development if it is determined to require a permit pursuant to Land Use Code Division 6.27, *Guidelines and Regulations for Areas and Activities of State Interest*;

(3) 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;

(4) 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 (however, Chapter 14 of the Code of the City of Fort Collins is still applicable);

(5) 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 LUC Section 4.3.5(I) of this Code;

(6) A change in the ownership or form of ownership of any parcel or structure;

(7) The creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land;

(8) 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.

(C) 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 variance or an appeal from administrative decisions prescribed in this Code, a minor or major plan amendment, or a permit application pursuant to Division 6.27, *Guidelines and Regulations for Areas and Activities of State Interest*.

*Development application for permitted use* shall mean a development application submitted in the form required by this Code to the City for an overall development plan, a project development plan, a final plan or a Building Permit, including only uses described as permitted uses in the applicable zone district. A PUD Overlay is also considered to be a development application for a permitted use even though the PUD Overlay may request uses that are not permitted in the applicable underlying zone district.

*Development plan* shall mean an application submitted to the City for approval of a permitted use that 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 Division 6.27, *Guidelines and Regulations for Areas and Activities of State Interest,* is considered a development plan even though the application may propose uses that are not permitted in the applicable zone district or districts.

*Development project* shall mean a project that has been reviewed under the applicable city review process and has been approved and is ready for development construction to begin. For the purposes of the

Development Construction Permit and its related requirements, bonds, warranties and fees, if such a project has defined phases, then each phase shall be considered a development project independent from the other phases.

*Development site* shall mean the real property, whether consisting of one (1) or more lots or areas of land, that is the subject of any application allowed under the Land Use Code.

*Developmentally disabled* shall mean a person five (5) years of age or older with a severe, chronic disability that:

(A) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
(B) Is manifested before the person attains age twenty-two (22);
(C) Results in substantial functional limitations in three or more of the following areas of major life activity:
  (1) Self-care;
  (2) Receptive and expressive language;
  (3) Learning;
  (4) Mobility;
  (5) Self-direction;
  (6) Capacity for independent living;
  (7) Economic self-sufficiency; and
(D) Reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services and supports that are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, shall mean individuals from birth to age five (5) years, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services or supports are not provided.

*Diameter-at-breast-height (DBH)* shall mean tree trunk diameter as measured in inches at a height of four and one-half (4.5) feet above the ground or, in the case of a tree that is divided into multiple trunks below four and one-half (4.5) feet, as measured at the most narrow point beneath the point of division.

*Digital electronic message center* shall mean a display surface that is composed of light emitting diodes (LEDs) or comparable light sources that is capable of displaying variable messages and graphics, which are generally created on a computer. Digital electronic message centers are also known as EMCs.

*Director* shall mean the Director of the Department.

*Dog day care facility* shall mean a facility providing such services as canine day care for all or part of a day, obedience classes, training, grooming and/or behavioral counseling, provided that overnight boarding is not permitted.

*Dormitory* shall mean a building used as group living quarters for students or religious adherents as an accessory use for a bona fide college, university, boarding school, seminary, convent, monastery or other similar institutional use.

*Drip line* shall mean a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

*Drive aisles* shall mean the lanes in a parking lot devoted to the passage of vehicles, as opposed to the parking stalls. The term drive aisle does not include lanes used only or primarily for drive-in customer service.

*Drive-in use* shall mean an establishment that by design, physical facilities, service or packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.

*Drop-in child care center* shall mean a center that provides occasional care for forty (40) or fewer children between the ages of twelve (12) months and thirteen (13) years for periods of time not to exceed six (6) hours in any twenty-four-hour period or fifteen (15) hours in any seven-day period.

*Dust control manual* shall mean the dust control and prevention standards enacted to protect air quality adopted under Chapter 12 of the City Code.

*Dwelling* shall mean a building with habitable space used exclusively for residential occupancy and for permitted accessory uses. The term dwelling shall not include hotels, motels, homeless shelters, seasonal overflow shelters, tents or other structures designed or used primarily for temporary occupancy with the exception of short term primary and non-primary rentals.

*Dwelling, multi-unit* shall mean a dwelling containing three (3) or more dwelling units, not including hotels, motels, fraternity houses and sorority houses and similar group accommodations.

*Dwelling, single-unit* shall mean a dwelling containing no more than one (1) dwelling unit.

*Dwelling, single-unit attached* shall mean a single-unit dwelling attached to one (1) or more dwellings or buildings, with each dwelling located on its own separate lot.

*Dwelling, single-unit detached* shall mean a single-unit dwelling that is not attached to any other dwelling or building by any means, including mobile homes and manufactured housing situated on a permanent foundation.

*Dwelling, two-unit* shall mean a dwelling containing two (2) dwelling units.

*Dwelling, two-unit attached* shall mean a two-unit dwelling attached to one other two-unit dwelling with each such two-unit dwelling located on its own separate lot.

*Dwelling unit* shall mean habitable floor space intended for the exclusive use of a single household with a single kitchen, or including a second kitchen pursuant to Section 5.3.6.

*ECMC* shall mean the Colorado Energy and Carbon Management Commission.

*Elderly* shall mean a person sixty (60) years of age or older.

*Electronic message center, or EMC,* shall mean the portion of an on-premise ground or wall sign that is capable of displaying words or images that can be electronically changed by remote or automatic means.

*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 Code.

*Employees* shall mean the total number of persons reasonably anticipated to be employed in a building or on land during normal periods of use.

*Enclosed mini-storage* shall mean a building containing separate, individual, private storage spaces, that may be of various sizes, and that are rented pursuant to individual leases for varying periods of time.

*Engineer* shall mean the City Engineer, who shall have those duties and powers as set forth in Section 24-39 of the City Code.

*Entertainment facilities and theaters* shall mean a building or part of a building devoted to showing motion pictures or dramatic, musical or live performances.

*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.

*Established potable water supply entities* shall mean the City of Fort Collins, the East Larimer County Water District, the Fort Collins-Loveland Water District, the Sunset Water District, and the West Fort Collins Water District.

*Exhibit hall* shall mean a privately owned building or part of a building devoted to the routine display for public viewing (but not sale) of works of art or other similar articles or collectibles of enduring interest or value, and where such display is intended, in part, to serve the educational and cultural needs of the community as a whole.

*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.

*Existing limited permitted use* shall mean any use that was permitted for a specific parcel of property pursuant to the zone district regulations in effect for such parcel on March 27, 1997, that is not specifically listed as a permitted use under the zone district regulations of the zone district of this Code in which the parcel of property is located, and that physically existed upon such parcel on March 27, 1997. Such use is permitted in the various zone districts established in Article 2 under the limitation that such use shall constitute a permitted use only on such parcels of property.

*Extent reasonably feasible* shall mean that, pursuant to the City's determination, under the circumstances, reasonable efforts have been undertaken to comply with the regulation, that the costs of compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project, and reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from noncompliance with the regulation.

*Extra occupancy* shall mean the use of a building or portion of a building by a number of occupants that exceeds the occupancy limits set forth in Section 5.14.1.

*FAA* shall mean the United States Federal Aviation Administration.

*Family* shall mean any number of persons who are all related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, and who live together as a single housekeeping unit and share common living, sleeping, cooking and eating facilities.

*Family-care home* shall mean a facility for child care in a place of residence of a family or person for the purpose of providing family care and training for a child under the age of sixteen (16) years who is not related

to the occupants of such home, or a facility in a place of residence of a family or person for the purposes of providing elderly day care. The three (3) categories of family-care homes are defined as follows:

(A) Day care home shall mean a facility licensed by the State of Colorado that provides on a regular basis in a place of residence, less than twenty-four-hour care for two (2) or more children from different family households who are not related to the caregiver. Such a facility may be any of the following three (3) types of family care homes as defined by the State of Colorado: family child care home, infant/toddler home or experienced family child care provider home.

(B) Family foster home shall mean a facility providing care and training for a child or children not related to the caretaker for regular twenty-four-hour care, provided that such child or children are received from any state-operated institution for child care or from any child placement agency as defined in Section 26-6-903(10), C.R.S.

(C) Elderly day care home shall mean a home in a place of residence of a family or person for the daytime care, protection and supervision of persons of at least sixty (60) years of age, who are not related to the caretakers, for more than two (2) full days per week.

*Farm animals* shall mean animals commonly raised or kept in an agricultural, rather than an urban, environment, including, but not limited to, chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys and mules; provided, however, that farm animals shall not include chicken hens, ducks or pygmy or dwarf goats kept pursuant to Section 4-121 of the City Code.

*FCC* shall mean the United States Federal Communications Commission.

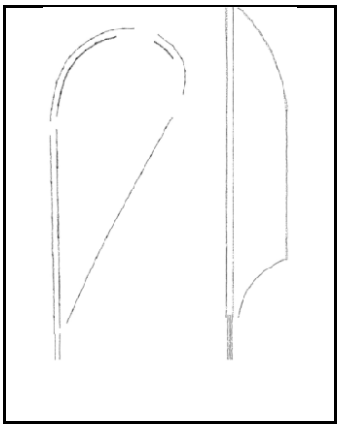
*Feedlot* shall mean any tract of land or structure, pen or corral, wherein cattle, horses, sheep, goats, emus, ostriches or swine are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.

*Festoon lighting* shall mean electric lighting with individual bulbs suspended along a string that incorporates power wiring and is suspended between two (2) or more points.

*Flag* shall mean a flexible piece of fabric, that is attached along one (1) edge to a straight, rigid flagpole (directly or with rope), and that is designed to move when the wind blows. Flags are typically (but not necessarily) rectangular in shape, and often (but not always) include printed or embroidered insignia that symbolizes a nation, state, or organization, or that display a graphic or message.

*Flag, feather* shall mean a flexible piece of fabric that is attached to a flexible pole along a long edge such that the pole stretches the fabric taut regardless of wind conditions. Feather flags are also commonly referred to as "teardrop banners," "teardrop flags," and "flutter flags."

Illustrative Feather Flags



*Flowback* shall mean the process of allowing fluids and entrained solids to flow from a well following stimulation, either in preparation for a subsequent phase of treatment or in preparation for cleanup and placing the Well into production. The term flowback also means the Fluids and entrained solids that emerge from a Well during the flowback process.

*Flowline* shall mean a segment of pipe transferring oil, gas, or condensate between a wellhead and processing equipment to the load point or point of delivery to a U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration or Colorado Public Utilities Commission regulated gathering line or a segment of pipe transferring produced water between a wellhead and the point of disposal discharge or loading. This definition of flowline does not include gathering line.

*Food catering or small food product preparation* shall mean an establishment in which the principal use is the preparation of food and/or meals on the premises, and where such food and/or meals are delivered to another location for consumption or distribution, and where such use occupies not more than five thousand (5,000) square feet in gross floor area.

*Food membership distribution site* shall mean a site where a producer of agricultural products delivers them for pick-up by customers who have pre-purchased an interest in the agricultural products.

*Food truck rally* shall mean a temporary or periodic special event, operating under a Special Vending License, of more than two (2) outdoor vendors (such as food trucks and carts), held on an improved private lot with permission of the owner thereof, and only serving pedestrians.

*Foot-candle* shall mean a unit of measurement referring to illumination incident to a single point. One (1) foot-candle is equal to one (1) lumen uniformly distributed over an area of one (1) square foot.

*Fraternity and sorority houses* shall mean residences housing students in organizations established primarily to promote friendship and welfare among the members (i.e., Greek-letter social fraternities and similar organizations), and which residences are affiliated with Colorado State University.

*Fully shielded* shall mean shielded or constructed so that no light rays are emitted by the installed outdoor light fixtures at angles above the horizontal plane, as certified by a photometric test report.

*Funeral home* shall mean a building used for the preparation of the deceased for burial or cremation, for the display of the deceased and/or for ceremonies or services related thereto, including cremation and the storage of caskets, funeral urns, funeral vehicles and other funeral supplies.

*Gasoline station* shall mean any building, land area, premises or portion thereof, where gasoline or other petroleum products or fuels are sold and light maintenance activities such as engine tune-ups, lubrication, minor repairs and carburetor cleaning may be conducted. *Gasoline station* shall not include premises where

heavy automobile maintenance activities such as engine overhaul, automobile painting and body fender work are conducted.

*Gathering line* shall mean a gathering pipeline or system as defined by the Colorado Utilities Commission, Regulation No. 4, 4 C.C.R. 723-4901, Part 4, (4 C.C.R. 723-4901) or a pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration pursuant to 49 C.F.R. §§ 195.2 or 192.8. 49 C.F.R. §§ 195.2 or 192.8 and 4 C.C.R. 723-4901 in existence as of the date of this regulation and does not include later amendments.

*Geologic hazards* shall mean unstable or potentially unstable slopes, faulting, landslides, rockfalls, flood, wildfire or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development.

*Glare* shall mean the sensation produced by luminances within the visual field that are sufficiently greater than the luminance to which the eyes are adapted that causes annoyance, discomfort, or loss in visual performance or visibility.

*Grade* shall mean the elevation of the edge of the paved surface of the street at the closest point to the sign for the purpose of measuring the height of signs.

*Grocery store* shall mean a retail establishment that primarily sells food, but also may sell other convenience and household goods, and that occupies a space of at least five thousand (5,000) square feet but not more than forty-five thousand (45,000) square feet.

*Gross leasable area* shall mean the total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines and upper floors, if any, expressed in square feet measured from centerlines of joint partitions and exteriors of outside walls.

*Ground-mounted solar energy system* shall mean a solar energy system with a supporting framework that is placed on, or anchored in, the ground and that is structurally independent from any building. Carports, garages, breezeways, covered walkways or similar nonclimatized accessory structures that incorporate building-mounted solar energy systems shall not be classified as ground-mounted solar energy systems and shall instead be subject to height and setback regulations governing accessory structures.

*Group home* shall mean either of the following:

(A) Residential group home shall mean a residence operated as a single dwelling, licensed by or operated by a governmental agency, or by an organization that is as equally qualified as a government agency and having a demonstrated capacity for oversight as determined by the Director, for the purpose of providing special care or rehabilitation due to homelessness, physical condition or illness, mental condition or illness, elderly age or social, behavioral or disciplinary problems, provided that authorized supervisory personnel are present on the premises.

(B) Large group care facility shall mean a residential facility that is planned, organized, operated and maintained to offer facilities and services to a specified population and is licensed by or operated by a governmental agency, or by an organization that is as equally qualified as a government agency and having a demonstrated capacity for oversight as determined by the Director, for the purpose of providing special care or rehabilitation due to homelessness, physical condition or illness, mental condition or illness, elderly age or social, behavioral or disciplinary problems, provided that authorized supervisory personnel are present on the premises.

*Habitable floor space* shall mean the space in a building approved for living, sleeping, eating, cooking, bathing and personal hygiene. Crawl spaces, storage, laundry rooms, utility spaces and similar areas are not considered habitable spaces.

*Hard goods* shall mean bulky, durable goods such as household appliances, furniture, automobiles and farm and construction equipment, that all require extensive floor area for display.

*Hardscape* shall mean any non-living horizontal site element, including but not limited to patios, decks, walkways, sidewalks, driveways, and steps.

*Hazardous materials* shall mean those chemicals or substances that are physical or health hazards as defined and classified in the Fire and Building Codes. Hazardous materials categories include explosives and blasting agents, compressed gases, flammable and combustible liquids, flammable solids, organic peroxides, oxidizers, pyrophoric materials, unstable (reactive) materials, water-reactive solids and liquids, cryogenic fluids, highly toxic and toxic materials, radioactive materials, corrosives, carcinogens, irritants, sensitizers and other health hazards. Each category is defined separately in the Fire and Building Codes in accordance with the Code of Federal Regulations Title 29 and other nationally recognized standards.

*Health club* shall mean an establishment that is open only to members and guests and that provides facilities for at least three (3) of the following: aerobic exercises, running and jogging, exercise equipment, game courts and swimming facilities, and that also includes amenities such as spas, saunas, showers and lockers.

*Heavy industrial uses* shall mean uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involved hazardous conditions. *Heavy industry* shall also mean those uses engaged in the operation, parking and maintenance of vehicles, cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations, recycling establishments, and transport terminals (truck terminals, public works yards, container storage).

*High occupancy building unit* shall mean:

(a)Any public or private school, nursing facility as defined in § 25.5-4-103(14), C.R.S., hospital, life care institution as defined in § 12-13-101, C.R.S., or correctional facility as defined in § 17-1-102(1.7), C.R.S., provided the facility or institution regularly serves 50 or more persons;

(b)An operating Child Care Center as defined in § 26-6-102(5), C.R.S.; or

(c) A multiunit dwelling with four or more units

*Historic comparison boundary* shall mean the two hundred (200) foot boundary measured in all directions from the perimeter of each historic resource identified in Section 5.8.1(C)(2)(a), (b), or (c).

*Historic influence area* shall mean the overlapping area formed when the outer boundary of a development site and a historic comparison boundary overlap.

*Historic preservation staff* shall mean City Historic Preservation Division staff who meet the professional qualification standards provided in Code of Federal Regulations, 36 CFR Part 61.

*Historic resource* shall mean a building, site, structure, or object that is located on a lot, lots, or area of property and is (1) designated as a Fort Collins landmark or is contributing to a Fort Collins landmark district; (2) designated on the Colorado State Register of Historic Properties, either individually or contributing to a district, or the National Register of Historic Places, either individually or contributing to a district; or (3) determined to be eligible for designation as a Fort Collins landmark either through a binding or non-binding determination pursuant to Land Use Code Section 5.8.1(D).

*Home occupation* shall mean an occupation or business activity that results in a product or service and is conducted in whole or in part in a dwelling unit, and is subordinate to the residential use of the dwelling unit.

*Homeless shelters* shall mean a fully enclosed building other than a hotel, motel, or lodging establishment that is suitable for habitation and that provides residency only for people experiencing homelessness at no charge at any time during the year. Community based shelter services are exempt from this definition.

*Hoop house* shall mean a structure used for the purpose of growing crops that has a semi-flexible, nonmetallic frame covered by a flexible polyethylene film of not more than six (6) mil, but not containing any mechanical or electrical systems or equipment or storage items.

*Hotel/motel/lodging establishment* shall mean a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals, in which there are five (5) or more guest rooms. The terms *hotel/motel/lodging establishment* shall not include homeless shelters, seasonal overflow shelters, and short term primary and non-primary rentals.

*Housing model* shall mean a single-unit or two-unit dwelling having at least three (3) distinguishing major exterior features, including elevations, material treatments, front facade, rooflines and entryway.

*Hydrozone* shall mean an area within the landscape defined by a grouping of plants requiring a similar amount of water to sustain health. For the purposes of this Code, hydrozones are divided into the following four (4) categories:

(A) Very low hydrozones include plantings that need supplemental water when first planted, but little or none once established.

(B) Low hydrozones include plantings that generally do not require more than three (3) gallons per square foot of supplemental water per year. These plantings require additional water during plant establishment or drought.

(C) Moderate hydrozones include plantings that generally require ten (10) gallons per square foot of supplemental water per year.

(D) High hydrozones include plantings that generally require eighteen (18) gallons per square foot of supplemental water per year.

*I-25 activity center* (located as described in the I-25 Subarea Plan) shall mean an area of concentrated development containing more than one (1) principal land use type and generally served by high frequency transit. Such land uses may include office, retail, residential or service uses such as hotels, motels and personal and business services. In an I-25 activity center, the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of vehicular and pedestrian access and parking areas.

*Ideally oriented luminaire* shall mean a luminaire mounted with the backlight portion of the light output oriented perpendicular to and towards the property line of concern.

*Illuminance* shall mean the incidental light falling on a surface as measured in footcandles (fc). Total illuminance at a point is a combination of all light sources that contribute.

*Improved arterial street* shall mean that portion of an arterial street which has been totally or partially constructed to arterial street standards and accepted by the City.

*Improved arterial street network* shall mean the system of improved arterial streets that are interconnected and that are defined on the city map titled Improved Arterial Streets Network maintained by the City Engineer.

*Improvement* shall mean any man-made, immovable item that becomes part of, is placed upon or is affixed to real estate.

*Indoor kennel* shall mean an establishment in which twenty-four (24) hour care and boarding is provided for household dogs or cats within a soundproof building (or buildings) that contains exercise facilities, separate ventilation systems for dogs and cats if they are boarded in the same building, and wherein other services such as grooming and training are offered. Dogs in an indoor kennel are only allowed in an outdoor exercise area during the hours of 8am-5pm.

*Infrastructure* shall mean those man-made structures that serve the common needs of the population, such as: potable water systems; wastewater disposal systems, solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.

*Inhabitant* shall mean a person who dwells and is domiciled in a place, as distinguished from a lodger or visitor.

*Initial luminaire lumens* shall mean the light output of the lamp or luminaire before any light loss factors are considered.

*Junkyard* shall mean an industrial use (not permitted in residential, business or commercial districts) contained within a building, structure or parcel of land, or portion thereof, used for collecting, storing or selling wastepaper, rags, scrap metal or discarded material or for collecting, dismantling, storing, salvaging or demolishing vehicles, machinery or other material and including the sale of such material or parts thereof. Junkyard shall not include a recycling facility.

*Kennel* shall mean a facility where the overnight boarding of dogs, cats or other household pets is conducted as a business.

*Kitchen* shall mean a portion of a dwelling unit used, or designated to be used for, the purposes of cooking, preserving, or otherwise preparing food and contains a range or a combination of a cook-top and oven. An area of a dwelling unit with a cooking appliance that is not a range or combination of a cook-top and oven, such as a microwave or hot-plate, is not a kitchen.

*Landscaping* shall mean any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, works of art, reflective pools, fountains or the like. Landscaping shall also include irrigation systems, mulches, topsoil use, soil preparation, revegetation or the preservation, protection and replacement of existing trees.

*Large base industry* shall mean a firm that:

(A) Produces, or will produce, manufactured goods, at least eighty (80) percent of which are, or will be, produced for export to areas outside of the City; or provides medical, internet, telecom, education or publishing products and services for local and regional users; or establishes corporate offices;

(B) Employs, or will employ, no fewer than one hundred (100) persons for at least thirty-five (35) hours of year-round employment per week; and

(C) Owns or leases, or will own or lease, real property or equipment within the city limits that is used in the operation of the firm's business and that has, or will have, as of the date of the commencement of the firm's operation, a fair market value of no less than one hundred million dollars ($100,000,000).

*Large retail establishment* shall mean a retail establishment, or any combination of retail establishments in a single building or in separate but abutting buildings, or a movie theater or an indoor recreational use, occupying more than twenty-five thousand (25,000) gross square feet of floor area.

*Laundry and dry-cleaning retail outlet* shall mean a laundry or dry-cleaning outlet whose business consists primarily of serving retail customers, provided that any laundry and dry-cleaning processing that occurs on the premises is limited to items that are brought directly to the premises by the retail customer.

*Level of service* shall mean an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on, and related to, the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.

*Lifestyle shopping center* shall mean a shopping center that is planned and developed as a unit and intended to serve consumer demands from the community as a whole and the region, with primary offerings of specialty retailers such as apparel, home furnishings/accessories, books/music, bath/body, sporting goods and grocery stores, and that offers sit-down restaurants, coffee shops, ice cream parlors, entertainment facilities and theatres, office uses and/or uses of similar character. Such a center is designed with architectural distinction, individual identity for each store and buildings that are brought together along a sidewalk network in an open-air setting, with a small park or plaza, and a high level of amenity in landscaping and urban furnishings.

*Light industrial* shall mean uses engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products. Further, light industrial shall mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories or the like. Light industrial shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal or related industries.

*Light loss factor (LLF)* shall mean a depreciation factor that describes the drop in light output over the life of the system. The total LLF is determined by a combination of factors, such as lumen depreciation and luminaire dirt depreciation. Light Loss Factors = 1.0 for evaluating compliance with Section 5.12.1.

*Lighting, indirect* when applied to the lighting of signs, shall mean reflected light only from a concealed light source outside the sign face that reflects from the sign face only or from the sign face and sign copy.

*Limited indoor recreation use* shall mean facilities established primarily for such activities as exercise or athletic facilities; and amusement or recreational services, such as billiard or pool parlors, pinball/video arcades, dance studios, martial art schools, arts or crafts studios; or exercise clubs, but not including bowling alleys or establishments which have large-scale gymnasium-type facilities for such activities as tennis, basketball or competitive swimming. This definition is intended to restrict the type of recreational use allowed to those small-scale facilities containing no more than five thousand (5,000) square feet that would be compatible with typical buildings and uses in the zone district in which this use is allowed.

*Limits of development* shall mean the areas described and established pursuant to Section 5.6.1(N).

*Local street* shall mean a street that is anticipated to carry under two thousand five hundred (2,500) vehicle trips per day in traffic volume at desirable speeds of up to twenty-five (25) miles per hour, and that provides access to abutting property and primarily serves local traffic.

*Local street system* shall mean a system of one (1) or more local streets that allow traffic to be distributed throughout a neighborhood.

*Lodging establishment* shall mean hotel/motel.

*Logo* shall mean a graphic symbol or emblem that conveys a recognizable meaning, which symbol or emblem may include script (words) provided that such script is contained entirely within the boundaries of the symbol or emblem; and script alone, or outside of the boundaries of the symbol or emblem, whether registered as a trademark or not, is not included within the meaning of the term logo.

*Long-term care facility* shall mean any of the following:

(A) Convalescent or rehabilitation center shall mean a health institution that is planned, organized, operated and maintained to offer facilities and services to inpatients requiring restorative care and

treatment and that is either an integral patient care unit of a general hospital or a facility physically separated from, but maintaining an affiliation with, all services in a general hospital.

(B) Nursing or memory care facility shall mean a health institution planned, organized, operated and maintained to provide facilities and health services with related social care to inpatients who require regular medical care and twenty-four (24) hour per day nursing services for illness, injury or disability. Each patient shall be under the care of a physician licensed to practice medicine in the State of Colorado. The nursing services shall be organized and maintained to provide twenty-four (24) hour per day nursing services under the direction of a registered professional nurse employed full time.

(C) Intermediate health care or assisted living facility shall mean a health-related institution planned, organized, operated and maintained to provide facilities and services which are supportive, restorative or preventive in nature, with related social care, to individuals who because of a physical or mental condition, or both, require care in an institutional environment but who do not have an illness, injury or disability for which regular medical care and twenty-four (24) hour per day nursing services are required.

(D) Independent living or continuing care facility shall mean a single-unit, two-unit and/or multi-unit dwelling that is located within a development that contains one (1) or more of the facilities described in (A) through (C) above, wherein the residents of such dwellings have access to the common amenities and services available to residents of the facilities described in (A) through (C) above.

*Long-term parking* shall mean parking that has limited turnover during a normal working weekday. Long-term parking includes employee-type parking or residential-type parking.

*Lumen (lm)* shall mean the luminous flux emitted within a unit solid angle by a point source (one steradian) having a uniform luminous intensity of one candela (cd). See luminous flux.

*Luminaire* shall mean a complete lighting device consisting of the light source, lens, reflector, refractor, driver, housing and such support as is integral with the housing. If the driver is located within the housing, it is considered integral and therefore part of the luminaire. The pole, posts, and bracket or mast arm are not considered to be part of the luminaire.

*Luminance (candelas per square meter, cd/m$^2$or nits)* shall mean the luminous intensity of any surface in a given direction per unit of projected area of the surface as viewed from that direction; i.e., the apparent brightness of a surface.

*Luminous flux (lumen, lm)* shall mean a unit of measure of the quantity of light. One lumen is the amount of light that falls on an area of one square meter, every point of which is one meter from a source of one candela. A light source of one candela emits a total of 12.57 lumens. Light sources are rated in terms of luminous flux. Lumens are used for evaluating compliance with Section 5.12.1.

*Luminous intensity (candela, cd)* shall mean the basic unit of light quantity as measured in candelas. The candela can be thought of as the number of photons per second emitted by the light source.

*Maintenance (of a newly constructed street)* shall mean keeping the street free of dirt, mud, debris and any other foreign material that would constitute a safety hazard or a nuisance or cause damage to the newly constructed street, and shall also include repainting traffic control striping, repairing and replacing traffic control signs and signals as necessary, and maintaining median/parkway landscaping and irrigation systems and supplying water therefor.

*Major addition* shall mean the extension of an existing building where the cost of the addition, not including repairs and reconstruction of the existing building, is in excess of the assessed valuation of the existing

building as assessed by the county Assessor during the year immediately preceding the year in which such major addition takes place.

*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.

*Major walkway spine* shall mean a tree-lined connecting walkway that is at least five (5) feet wide, with landscaping along both sides, located in an outdoor space that is at least thirty-five (35) feet in its smallest dimension, with all parts of such outdoor space directly visible from a street.

*Manual changeable copy message center* shall mean a sign element in which letters, numbers, or symbols may be changed manually without altering the face of the sign (e.g., by placement of letters into tracks that are enclosed within a cabinet structure). Manual changeable copy centers are sometimes known as "readerboards."

*Manufactured home* shall mean a preconstructed, transportable dwelling unit built on a permanent chassis and anchored at the site where it will be occupied as a dwelling unit. The term manufactured home shall also include mobile homes, which are similar transportable dwelling units constructed prior to federal manufactured home standards adopted in 1976.

*Manufactured housing community* shall mean a parcel of land that has been planned, improved, or is currently used for the placement of five or more manufactured homes. Manufactured housing communities may also contain accessory uses intended primarily for the use and benefit of their residents, including but not limited to clubhouses, playgrounds and recreational amenities, childcare, meeting and assembly spaces, retail, and personal and business services.

*Marginal-access street* shall mean a local street that is parallel to and adjacent to expressways or arterials and that provides access to abutting properties and protection from through traffic.

*Marijuana products* shall mean concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tincture as defined in Section 16 (2)(k) of Article XVIII of the Colorado State Constitution.

*Massing* shall refer to the perception of the overall shape, form, and size of a building.

*Maximum extent feasible* shall mean that pursuant to the City's determination, no feasible and prudent alternative exists, and all possible efforts to comply with the regulation or minimize potential harm or adverse impacts have been undertaken.

*Medical marijuana center* shall mean a person licensed pursuant to Title 12, Article 43.3, C.R.S., to operate a business as described in Section 44-10-103(34) C.R.S., that sells medical marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the State Constitution, but is not a primary caregiver.

*Medical marijuana-infused products manufacturer* shall mean a person licensed pursuant to Title 12, Article 43.3, C.R.S., to operate a business as described in Section 12-44-10-103(39), C.R.S.

*Medical marijuana optional premises cultivation operation* shall mean a person licensed pursuant to Title 12, Article 43.3, C.R.S., to operate a business as described in Section 12-43.3-404, C.R.S.

*Medical marijuana research and development cultivation* shall mean a facility used by a person or entity licensed pursuant to Title 12, Article 43.3, C.R.S., to operate a business as described in Section 12-44-10-103(37), C.R.S.

*Medical marijuana research and development facility* shall mean a facility used by a person or entity licensed pursuant to Title 12, Article 43.3, C.R.S., to operate a business as described in Section 12-44-10-103(35), C.R.S.

*Medical marijuana testing facility* shall mean a facility used by a person or entity licensed pursuant to Title 12, Article 43.3, C.R.S., to operate a business as described in Section 12-44-10-103(35), C.R.S.

*Microbrewery* shall mean a facility that produces no more than fifteen thousand (15,000) barrels per year of fermented malt beverages on site and shall include a taproom in which guests/customers may sample the product.

*Microdistillery* shall mean a facility that produces no more than fifteen thousand (15,000) gallons per year of spirituous beverages on site and shall include a tasting room in which guests/customers may sample the product.

*Microwinery* shall mean a facility that produces no more than one hundred thousand (100,000) gallons per year of vinous beverages on site and shall include a tasting room in which guests/customers may sample the product.

*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.

*Minor subdivision* shall mean the subdivision of a lot, tract or parcel into not more than one (1) new lot and may include adjustments to lot lines.

*Mixed use* shall mean the development of a lot, tract or parcel of land, building or structure with two (2) or more different uses, including, but not limited to, residential, office, retail, public uses, personal service or entertainment uses (but not including accessory uses), designed, planned and constructed as a unit.

*Mobility Assisted Device* shall mean a wheelchair, motorized scooter, or other tool that aids those living with physical or mental disabilities in moving along City sidewalks, non-vehicular paths, and trails. These do not include recreational motorized devices such as skateboards and toy vehicles or road machinery/road tractor as defined in the City of Fort Collins Traffic Code.

*Monument style* shall mean a style of freestanding sign characterized by a supporting sign structure that is at least seventy (70) percent of the width of the sign face, and that contains not more than two (2) sign faces.

*Music facility, multi-purpose*, shall mean a facility that may include indoor and outdoor space for the purpose of music workshops, meetings, informal gatherings, occasional small-scale music performances, and occasional recitals and open microphone sessions where performance spaces do not include permanent or designated seating or paid admission.

*Music studio* shall mean a fully enclosed soundproof studio for the recording, producing, writing or rehearsing of music.

*Native vegetation* shall mean any plant identified in Fort Collins Native Plants: Plant Characteristics and Wildlife Value of Commercial Species , prepared by the City's Natural Resources Department, updated February 2003.

*Natural area* shall mean all areas shown as "natural areas" on the City's *Parks and Natural Areas Map* or the *Natural Habitats and Features Inventory Map.* Any land that qualifies as a "wetland" pursuant to the Federal Clean Water Act shall also be deemed a natural area, in addition to the areas designated as wetlands on the City's *Natural Habitats and Features Inventory Map.* Any land area that possesses such characteristics as would have supported its inclusion on the *Natural Habitats and Features Inventory Map,* or contains natural habitats or features that have significant ecological value listed in subparagraph 5.6.1(A), if such area is discovered during site evaluation and/or reconnaissance associated with the development review process, shall also be deemed a natural area.

*Natural area buffer zone* shall mean any area described and established pursuant to subsection 5.6.1(E).

*Natural features* shall mean the following:

(A) natural springs,
(B) areas of topography which, because of their steepness, erosion characteristics/geologic formations, high visibility from off-site locations and/or presence of rock outcroppings, and
(C) view corridors that present vistas to mountains and foothills, water bodies, open spaces and other regions of principal environmental importance, provided that such natural features are either identified on the City's *Natural Habitats and Features Inventory Map*, or otherwise meet the definition of *natural area* as contained in this Article.

*Neighborhood center* shall mean a combination of at least two (2) uses as listed in the Low Density Mixed-Use Neighborhood zone district in addition to an outdoor space, which together provide a focal point and a year-round meeting place for a neighborhood.

*Neighborhood park* shall mean a publicly owned park as defined in the Parks and Recreation Policy Plan.

*Neighborhood plan* shall mean a document adopted by the City Council as a part of the Comprehensive Plan of the City containing public policies relating to a specific neighborhood.

*Neighborhood service center* shall mean a shopping and service center, approximately fifteen (15) acres in size, designed to meet consumer demands from an adjacent neighborhood. The primary functional offering is usually a supermarket with an approximately equivalent amount of associated mixed retail and service-oriented gross square footage. Other functional offerings may include employment uses, such as offices and/or commercial development traditionally located along arterial streets.

*Neighborhood support/recreation facilities* shall mean recreation/pool facilities and/ or meeting rooms intended for the use and enjoyment of residents and guests of the neighborhood.

*Nightclub* shall mean a bar or similar nonalcoholic establishment containing more than one hundred (100) square feet of dance floor area.

*Nonconforming building* shall mean a building that was lawful and nonconforming under prior law on the day before the effective date of this Code or subsequent amendment thereof.

*Nonconforming structure* shall mean a structure that was lawful and nonconforming under prior law on the day before the effective date of this Code or subsequent amendment thereof.

*Nonconforming use* shall mean either a use that was lawful and nonconforming under prior law on the day before the effective date of this Code or subsequent amendment thereof, or with respect to lands newly annexed, a use that was lawful immediately before annexation but that does not conform to the use regulations for the zone district in which such use is located either at the time of annexation or as the result of subsequent amendments to this Code.

*Nonconformities* shall mean a nonconforming use, structure or building.

*Non-potable water* shall mean water that has not been treated to state and federal standards safe for human consumption, but can be placed to beneficial uses, including irrigation, dust suppression, toilet and urinal flushing, or make-up water for mechanical equipment.

*Non-potable water supply entities* shall mean the water supply entities, either established potable water supply entities or other water supply entities that provide water that does not meet the state and federal standards for human consumption to developments for the beneficial uses of non-potable water.

*Object*, for purposes of Section 5.8.1 only, shall mean a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable.

*Occupant*, in relation to extra occupancy and in other parts of this Code, shall mean a person who occupies habitable space in a dwelling unit or any portion thereof.

*Off-site construction staging* shall mean the use of land or building or portion thereof for activities commonly associated with and supportive of construction or development, when such activities are not located on the parcel, or in the building, being constructed or developed. Such activities include but are not limited to storage of construction material and equipment, parking for those working on the construction or development, temporary restrooms and construction offices.

*Off-street parking area or vehicular use area* shall mean all off-street areas and spaces designed, used, required or intended to be used for the parking, storage, maintenance, service, repair, display or operation of motor vehicles, including driveways or accessways in and to such areas, but not including:

(A) any outdoor storage area used principally as *recreational vehicle, boat or truck storage* use;
(B) any parking area that is primarily used for long-term storage of vehicles that more closely resembles an outdoor storage area than it does a parking lot (such as impound lots, junkyards or other similar uses);
(C) any internal drive lane located in an enclosed mini-storage facility; or
(D) any public street or right-of-way.

*Oil and gas buffer* shall mean the area located on a development site formed by measuring two thousand (2,000) feet in all directions from an oil and gas facility location or, as applicable, the area located on a development site formed by measuring two thousand (2,000) feet in all directions from the middle of an oil and gas facility well bore.

*Oil and gas facility* shall mean equipment or improvements used or installed at an oil and gas location for the exploration, production, withdrawal, treatment, or processing of crude oil, condensate, exploration, development, and production waste, or gas.

*Oil and gas location* shall mean the area where an operator has disturbed or intends to disturb the land surface in order to locate an oil and gas facility.

*Oil and gas pipeline* shall mean a flowline, crude oil transfer line, gathering line, as such terms are defined by the ECMC, and transmission lines.

*Oil and gas operation* shall mean exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores; the siting, drilling, deepening, recompletion, reworking or abandonment of an oil and gas well, underground injection well or gas storage well; production operations related to any such well, including the installation of flow lines and gathering systems; the generation, transportation, storage, treatment or disposal of exploration and production wastes; and any construction, site preparation or reclamation activities associated with such operations.

*Opacity* shall mean the degree to which air contaminant emission obscures the view of an observer, expressed in percentage of the obstruction, or the degree (percent) to which the transmittance of light is reduced by an air contaminant emission.

*Open-air farmers market* shall mean an occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths located on-site. *Operator* as used in Section 4.3.4(F) shall mean any person who exercises the right to operate and control an oil and gas facility or oil and gas pipeline.

*Orient* shall mean to bring in relation to, or adjust to, the surroundings, situation or environment; to place with the most important parts facing in certain directions; to set or arrange in a determinate position: *to orient a building*.

*Other potable water supply entities* shall mean the water supply entities other than the established potable water supply entities that provide potable water service, including new proposed water supplies.

*Outdoor amphitheaters* (other than *community facilities*) shall mean permanent stage and seating facilities that are open or partially open to the outdoors, the principal use of which is the showing of motion pictures or the presentation of dramatic, musical or live performances, which facilities are accessible to persons only by permission given at the doors or gates.

*Outdoor café* shall mean that portion of a restaurant with tables located on the sidewalk or other open area in front of or adjoining the restaurant premises.

*Outdoor recreation facility* shall mean an area devoted to active sports or recreation such as go-cart tracks, miniature golf, archery ranges, sport stadiums or the like, and may or may not feature stadium-type seating.

*Outdoor storage* shall mean the keeping, in an unroofed area, of any equipment, goods, junk, material, merchandise or vehicles in the same place for more than twenty-four (24) hours.

*Outdoor vendor* shall mean any person, whether as owner, agent, consignee or employee, who sells or attempts to sell, or who offers to the public free of charge, any services, goods, wares or merchandise, including, but not limited to, food or beverage, from any outdoor location, except for those activities excluded from the definition of *outdoor vendor* in §15-381 of the City Code.

*Over the air reception device* or *OTARD* shall mean:

(A) 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

(B) 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

(C) An antenna that is designed to receive television broadcast signals.

*Owner* shall mean any person (as defined in Code of the City of Fort Collins Section 1-2) whose name appears on the tax bill for the property or who, alone or jointly or severally with others, has legal title to any dwelling or dwelling unit, with or without actual possession thereof, or has charge, care or control of any dwelling or dwelling unit as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or assignee of rents. *Owner* shall not include any person who holds only a security interest or easement on the real property upon which the dwelling or dwelling unit is situated.

*Parking garage* shall mean an off-street parking area within a building.

*Parking lot* shall mean off-street parking area or vehicular use area.

*Parking structure* shall mean any building containing motor vehicle parking that is a principal use, with or without any additional uses.

*Parks, recreation and open lands* shall mean natural areas as described in the Natural Areas Policy Plan, parks and recreation facilities as described in the Parks and Recreation Policy Plan whether such facilities are owned or operated by the City or by another not-for-profit organization, environmental interpretation facilities, outdoor environmental research or education facilities, or public outdoor places.

*Party-in-interest* shall mean a person who or organization that has standing to appeal the final decision of the decision maker. Such standing to appeal shall be limited to the following:

(A) The applicant;

(B) Any party holding a proprietary or possessory interest in the real or personal property which was the subject of the decision of the decision maker whose action is to be appealed;

(C) Any person to whom or organization to which the City mailed notice of the hearing of the decision maker;

(D) Any person who or organization which sent written comments to the decision maker prior to the action which is to be appealed;

(E) Any person who appeared before the board or commission at the hearing on the action that is to be appealed;

(F) The City Council as represented by the request of a single member of the City Council.

*Passive open space* shall mean land area devoted exclusively to activities such as walking, nature walks, wildlife observation, sitting, picnicking, card games, chess, checkers and similar table games, which space may be used in conjunction with buffer yards.

*Pedestrian frontage* shall mean an area abutting a connecting walkway, developed to provide continuous safety, interest and comfort for people walking or sitting; pedestrian frontage shall consist of building faces, site design features and/or landscape areas on one (1) or both sides, and not parking stalls on both sides.

*Pedestrian-oriented development* shall mean development that is designed with a primary emphasis on the street sidewalk and/or connecting walkway access to the site and building, rather than on auto access and parking lots. In *pedestrian-oriented developments*, buildings are typically placed relatively close to the street and the main entrance is oriented to the street sidewalk or a walkway. Although parking areas and garages may be provided, they are not given primary emphasis in the design of the site.

*Pedestrian scale (human scale)* shall mean the proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.

*Pennant* shall mean a narrowing or tapering flag or similar shape that is two (2) square feet in size or less, that is repeated along a common line and is not attached to a flag pole.

*Personal and business service shops* shall mean shops primarily engaged in providing services generally involving the care of the person or such person's apparel or rendering services to business establishments such as laundry or dry-cleaning retail outlets, portrait/photographic studios, beauty or barber shops, employment service, or mailing or copy shops.

*Place* shall mean a minor way used primarily for vehicular access to the abutting properties, provided that no *place* shall have a greater length than three hundred fifty (350) feet, and provided further that no *place* shall provide access to more than fifteen (15) lots, and provided further that no discontinuous *place* (cul-de-sac) shall provide access to more than fifteen (15) dwelling units.

*Place of worship or assembly* shall mean a building containing a hall, auditorium or other suitable room or rooms used for the purpose of conducting religious or other services or meetings of the occupants of such structure. *Places of worship or assembly* shall include churches, synagogues or the like, but shall not include buildings used for commercial endeavors, including, but not limited to, commercial motion picture houses or stage productions.

*Planned Unit Development (PUD) Overlay* shall mean an area of land approved for development pursuant to a PUD Comprehensive Plan under Division 2.6.3. An approved PUD Overlay overlays the PUD Comprehensive Plan entitlements and restrictions upon the underlying zone district requirements.

*Planned Unit Development (PUD) Comprehensive Plan* shall mean an approved plan for development of an area within an approved PUD Overlay, which identifies the general intent of the development and establishes vested uses, densities and certain modification of development standards. An approved PUD Comprehensive Plan substitutes for the requirement for an Overall Development Plan. A PUD Comprehensive Plan is considered a site specific development plan solely with respect to vested property rights regarding specific uses, densities, Land Use Code development standards, and variances from Engineering Design Standards granted pursuant to Division 2.6.3(K).

*Planning and Zoning Commission review* shall mean review by the Planning and Zoning Commission in accordance with the provisions in Article 6. Also known as Type 2 review.

*Plant nursery and greenhouse* shall mean any land or structure used primarily to raise trees, shrubs, flowers or other plants for sale or for transplanting and may include the sale of nonliving landscape and decorating products.

*Plat* shall mean:

(A) a map of a subdivision;

(B) a map of a parcel or parcels contained within an annexation;

(C) a map representing a tract of land showing the boundaries and location of individual properties and streets.

*Plugging and abandonment* shall mean the cementing of a well, the removal of its associated production facilities, the abandonment of its flowline(s), and the remediation and reclamation of the wellsite.

*Pole cover* shall mean a durable, permanent decorative cover that encloses the structural supports of a detached sign. The phrase "pole cover" does not include paints, stains, powder coating, or other finishes that are applied directly to the structural supports.

*Potable water* shall mean water, also known as drinking water, that is treated to levels which meet state and federal standards for human consumption.

*Primary residence* shall mean the dwelling unit in which a person resides for nine (9) or more months of the calendar year. Under this definition, a person has only one (1) primary residence at a time.

*Principal building entrance*, for purposes Division 5.16 only, shall mean a street-level primary point of public pedestrian access into a building. The phrase "principal building entrance" does not include doors used principally as emergency exits, or doors that provide restricted access (e.g., for employees or deliveries).

*Print shop* shall mean an establishment in which the principal business consists of duplicating and printing services using photocopy, blueprint or offset printing equipment, and may include the collating of booklets and reports.

*Private drive* shall mean a parcel of land not dedicated as a public street, over which a private easement for road purposes has been granted to the owners of property adjacent thereto, which intersects or connects with a public or private street, and where the instrument creating such easement has been recorded in the Office of the Clerk and Recorder of Larimer County. A *street-like private drive* is a type of private drive that may be used instead of a street under the provisions of Section 5.4.6(M).

*Private driveway* shall mean the area of a platted lot that is specifically designed for the parking and movement of the vehicles of the property owner and that generally leads directly to a garage, carport or other such structure. Such area shall not include the area of a private street or private drive, except that a private driveway may be shared between two (2) abutting platted lots.

*Private street* shall mean a parcel of land not dedicated as a public street, over which a public access easement for street purposes has been granted to the City, and where the instrument creating such easement has been recorded or filed in the Office of the Clerk and Recorder of Larimer County. The public access easement shall allow for access by police, emergency vehicles, trash collection and other service vehicles, utility owners and the public in general.

*Professional office* shall mean an office for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants or others who through training are qualified to perform services of a professional nature and where no storage or sale of merchandise exists.

*Property*, for the purposes of Division 5.16 only, shall mean the real property owned or controlled by the applicant for a sign permit or alternative sign program. Property may be a single lot or parcel, or may be a combination of abutting lots or parcels that will be bound by the approval.

*Property frontage*, for purposes of Division 5.16 only, shall mean the length of a front, side, or rear property line that abuts a public street right-of-way.

*Property manager* shall mean any person, group of persons, company, firm or corporation charged with the care and control of rental housing as defined in Section 5-236 of the City Code who performs services with respect to such rental housing under a contract with the owner thereof or who otherwise acts as representative of an owner with respect to such rental housing.

*Public highway* shall have the meaning set forth in § 38-5.5-102, Colorado Revised Statutes.

*Public use* shall mean any use intended to be conducted in a facility or upon land that is owned by and operated for public use by school districts or by city, county, state or federal governments.

*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.

*Qualified Preservation Partner (QPP)* shall mean an organization that has applied to, and been selected by, the City for inclusion on the list of entities that will qualify as an eligible buyer for affordable home ownership projects as defined under *affordable housing unit for purchase*. To be a QPP the organization shall agree that the homes purchased will be affordable for a time period prescribed by the City upon purchase as an Eligible Buyer and that it will promptly convey the property to a natural person who qualifies as an Eligible Buyer pursuant to the terms of the restricted home ownership program.

*Rare, threatened or endangered species* shall mean those species of wildlife and plants listed by the Colorado Parks and Wildlife Division, the Colorado Natural Heritage Program, or the U.S. Fish and Wildlife Service as rare, threatened or endangered.

*Reclamation* shall mean the process of returning or restoring the surface of disturbed land to its condition prior to development.

*Recreational space* shall mean privately owned space that is designed for active recreational use for more than three (3) families and that meets either of the following criteria:

(A) Active open space. A parcel of not less than ten thousand (10,000) square feet and not less than fifty (50) linear feet in its smallest dimension, where no public dedication has contributed to its area. Such open space areas may include areas devoted to flood control channels or areas encumbered by flowage, floodway or drainage easements.

(B) Active indoor space. Recreational facilities or structures, and their accessory uses, that are located in city approved areas, including, but not limited to, game rooms, swimming pools, gymnasiums, bowling alleys, exercise rooms or tennis or racquetball courts; provided, however, that the residents of the projects for which such facilities are planned must automatically be members of such facilities without additional charge.

*Recreational vehicle, boat and truck storage* shall mean the renting of space in an unroofed area for the purpose of storing any recreational vehicle, boat or truck. For the purposes of this definition, a *recreational vehicle* shall be a transportable structure that is primarily designed as a temporary living accommodation for recreational, camping and travel use, including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

*Recyclable material* shall mean reusable material, including, but not limited to, metals, glass, plastic and paper, that are intended for reuse or reconstitution for the purpose of using the altered form. *Recyclable material* shall not include refuse or hazardous materials.

*Recycling facility* shall mean a building or land used for the collection and/or processing of recyclable material. *Processing* shall mean the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning. Such a facility, if entirely enclosed within a building or buildings, shall be considered a warehouse.

*Redevelopment* shall mean the intensification of use of existing buildings and/or development sites, building rehabilitation, or removal or demolition of existing buildings, followed promptly by construction of replacement buildings.

*Regional shopping center* shall mean a cluster of retail and service establishments designed to serve consumer demands from the community as a whole or a larger area. The primary functional offering is at least one (1) full-line department store. The center also includes associated support shops that provide a variety of shopping goods including general merchandise, apparel and home furnishings, as well as a variety of services, and perhaps entertainment and recreational facilities.

*Research laboratory* shall mean a building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products except as incidental to the main purpose of the laboratory.

*Resource extraction, processes and sales* shall mean removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, exposed or submerged, but does not include oil and gas operations.

*Resource recovery* shall mean the process of obtaining materials or energy, particularly from solid waste.

*Restaurant, drive-in* (also known as *Restaurant, drive-thru*) shall mean any establishment in which the principal business is the sale of foods and beverages to the customer in a ready-to-consume state and in which the design or principal method of operation of all or any portion of the business is to allow food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

*Restaurant, drive-thru:* See *Restaurant, drive-in*.

*Restaurant, fast food* shall mean any establishment in which the principal business is the sale of food and beverages to the customer in a ready-to-consume state, and in which the design or principal method of operation includes all of the following characteristics:

(A) food and beverages are usually served in edible containers or in paper, plastic or other disposable containers; and

(B) there is no drive-in facility as a part of the establishment.

*Restaurant, limited mixed-use* shall mean any establishment in which the principal business is the sale of food and beverages to the customer in a ready-to-consume state, and in which the design or principal method of operation includes all of the following characteristics:

(A) food and beverages are usually served in edible containers or in paper, plastic or other disposable containers;

(B) there is no drive-in or drive-through facility as a part of the establishment;

(C) the establishment is contained within or physically abuts a multi-unit dwelling;

(D) the establishment is clearly subordinate and accessory to a multi-unit dwelling;

(E) the establishment shall not exceed one thousand five hundred (1,500) feet in gross leasable floor area;

(F) the establishment shall not engage in serving alcohol; and

(G) the establishment shall not engage in the playing of amplified music.

*Restaurant, standard* shall mean any establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state; where fermented malt beverages, and/or malt, special malt or vinous and spirituous liquors may be produced on the premises as an accessory use; and where the design or principal method of operation includes one (1) or both of the following characteristics:

(A) customers are served their food and/or beverages by a restaurant employee at the same table or counter at which the items are consumed; or

(B) customers are served their food and/or beverages by means of a cafeteria-type operation where the food or beverages are consumed within the restaurant building.

*Retail establishment (also known as retail store)* shall mean an establishment of twenty-five thousand (25,000) square feet or less of gross leasable floor area in which sixty (60) percent or more of the gross floor area is devoted to the sale or rental of goods, including stocking, to the general public for personal or household consumption or to services incidental to the sale or rental of such goods.

*Retail marijuana cultivation facility* shall mean an entity licensed to cultivate, prepare and package marijuana, and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities and to other marijuana cultivation facilities, but not to consumers.

*Retail marijuana product manufacturing facility* shall mean an entity licensed to purchase marijuana; manufacture, prepare and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

*Retail marijuana store* shall mean an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

*Retail marijuana testing facility* shall mean an entity licensed to analyze and certify the safety and potency of marijuana as defined in Section 16(2)(1) of Article XVIII of the Colorado State Constitution.

*Retail stores with vehicle servicing* shall mean an establishment in which vehicle parts are sold and are ordinarily installed on the premises, and where the majority of the floor area of the establishment is devoted to the installation and maintenance of such parts (e.g., tire shops and muffler shops).

*Revegetation* shall mean restoration and mitigation measures for a disturbed natural area or buffer zone in accordance with the requirements of LUC subsections 5.6.1(D)(2) and 5.10.1(F).

*Reverse vending machine* shall mean an automated mechanical device that accepts one (1) or more types of empty beverage containers, including, but not limited to, aluminum cans, glass or plastic bottles; and that issues a cash refund or a redeemable credit. A *reverse vending machine* may be designed to accept more than one (1) container at a time, paying by weight instead of by container.

*Rider* shall mean a subordinate sign panel that is attached to a swing sign, either above the horizontal member or below the principal sign face. To illustrate, but without limiting the range of messages that a rider may convey, if the swing sign is used to advertise a property as "for sale," a rider is often used to convey a related message such as "contract pending."

*Ridgeline protection area* shall mean the area described and established pursuant to Section 5.6.1(G).

*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.

*River* shall mean the Cache la Poudre River unless the context indicates a general meaning.

*School facility* shall mean any discrete facility or area, whether indoor or outdoor, associated with a public or private school, that students use commonly as part of their curriculum or extracurricular activities. A school facility is either adjacent to or owned by the school or school governing body, and the school or school governing body has the legal right to use the school facility at its discretion. The definition includes future school facility as defined by the ECMC.

*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.

*Seasonal overflow shelters* shall mean a homeless shelter that allows homeless persons to stay on its premises overnight from the beginning of November through the end of April, unless, because of inclement weather, specific and limited exceptions to such seasonal limitations are granted by the Director. Community based shelter services are exempt from this definition.

*Semipublic use* shall mean uses operated by recognized religious, philanthropic, educational or other charitable institutions on a nonprofit basis and in which goods, merchandise and services are not provided for sale on the premises.

*Sensitive or specially valued species* shall mean species included on the City of Fort Collins Species of Interest List, as developed and updated by the Natural Areas Department.

*Services* shall mean the programs and employees determined necessary by the city to provide for the adequate operation and maintenance of its public facilities and infrastructure, including, but not limited to, those educational, healthcare, social and other programs necessary to support the programs, public facilities and infrastructure required by this Land Use Code, the City Code, the policies and administrative manuals promulgated pursuant thereto, or state or federal law.

*Shared parking* shall mean required parking that is provided both on-site and in a municipal parking lot or a private lot constructed and located in accordance with the requirements of the city, where the same parking spaces are assigned to more than one (1) use at one (1) time.

*Shelters for victims of domestic violence* shall mean a residential facility operating twenty-four (24) hours per day and seven (7) days per week, the purpose of which facility is to receive, house, counsel and otherwise serve victims of domestic violence, as that term is defined in Section 18-6-800.3, C.R.S. and their dependents. Such facility may also include day care, professional, administrative and security staff.

*Short term non-primary rental* shall mean a dwelling unit that is not a primary residence and that is leased in its entirety to one (1) party at a time for periods of less than thirty (30) consecutive days. The term party as used in this definition shall mean one (1) or more persons who as a single group rent a short term non-primary rental pursuant to a single reservation and payment. The term short term non-primary rental shall not include the rental of a dwelling unit to the former owner immediately following the transfer of ownership of such dwelling unit and prior to the former owner vacating the dwelling unit. Short term non-primary rental is a distinct use from short term primary rental under the Land Use Code.

*Short-term parking* shall mean customer parking that has regular turnover. Parking that is intended to serve a retail business and provide access to commercial activity is short-term parking.

*Short term primary rental* shall mean a dwelling unit that is a primary residence of which a portion is leased to one (1) party at a time for periods of less than thirty (30) consecutive days. The term party as used in this definition shall mean one (1) or more persons who as a single group rent a short term primary rental pursuant to a single reservation and payment. An accessory dwelling unit that is not a primary residence is eligible to be a short term primary rental if it is located on a lot containing a primary residence. A dwelling unit of a two-unit dwelling that is not a primary residence is eligible to be a short term primary rental if the connected dwelling unit is a primary residence and both dwelling units are located on the same lot. The term short term primary rental shall not include the rental of a dwelling unit to the former owner immediately following the transfer of ownership of such dwelling unit and prior to the former owner vacating the dwelling unit. Short term primary rental is a distinct use from short term non-primary rental under the Land Use Code.

*Side alley*, for purposes of Section 5.8.1 only, shall mean a minor way used primarily for vehicular or pedestrian access to the side, rather than the rear, of a historic resource. On a corner where a historic resource and a development site are divided by a single alley that serves as a side alley for the historic resource and a rear alley for the development site, the alley shall be considered a side alley.

*Sign* shall mean any writing (including letter, word or number), pictorial representation (including illustration or declaration), product, form (including shapes resembling any human, animal or product form), emblem (including any device, symbol, trademark, object or design that conveys a recognizable meaning, identity or distinction) or any other figure of similar character that is a structure or any part thereof or is written, painted, projected upon, printed, designed into, constructed or otherwise placed on or near a building, board, plate or

upon any material object or device whatsoever, that by reason of its form, location, manner of display, color, working, stereotyped design or otherwise attracts or is designed to attract attention to the subject or to the premises upon which it is situated, or is used as a means of identification, advertisement or announcement. The term *sign* shall not include the following:

(A) Window displaying merchandise or products;

(B) Works of art that do not include commercial speech, such as branding;

(C) Products, merchandise or other materials that are offered for sale or used in conducting a business, when such products, merchandise, or materials are kept or stored in a location that is designed and commonly used for the storage of such products, merchandise or materials; and

(D) Any display that would otherwise be considered a sign, but that has been found by the Landmark Preservation Commission to be an integral part of a building that is designated as an historic landmark, and the display is a contributing feature of the historic character of such building. Sign face means the surface area of a sign that is designed for placement of text, symbols, or images. The sign face does not include the supporting structure, if any, unless the supporting structure is used for the display of text, symbols, or images. For wall signs, the sign face is equal to the sign area of the wall sign, or the area within any frame or color used to define, differentiate, or mount the wall sign, whichever is larger.

*Sign, abandoned* shall mean a sign that does not contain a message, or contains a commercial or event-based message that is obviously obsolete (*e.g.*, the name of a business that is no longer operational, or an advertisement for an event that has already occurred), for a continuous period of sixty (60) days or more.

*Sign, applied or painted* shall mean a type of wall sign that is applied to or painted on a building wall, such that the sign appears flush with, or within not more than one (1) inch of, the surface of the wall.

*Sign, attached* shall mean a flush wall sign, a window sign, a roof sign, or a projecting sign.

*Sign, awning* shall mean a sign that is painted on, integrated into, or attached to an awning. For the purposes of this definition, an awning is a projection from the building that is supported entirely from the exterior wall of the building, and that gives shelter from the sun or weather over doors, windows, or storefronts. An awning is different from a canopy in that an awning is covered with fabric or other flexible material.

*Sign, cabinet* shall mean a type of sign composed of a frame or external structure with a box-like design that encloses a sign face and other functional elements of the sign, including dimensional or electrical components.

*Sign, canopy* shall mean a type of sign with one face affixed to a canopy. For the purposes of this definition, a canopy is an attached or detached structure, open on at least one side, that is designed to provide overhead shelter from the sun or weather. Canopies include, but are not limited to, service station canopies, carports, porte-cochères, arcades, and pergolas. A canopy is different from an awning in that a canopy is not covered with fabric or flexible material.

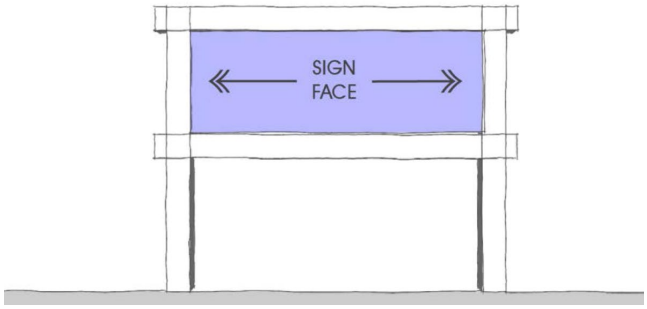
*Sign, detached* shall mean a sign that is not attached to or located inside of a building.

*Sign, dimensional wall* shall mean a three-dimensional sign that is attached to building wall, such that the elements of the sign do not extend more than eight (8) inches from the building wall. Dimensional wall signs include but are not limited to channel lettering.

Illustrative Dimensional Wall Sign

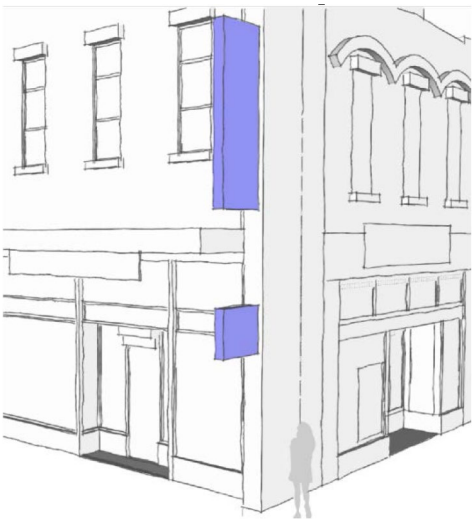
*Sign face* shall mean the surface area of a sign that is designed for placement of text, symbols, or images. The sign face does not include the supporting structure, if any, unless the supporting structure is used for the display of text, symbols, or images. For wall signs, the sign face is equal to the sign area of the wall sign, or the area within any frame or color used to define, differentiate, or mount the wall sign, whichever is larger.

Illustrative Sign Face




*Sign, fin* shall mean a projecting sign that is mounted on or affixed to a building wall, such that the sign face is generally perpendicular to the building wall. In addition to the wall mount or mounts, a fin sign may include ground-mounted support structures.

Illustrative Fin Signs



*Sign, flush wall* shall mean any sign attached to, painted on or erected against the wall of a building in such a manner that the sign face is parallel to the plane of the wall and is wholly supported by the wall. Framed banners attached directly to the building fascia are considered to be a type of flush wall sign. Unframed banners attached directly to the building fascia are not considered to be flush wall signs and shall be subject to the banner regulations contained in Section 5.16.2.

*Sign, freestanding* shall mean a detached sign that is supported by one (1) or more columns, uprights, poles or braces extended from the ground or from an object on the ground, or a detached sign that is erected on the ground, provided that no part of the sign is attached to any part of any building, structure or other sign.

*Sign, ground* shall mean a type of freestanding sign that is erected on the ground and that contains no more than twenty (20) percent total free air space. Free air space shall mean any open area between the top of the sign and the ground, vertically, and between the extreme horizontal limits of the sign extended perpendicular to the ground.

*Sign, hanging* shall mean a sign that is mounted under an awning or canopy as such terms are defined above, or under a cantilevered portion of a building. Generally, hanging signs are oriented perpendicular to the building wall.

*Sign, illegal* shall mean any sign that was erected in violation of the City Code at the time of its erection and has never been in conformance with the City Code, including this Land Use Code and that shall include signs that are posted, nailed or otherwise fastened or attached to or painted upon structures, utility poles, trees, fences or other signs.

*Sign, individual letter* shall mean a type of flush wall sign consisting of individual letters, incised letters, script or symbols with no background material other than the wall of the building to which the letters, script or symbols are affixed.

*Sign, inflatable* shall mean a sign that is constructed from an envelope flexible material that is given shape and/or movement by inflation. The phrase inflatable sign does not include balloons that are less than eighteen (18) inches in all dimensions.

*Sign, interactive window* shall mean one (1) or more illuminated screens that are displayed inside storefront windows that can be programed to allow customers to navigate content interactively from outside the window.

*Sign, legal nonconforming* shall mean any sign that was lawful and nonconforming under prior law on the day before the effective date of this Land Use Code or subsequent amendment thereof.

*Sign, marquee* shall mean a projecting sign that is designed as a canopy structure, which includes a combination of permanent lettering or graphics and either manual changeable copy or electronic message center components.

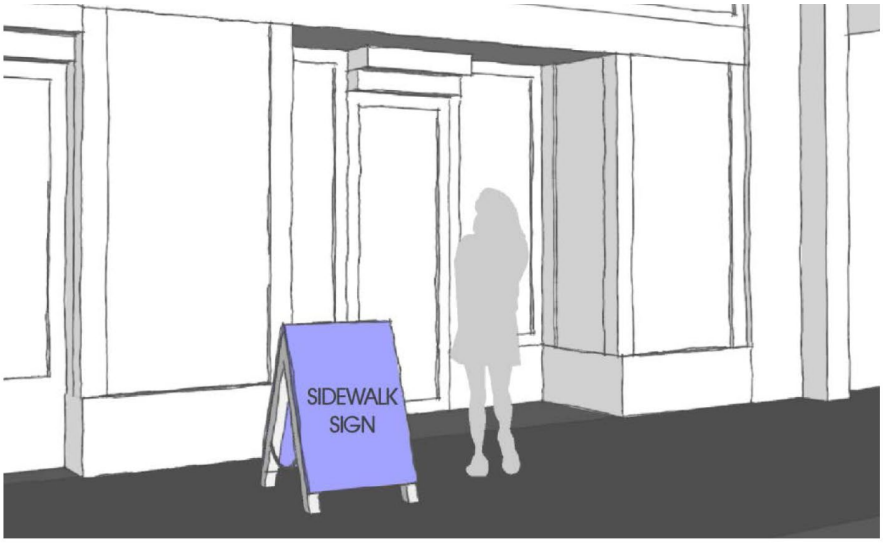
*Sign, off-premise* shall mean a sign or billboard that is used or intended for use to advertise, identify, direct or attract the attention of the public to a business, institution, product, organization, event or location offered or existing elsewhere than upon the same lot, tract or parcel of land where such sign or billboard is displayed.

*Sign, optional residential* shall mean a wall sign, affixed to a residential building on a street-facing elevation, with a single sign face that does not exceed four (4) square feet in area.

*Sign, permanent* shall mean a durable sign that is mounted or affixed for long-term use, not easily removed, and resistant to weather and other wear and tear.

*Sign, portable* shall mean a sign that is designed to be easily moved from one location to another, and when placed, is neither fastened to a permanent structure or building, nor staked or otherwise installed into the ground.

Illustrative Portable Sign




*Sign, primary detached* shall mean a detached sign that is visually dominant over other detached signs on the same property, due to its taller height and/or larger sign area.

*Sign, primary fin* shall mean a fin sign that is visually dominant over other fin signs on the same building, due to its taller height and/or larger sign area.

*Sign, projected light* shall mean any image, text, or other content that is projected onto an outdoor surface (e.g., a building wall or sidewalk) by a laser projector, video projector, video mapping, or other comparable technology, in a location such that the image, text, or content is obviously visible from outside of the premises.

*Sign, projecting* shall mean a type of attached sign that extends from a building wall, usually perpendicular to the wall's surface. Projecting signs include awning signs, fin signs, marquee signs, and hanging signs.

*Sign, projecting wall* shall mean any sign other than a flush wall sign that projects from and is supported by a wall or a building.

*Sign, required* shall mean a sign that is required by an applicable building code (e.g., address numbers) or health and safety regulations (e.g., the Occupational Safety and Health Act ("OSHA") or other laws or regulations, whether such sign is temporary or permanent.

*Sign, roof* shall mean a type of attached sign that is mounted onto a building's roof structure.

*Sign, rooftop* shall mean a sign erected upon or above a roof or above a parapet wall of a building.

*Sign, secondary detached* shall mean a detached sign that is subordinate to a primary detached sign in terms of height and/or sign area.

*Sign, secondary fin* shall mean a fin sign that is subordinate to a primary fin sign in terms of height and/or sign area.

*Sign, secondary roof* shall mean a sign that is mounted upon the horizontal plane of a flat roof structure of secondary roof of a building, which may include the roof of a canopy or porte-cochère that is attached to a building.

*Sign side* shall mean the combination of all faces or modules of a freestanding or ground sign that can be viewed from a single direction, except when such sign faces or modules are separated by an angle of more than two hundred seventy (270) degrees.

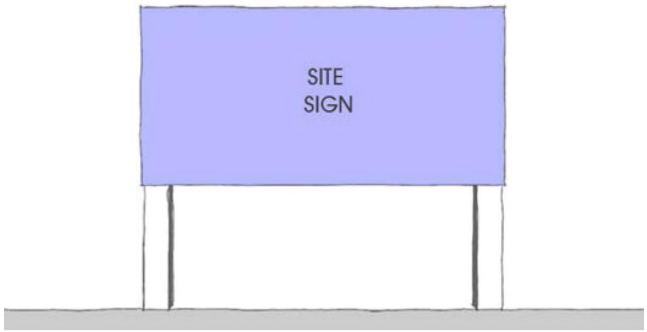
*Sign, sidewalk* shall mean a type of portable sign that is designed to be placed upon a hard surface in order to attract the attention of pedestrians.

**Illustrative Sidewalk Sign**

*Sign, under-canopy* shall mean a sign that is located beneath a permanent-roofed shelter covering a sidewalk, driveway or other similar area, which shelter may be wholly supported by a building or may be wholly or partially supported by columns, poles or braces extended from the ground.

*Sign, site* shall mean a type of temporary sign that is constructed of vinyl, plastic, wood, metal, or other comparable rigid material, that is displayed on a structure that includes at least two (2) posts.

Illustrative Site Sign




*Sign, swing* shall mean a type of temporary sign that is suspended from a horizontal swing post that is attached to a post that is staked into the ground. Swing signs may include riders that are mounted to the swing post or suspended under the sign panel.

*Sign, temporary* shall mean a sign that is designed or intended to be displayed for a short period of time.

*Sign, vehicle-mounted* shall mean any sign that is painted on, affixed to or otherwise mounted on any vehicle or on any object that is placed on, in or attached to a vehicle. For the purposes of this definition, the term vehicle shall include trucks, buses, vans, railroad cars, automobiles, tractors, trailers, motor homes, semi-

tractors or any other motorized or nonmotorized transportational device, whether or not such vehicle is in operating condition.

*Sign, wall* shall mean a sign that is painted on, applied to, or affixed to a building wall. Wall signs include applied or painted signs, bulletin boards, cabinet signs, and dimensional wall signs.

*Sign, wind-driven* shall mean any sign consisting of one (1) or more banners, flags, pennants, ribbons, spinners, streamers, captive balloons, inflatable signs, or other objects or material fastened in such a manner as to move, upon being subjected to pressure by wind or breeze.

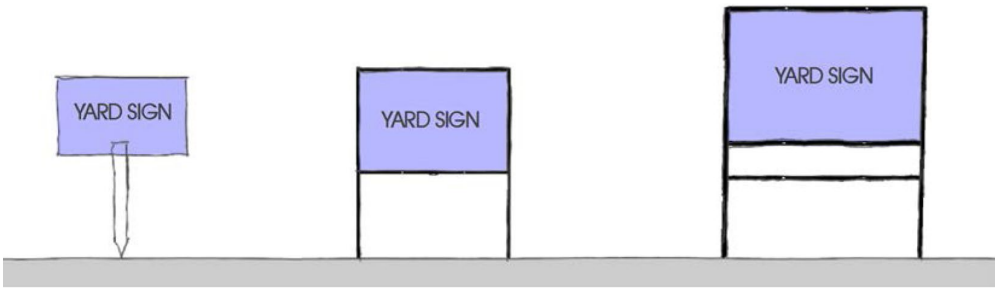
*Sign, window* shall mean a sign that is painted on, applied or attached to a window or door, or located within three (3) feet of the interior of the window or door and is visible from the exterior of the building.

*Sign with backing* shall mean any sign that is displayed upon, against or through any material or color surface or backing that forms an integral part of such display and differentiates the total display from the background against which it is placed.

*Sign without backing* shall mean any word, letter, emblem, insignia, figure or similar character or group thereof that is neither backed by, incorporated in nor otherwise made a part of any larger display area.

*Sign, yard* shall mean a type of temporary sign that is constructed of paper, vinyl, plastic, wood, metal or other comparable material, that is mounted on a stake or a frame structure (often made from wire) that includes one (1) or more stakes.

Illustrative Yard Signs




*Site*, for purposes of Section 5.8.1 only, shall mean the location of a significant event, a prehistoric or historic occupation or activity or a structure or object whether standing, ruined or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

*Site,* for the purposes of Section 4.3.5(H) only, shall mean that area comprising the base of a City-owned structure on which is mounted wireless communication equipment subject to this Code 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.

*Site specific development plan* shall mean and be limited to a final plan as approved pursuant to this Land Use Code, including a plan approved pursuant to basic development review; or, under prior law in effect on the day before the effective date of this Land Use Code, any of the following: the final plan; the final subdivision plat; a minor subdivision plat; cluster development plans; group home review; a PUD Comprehensive Plan for the purpose of acquiring a vested property right with respect to uses, densities, development standards and engineering standards for which variances have been granted pursuant to Section 2.6.3(K); and a development agreement in connection with a PUD Comprehensive Plan that grants a vested property right for a period exceeding three (3) years. In addition, a site specific development plan shall mean a final plan or plat

that was approved by Larimer County for property that, at the time of approval, was located in the county but has been subsequently annexed into the city. All references to districts or sections herein pertain to the law in effect on the day before the effective date of this Land Use Code and which is repealed by the adoption of this Land Use Code.

*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.

*Small scale reception center* shall mean a place of assembly that may include a building or structure containing a hall, auditorium, a structure for housing such events (barns are the new rage) or ballroom used for celebrations or gatherings (such as weddings, graduations or anniversaries) for which the owner receives compensation for the use. The building or structure may also include meeting rooms and facilities for serving food. Outdoor spaces such as lawns, plazas, gazebos and/or terraces used for social gatherings or ceremonies are a common component of the center. A small scale reception center shall not include sporting events or concerts.

*Solar energy system* shall mean a system of solar collectors and other equipment that relies upon sunshine as an energy source and is capable of collecting, distributing and storing (if appropriate to the technology) the sun's radiant energy. A *solar energy system* includes, but is not limited to, ground-mounted and building-mounted photovoltaic, solar thermal or solar hot water panels, and light pole and electric charging station-mounted solar panels. Solar energy systems may be considered accessory uses to other uses on a lot, or principal uses if located on vacant lots.

*Solar energy system, large-scale* shall mean a solar energy system covering more than five (5) acres.

*Solar energy system, medium-scale* shall mean a solar energy system covering between one half (0.5) acre and five (5) acres.

*Solar energy system, small-scale* shall mean a solar energy system covering less than one-half (0.5) acre.

Solar-oriented lot shall mean:

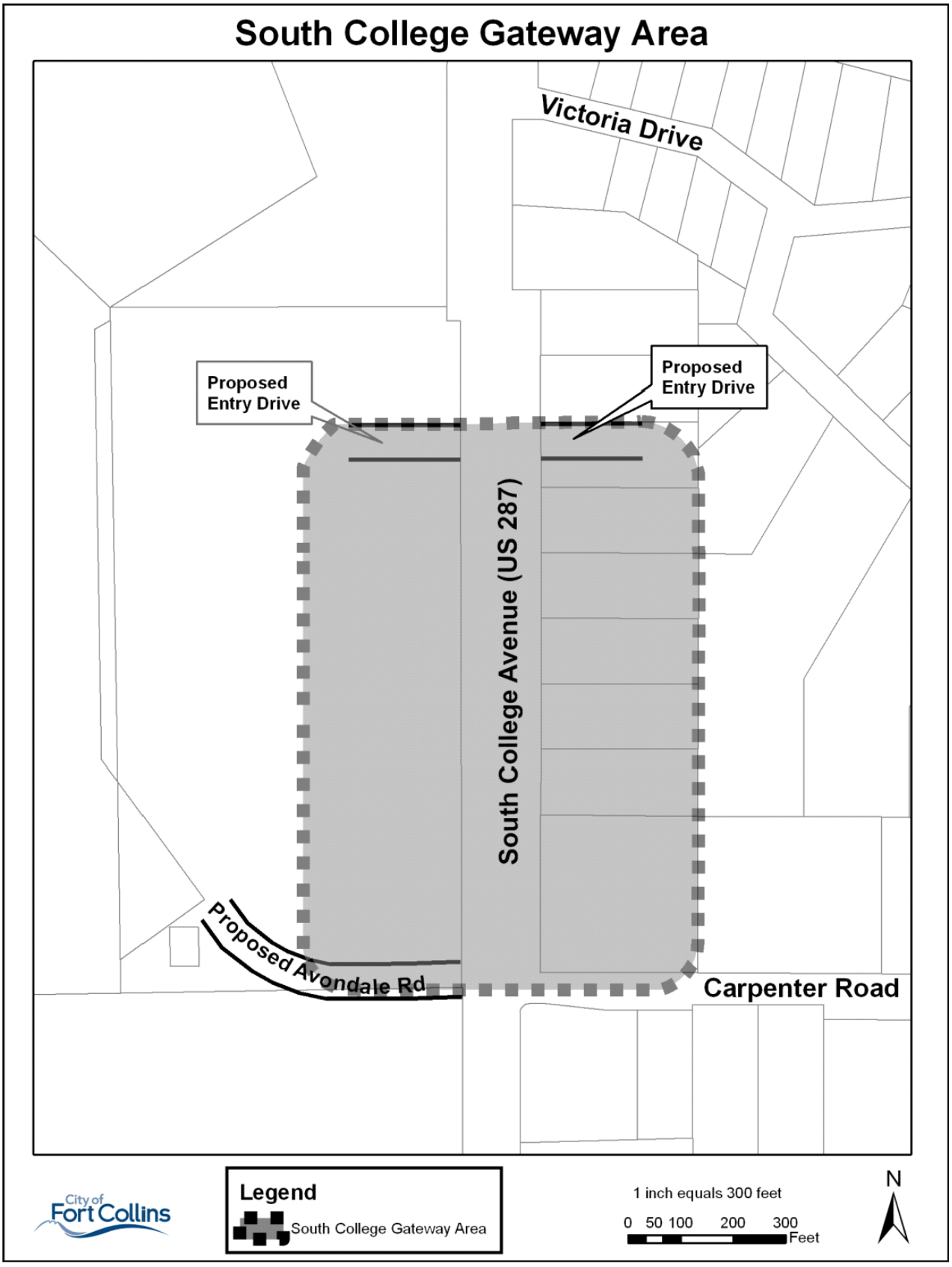
(A) A lot with a front lot line oriented to within thirty (30) degrees of a true east-west line. When the lot line abutting a street is curved, the "front lot line" shall mean the chord or straight line connecting the ends of the curve. For a flag lot, the "front lot line" shall mean the lot line that is most parallel to the closest street, excluding the "pole portion of the flag lot"; or

(B) A lot that, when a straight line is drawn from a point midway between the side lot lines at the required front yard setback to a point midway between the side lot lines at the required rear yard setback, is oriented to within thirty (30) degrees of true north along said line; or

(C) A corner lot with a south lot line oriented to within thirty (30) degrees of a true east-west line, which south lot line adjoins a public street or permanently reserved open space; provided, however, that the abutting street right-of-way or open space has a minimum north-south dimension of at least fifty (50) feet. For the purposes of this definition, "permanently reserved open space" shall include, without limitation, parks, cemeteries, golf courses and other similar outdoor recreation areas, drainage ditches and ponds, irrigation ditches and reservoirs, lakes, ponds, wetlands, open spaces reserved on plats for neighborhood use and other like and similar permanent open space.

*Solid-to-void pattern* shall mean the area of the façade covered by openings divided by the area of the solid wall, as a measure of the proportion of the area of fenestrations to that of the wall.

*South College Gateway Area* shall mean that area shown on the figure below:



*Special habitat features* shall mean specially valued and sensitive habitat features including key raptor habitat features including nest sites, night roosts and key feeding areas as identified by the Colorado Parks and Wildlife Division ("CPW") or the Fort Collins Natural Areas Department ("NAD"); key production areas, wintering areas and migratory feeding areas for waterfowl; key use areas for wading birds and shorebirds; heron rookeries; key use areas for migrant songbirds; key nesting areas for grassland birds; fox and coyote dens; mule deer winter concentration areas as identified by the CPW or NAD; prairie dog colonies one (1) acre or greater in size; key areas for rare, migrant or resident butterflies as identified by the NAD; areas of high terrestrial or aquatic insect diversity as identified by the NAD; remnant native prairie habitat; mixed foothill shrubland; foothills ponderosa pine forest; plains cottonwood riparian woodlands; and wetlands of any size.

*Specified anatomical areas* shall mean less than completely and opaquely covered human genitals, pubic region, buttocks, female breast or breasts below a point immediately above the top of the areola or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* shall mean:

(A) Human genitals in a state of sexual stimulation or arousal;

(B) Acts of human masturbation, sexual intercourse or sodomy;

(C) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast or breasts.

*Stationary vendor* shall mean an outdoor vendor who is licensed under Article XIV, Chapter 15 of the City Code to engage in stationary vending.

*Stationary vending* shall mean one (1) or more outdoor vendors vending on the same private parcel of land or lot for more than three (3) consecutive calendar days, or for more than three (3) calendar days within any calendar week, defined for purposes of this definition as Sunday through Saturday, and when vending, do so from a mobile food truck, pushcart, or any other vehicle as such terms are defined in Section 15-381 of the City Code.

*Stockpiling* shall mean the act by which soil or similar inorganic material to be used in connection with anticipated development on such parcel of property is deposited on such property. The stockpiling of material is intended to be temporary in terms of the appearance, shape and grade of the material. Stockpiling shall not include activities such as the grading, leveling or compaction of the deposited material or the surrounding ground. *Stockpiling* shall also not include residential landscaping activities.

*Storefront* the front portion of building façade at street level that belongs to one occupant.

*Stormwater criteria manual* shall mean the standards for design, planning, and implementation of practices and improvements to manage stormwater adopted under Chapter 26 of the City Code.

*Street* shall mean a public way (whether publicly or privately owned) used or intended to be used for carrying vehicular, bicycle and pedestrian traffic and shall include the entire area within the public right-of-way and/or public access easement; provided, however, that with respect to the application of Division 5.16, the term *street* shall only mean a dedicated public right-of-way (other than an alley) used or intended to be used for carrying motorized vehicular traffic.

*Street-facing building elevation* shall mean Building Elevation that is oriented toward a public or private street that abuts the property.

*Street sidewalk* shall mean the sidewalk within the right-of-way of a public street designed to the standards specified in the *Larimer County Urban Area Street Standards* or the sidewalk within the public access easement of a private street designed in accordance with the standards specified in subsection 5.4.6(J) of this Code.

*Structure* shall mean a combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water.

*Structures associated with an occupied roof* shall mean improvements to the primary or lowest portion of a roof deck of a structure that may include, but not be limited to, accessory rooftop improvements such as pools, decks, raised planters, outdoor furniture, shade structures, snack bars, televisions, clubhouse or other clubhouse-like elements. *Structures associated with an occupied roof* is not a story as that term is used in this Land Use Code.

*Subdivider* or *developer* shall mean any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

*Subdivision* shall mean the platting of a lot or the division of a lot, tract or parcel of land into one (1) or more lots, plots or sites.

*Substantial change*, for the purposes of Section 4.3.5(H) only, shall mean a modification which, after the modification of an eligible support structure, the structure meets any of the following criteria:

(A) 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;

(B) 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;

(C) 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;

(D) 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.

(E) 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

(F) 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.

*Supermarket* shall mean a retail establishment primarily selling food, as well as other convenience and household goods, that occupies a space of not less than forty-five thousand one (45,001) square feet.

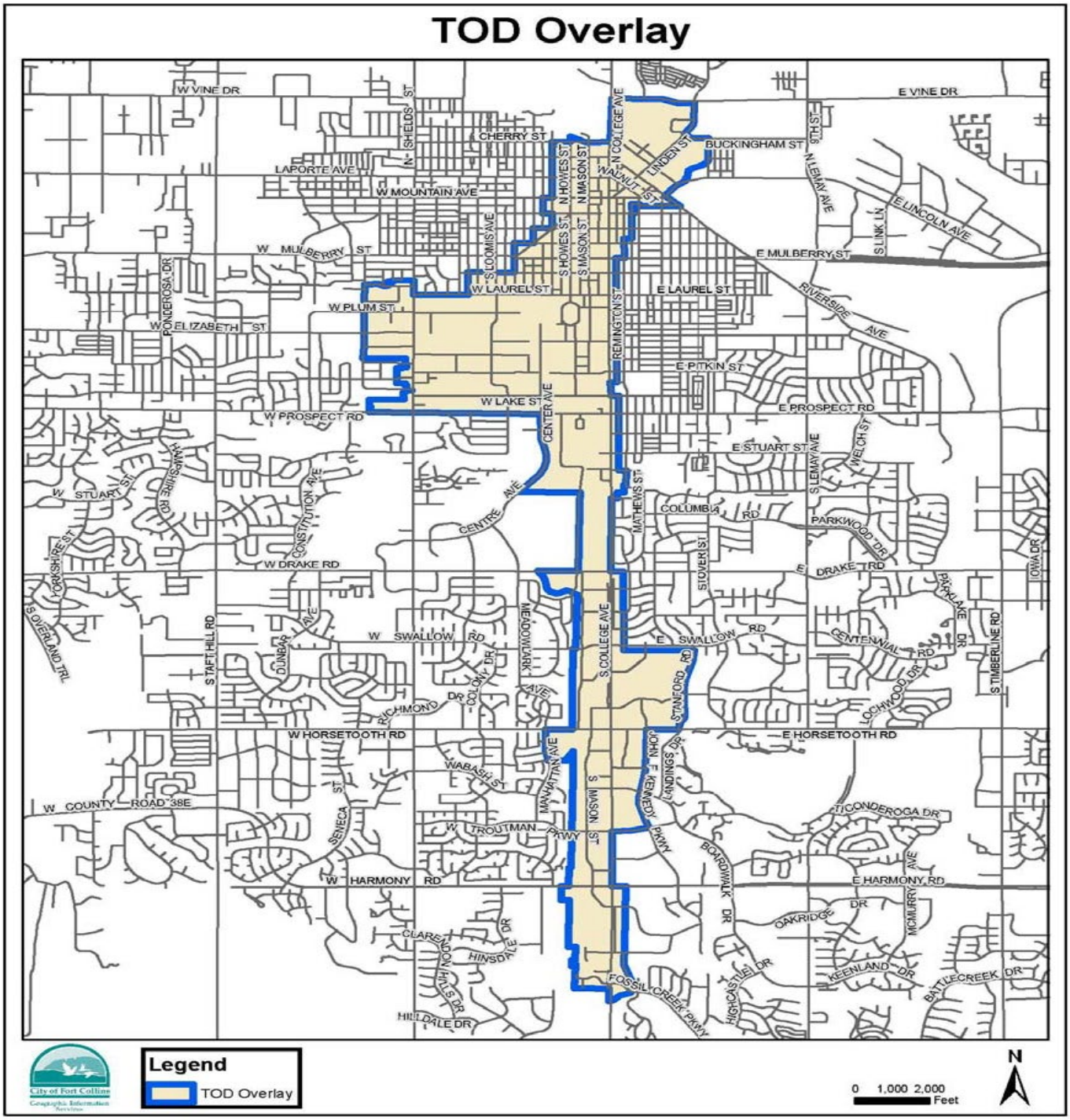
*Temporary seasonal decorations* shall mean decorations and signs that are clearly incidental, customary, and commonly associated with a holiday.

*Temporary sign cover* shall mean a type of temporary sign that is constructed of flexible material, designed to fit over a permanent sign face or mount.

*Top of bank* shall mean the topographical break in slope between the bank and the surrounding terrain. When a break in slope cannot be found, the outer limits of riparian vegetation shall demark the top of bank.

*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.

*Transit-oriented development (TOD)Overlay Zone* shall mean that area shown on the figure below:




*Transit facility* shall mean bus stops, bus terminals, transit stations, transfer points or depots without vehicle repair or storage.

*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.

*Transportation Demand Management* shall mean a comprehensive program utilizing strategies to be implemented that result in more efficient use of transportation and parking resources. These strategies typically include, but are not limited to, transit subsidies, enhanced bicycle facilities, car/vanpool options, and shared parking.

*Tree* shall mean:

(A) any self-supporting woody plant growing upon the earth that usually provides one (1) main trunk and produces a more or less distinct and elevated head with many branches; or
(B) any self-supporting woody plant, usually having a single woody trunk and a potential DBH of two (2) inches or more.

*Tree significant* shall mean any tree with a DBH of six (6) inches or more.

*Truck stop* shall mean an establishment engaged primarily in the fueling, servicing, repair or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers or restaurant facilities primarily for the use of truck crews.

*Truck terminal* shall mean an area or building where cargo or containers are stored and where trucks load and unload cargo or containers on a regular basis. The terminal cannot be used for permanent or long-term accessory storage for principal land uses at other locations. The terminal facility may include storage areas for trucks or buildings or areas for the repair of trucks associated with the terminal.

*Type 1 review* shall mean review by the Director in accordance with the provisions of Article 6. Also known as administrative review.

*Type 2 review* shall mean review by the Planning and Zoning Commission in accordance with the provisions of Article 6.

*Unlimited indoor recreational use and facility* shall mean establishments primarily engaged in operations and activities contained within large-scale gymnasium-type facilities such as for tennis, basketball, swimming, indoor soccer, indoor hockey or bowling.

*Urban agriculture* shall mean gardening or farming involving any kind of lawful plant, whether for personal consumption, sale and/or donation, except that the term *urban agriculture* does not include the cultivation, storage and sale of crops, vegetables, plants and flowers produced on the premises in accordance with Section 4.4.5(A) of this Code. Urban agriculture is a miscellaneous use that does not include plant nursery and greenhouse as a principal use and that is subject to licensing in accordance with Section 4.4.5(D) of this Code.

*Vegetation* shall mean trees, shrubs or vines.

*Vehicle* shall mean a truck, bus, van, railroad car, automobile, tractor, trailer, motor home, recreational vehicle, semi-tractor or any other motorized transportation device, regardless of whether it is in operating condition.

*Vehicle major repair, servicing and maintenance* shall mean any building, or portion thereof, where heavy maintenance activities such as engine overhauls, automobile/truck painting, body or fender work, welding or the like are conducted. Such use shall not include the sale of fuel, gasoline or petroleum products.

*Vehicle minor repair, servicing and maintenance* shall mean the use of any building, land area, premises or portion thereof, where light maintenance activities such as engine tune-ups, lubrication, carburetor cleaning, brake repair, car washing, detailing, polishing or the like are conducted.

*Vehicle rentals for cars, light trucks and light equipment* shall mean the use of any building, land area or other premises for the rental of cars, light trucks and/or light equipment.

*Vehicle rentals for heavy equipment, large trucks and trailers* shall mean the use of any building, land area or other premises for the rental of heavy equipment, large trucks or trailers.

*Vehicle sales and leasing for cars and light trucks* shall mean the use of any building, land area or other premises for the display and sale or lease of any new or used car or light truck, and may include outside storage of inventory, any warranty repair work or other repair service conducted as an accessory use.

*Vehicle sales and leasing for farm equipment, mobile homes, recreational vehicles, large trucks and boats with outdoor storage* shall mean the use of any building, land area or other premises for the display and sale or lease of new or used large trucks, trailers, farm equipment, mobile homes, recreational vehicles, boats and watercraft, and may include the outside storage of inventory, any warranty repair work or other repair service conducted as an accessory use.

*Vested property right* shall mean the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

*Veterinary facilities, hospital* shall mean any facility that is maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases.

*Veterinary facilities, small animal clinic* shall mean any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases wherein the animals are limited to dogs, cats or other comparable household pets and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

*Veterinary facilities, small animal hospital* shall mean any facility that is maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases wherein the animals are limited to dogs, cats or other comparable household pets and wherein the overnight care of said animals is permitted.

*Visibility* shall mean the quality or state of being perceivable by the eye. Visibility may be defined in terms of the distance at which an object can be just perceived by the eye or it may be defined in terms of the contrast or size of a standard test object, observed under standardized view-conditions, having the same threshold as the given object.

*Walkway* shall mean an off-street pedestrian path.

*Warehouse* shall mean a building used primarily for the storage of goods or materials excluding marijuana products.

*Water adequacy determination* shall mean a determination whether the proposed water supply for a development is adequate.

*Water rights portfolio* shall mean all rights to water, including water rights, contracts, and agreements associated with water supplies that are used to meet demands. A water rights portfolio that includes non-renewable or non-perpetual water supplies does not mean that the entire portfolio is not renewable and/or sustainable.

*Water supply entity* shall mean a municipality, county, special district, water conservancy district, water conservation district, water authority, or other public or private water supply entity that supplies, distributes, or otherwise provides water at retail.

*Water supply system* shall mean all infrastructure planned or used to divert and deliver water to a development.

*Where physical conditions permit* shall mean that the development application must comply with the regulation unless the applicant can demonstrate that it is not physically possible to do so due to land form,

sight line requirements, existing trees, utilities, drainage requirements, access requirements or other constraints of the land.

*Wholesale distribution* shall mean a use primarily engaged in the sale and distribution of manufactured products, supplies or equipment, including accessory offices or showrooms, and including incidental retail sales, but excluding marijuana products, bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions, and where the products, supplies or equipment that are distributed from the facility are not used or consumed on the premises. Activities customarily include receiving goods in bulk or large lots and assembling, sorting or breaking down such goods into smaller lots for redistribution or sale to others for resale.

*Wildlife rescue and education center* shall mean a facility that provides shelter services for the rescue and care of injured birds or other wildlife with associated education and research.

*Window transparency* shall mean the surface area of a window that is not covered or obstructed by a sign, such that the visibility through the window in both directions is not blocked by a sign.

*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 Code.

*Working pad surface* shall mean the portion of an oil and gas location that has an improved surface upon which oil and gas facilities are placed.

*Workshop and custom small industry* shall mean a facility wherein goods are produced or repaired by hand, using hand tools or small-scale equipment, including small engine repair, furniture making and restoring, upholstering, custom car or motorcycle restoring or other similar uses.

*Yard* shall mean that portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the district in which the lot is located.

*Yard, front* shall mean a yard extending across the full width of the lot between the front line and the nearest line or point of the building.

*Yard, rear* shall mean a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.

*Yard, side* shall mean a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

*Zero lot line development plan* shall mean a development plan where one (1) or more buildings are placed on lots in such a manner that at least one (1) of the building's sides rests directly on a lot line, as measured from the outer edge of the foundation at the ground line, so as to enhance the usable open space on the lot.

*Zero lot line structure* shall mean a structure with at least one (1) wall conterminous with the lot line, which wall may include footings, eaves and gutters that may encroach onto the abutting lot under the authority of an encroachment and maintenance easement.

*Zone district* shall mean a zone district of the City as established in Article 2 unless the term is used in a context that clearly indicates that the term is meant to include both the zone district(s) of the City and the zone district(s) of an adjoining governmental jurisdiction.

*Zoning Map* shall mean the official zoning map adopted by the City by ordinance, as amended.

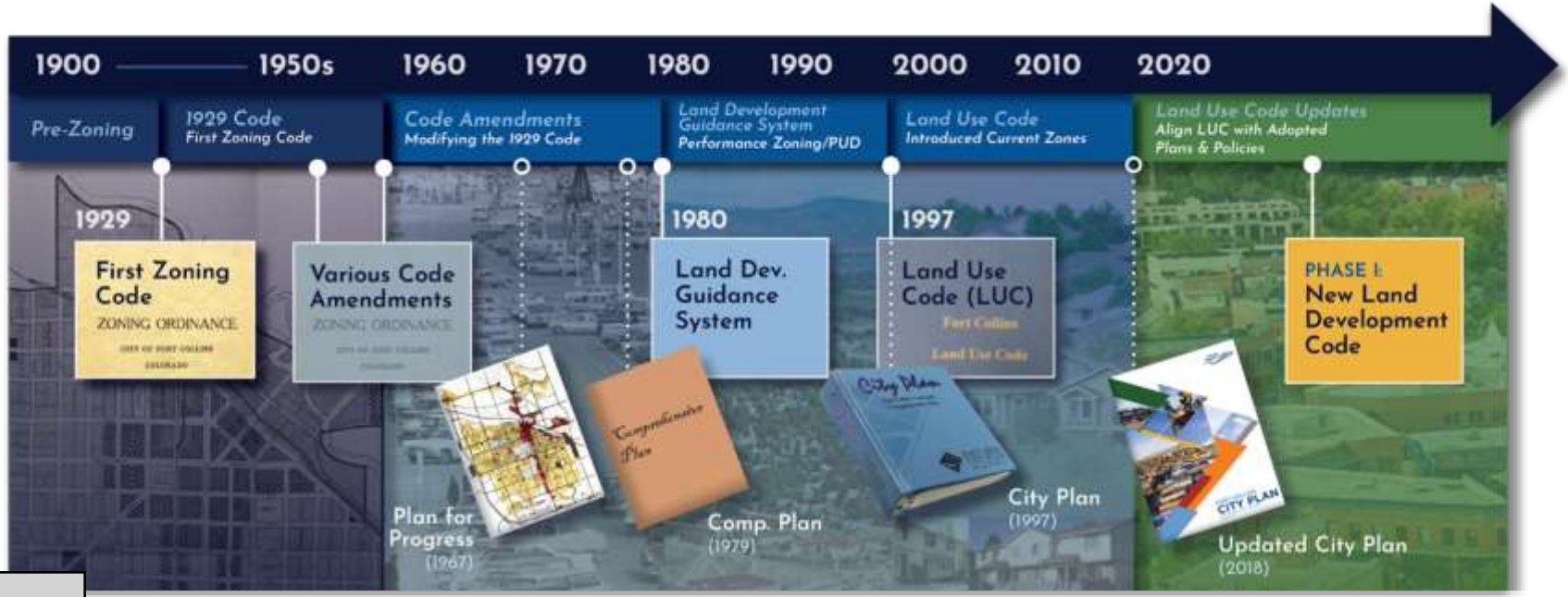
April 2024

# Land Use Code Foundational Update

Caryn Champine | Director, Planning, Development & Transportation

[redacted]als | Development Review Manager

Our City's past and future evolution is summarized below in three eras distinguished by different growth patterns that resulted from our evolving city planning priorities and policies, regulatory systems, and transportation modes.



## To Align the LUC with Adopted City Plans and Policies with a focus on:

- Housing-related Changes
- Code Organization
- Equity

- On January 16, Council discussed 3 possible work streams for the Land Use Code
- Council feedback included general support for Work Stream #1: removal of 9 items from the Land Use Code
- Feedback also supported a separate Council discussion on scope of Phase II Land Use Code changes in the summer of 2024

City of Fort Collins

# Foundational Changes

***Enable more affordability*** especially near high frequency transit and growth areas

***Make the code easier to use*** and understand

***Improve predictability*** of the development permit review process, especially for housing

- Reorganize content so the most used information is first in the Code
- Reformat zone districts with consistent graphics, tables, and illustrations
- Create a menu of building types and form standards to guide compatibility
- Update use standards, rules of measurement, and definitions to align with new building types and standards
- Expand and re-calibrate incentives for affordable housing
- Regulate density through form standards and building types instead of dwelling units per acre

## Revisions by Zone District

***Revisions for RL and UE*:**

**1** Remove Accessory Dwelling Unit (ADU) as a permitted housing type

***Revisions for NCL/OT-A:***

**2** Remove duplex as a permitted housing type

**3** Maintain current lot size for residential units

**4** Remove affordable housing incentive of additional housing types (apartment, rowhouse, cottage court)

***Revisions for NCM/OT-B:***

**5** Maintain current 4 unit maximum for multi-unit building

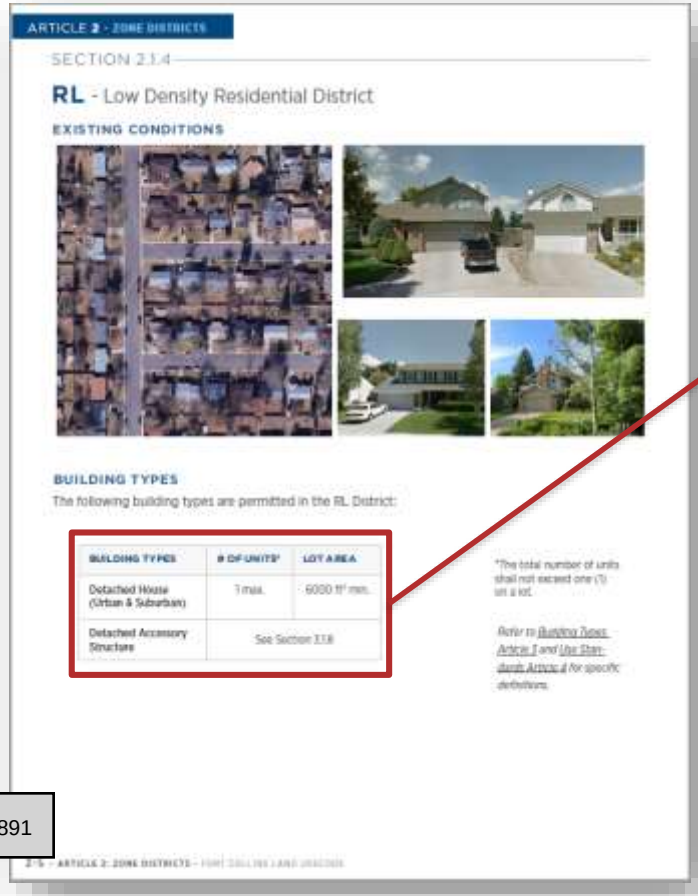
**6** Maintain current lot size for residential units

**7** Remove affordable housing incentive of additional density (+1 unit)

***Revisions for HOAs:***

**8** Remove language prohibiting HOAs from regulating the number and/or type of dwelling units permitted on a lot

**9** Remove language prohibiting HOAs from regulating the ability to subdivide property



ARTICLE 2 - ZONE DISTRICTS

SECTION 2.1.4

**RL** - Low Density Residential District

EXISTING CONDITIONS

BUILDING TYPES

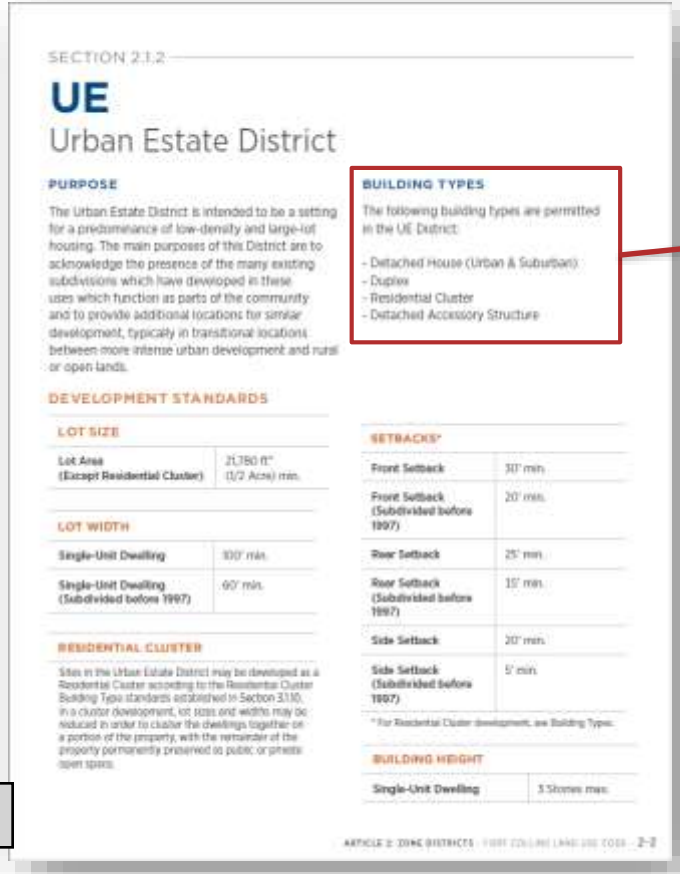
The following building types are permitted in the RL District:

| BUILDING TYPES | # OF UNITS* | LOT AREA |
|---|---|---|
| Detached House (Urban & Suburban) | 1 max. | 6000 ft² min. |
| Detached Accessory Structure | See Section 3.1.8 | |

*The total number of units shall not exceed one (1) on a lot.

Refer to Building Types Article 3 and Use Standards Article 4 for specific definitions.

| BUILDING TYPES | # OF UNITS | LOT AREA |
|---|---|---|
| Detached House (Urban & Suburban) | 1 max. | 6000 square foot min. |
| Detached Accessory Structure | See Section 3.1.8 | |



SECTION 2.1.2

# UE

## Urban Estate District

**PURPOSE**

The Urban Estate District is intended to be a setting for a predominance of low-density and large-lot housing. The main purposes of this District are to acknowledge the presence of the many existing subdivisions which have developed in these uses which function as parts of the community and to provide additional locations for similar development, typically in transitional locations between more intense urban development and rural or open lands.

**BUILDING TYPES**

The following building types are permitted in the UE District:

- Detached House (Urban & Suburban)
- Duplex
- Residential Cluster
- Detached Accessory Structure

**DEVELOPMENT STANDARDS**

**LOT SIZE**

| | |
|---|---|
| **Lot Area (Except Residential Cluster)** | 21,780 ft² (1/2 Acre) min. |

**LOT WIDTH**

| | |
|---|---|
| **Single-Unit Dwelling** | 100' min. |
| **Single-Unit Dwelling (Subdivided before 1997)** | 90' min. |

**RESIDENTIAL CLUSTER**

Sites in the Urban Estate District may be developed as a Residential Cluster according to the Residential Cluster Building Type standards established in Section 3.3.10. In a cluster development, lot sizes and widths may be reduced in order to cluster the dwellings together on a portion of the property, with the remainder of the property permanently preserved as public or private open space.

**SETBACKS***

| | |
|---|---|
| **Front Setback** | 30' min. |
| **Front Setback (Subdivided before 1997)** | 20' min. |
| **Rear Setback** | 25' min. |
| **Rear Setback (Subdivided before 1997)** | 15' min. |
| **Side Setback** | 20' min. |
| **Side Setback (Subdivided before 1997)** | 5' min. |

* For Residential Cluster development, see Building Types.

**BUILDING HEIGHT**

| | |
|---|---|
| **Single-Unit Dwelling** | 3 Stories max. |

ARTICLE 2 ZONE DISTRICTS | FORT COLLINS LAND USE CODE | 2-2

**BUILDING TYPES**

The following building types are permitted in the UE District:

- Detached House (Urban & Suburban)
- Duplex
- Residential Cluster
- Detached Accessory Structure

SECTION 2.1.6

# OT-A

## Old Town District, Low

**PURPOSE**

The Old Town District, Low (OT-A) subdistrict has a predominance of single-unit dwellings, complementary accessory dwellings and uses, and supportive neighborhood uses.

**BUILDING TYPES**

The following building types are permitted in the OT-A subdistrict:

| BUILDING TYPES | UNITS * | LOT AREA | FLOOR AREA | ADDITIONAL SITE REQUIREMENT |
|---|---|---|---|---|
| Detached House (Urban & Suburban) | 1 max. | 6,000 ft² min. | 2,400 ft² max. | N/A |
| ADU (Detached Only) | 1 max. | 12,000 ft² min. | See Section 3.1.9 | Located behind a Detached House |
| Detached Accessory Structure | See Section 3.1.8 | | | N/A |

*The total number of units shall not exceed two (2) on a lot.

*Refer to Building Types Article 3 and Use Standards Article 4 for specific definitions.*

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**BUILDING TYPES**

The following building types are permitted in the OT-A subdistrict:

| BUILDING TYPES | UNITS * | LOT AREA | FLOOR AREA | ADDITIONAL SITE REQUIREMENT |
|---|---|---|---|---|
| Detached House (Urban & Suburban) | 1 max. | 6,000 ft² min. | 2,400 ft² max. | N/A |
| ADU (Detached Only) | 1 max. | 12,000 ft² min. | See Section 3.1.9 | Located behind a Detached House |
| Detached Accessory Structure | See Section 3.1.8 | | | N/A |

*The total number of units shall not exceed two (2) on a lot.

*Refer to Building Types Article 3 and Use Standards Article 4 for specific definitions.*

ARTICLE 2 - ZONE DISTRICTS

SECTION 2.1.6

# OT-B

## Old Town District, Medium

**PURPOSE**

The Old Town District, Medium (OT-B) subdistrict is intended to preserve the character of areas that have a predominance of developed single-unit and low- to medium-density multi-unit housing and have been given this designation in accordance with an adopted subarea plan.

**BUILDING TYPES**

The following building types are permitted in the OT-B subdistrict:

| BUILDING TYPES | UNITS* | LOT AREA | FLOOR AREA | ADDITIONAL SITE REQUIREMENT |
|---|---|---|---|---|
| Detached House (Urban & Suburban) | 1 max. | 5,000 ft² min. | 2,400 ft² max. | N/A |
| Duplex | 2 max. | 5,000 ft² min. | 40% of lot area max. | N/A |
| Triplex | 3 max. | 6,000 ft² min. | 70% of lot area max. | N/A |
| Apartment Building | 4 max. | 6,000 ft² min. | 85% of lot area max. | N/A |
| ADU (Detached Only) | 1 max. | 10,000 ft² min. | See Section 3.1.9 | Located behind either a Detached House, Duplex, or Triplex |
| Detached Accessory Structure | See Section 3.1.8 | | | |

*The total number of units shall not exceed four (4) units on a lot.

Refer to Building Types Article 3 and Use Standards Article 4 for specific definitions.

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**BUILDING TYPES**

The following building types are permitted in the OT-B subdistrict:

| BUILDING TYPES | UNITS* | LOT AREA | FLOOR AREA | ADDITIONAL SITE REQUIREMENT |
|---|---|---|---|---|
| Detached House (Urban & Suburban) | 1 max. | 5,000 ft² min. | 2,400 ft² max. | N/A |
| Duplex | 2 max. | 5,000 ft² min. | 40% of lot area max. | N/A |
| Triplex | 3 max. | 6,000 ft² min. | 70% of lot area max. | N/A |
| Apartment Building | 4 max. | 6,000 ft² min. | 85% of lot area max. | N/A |
| ADU (Detached Only) | 1 max. | 10,000 ft² min. | See Section 3.1.9 | Located behind either a Detached House, Duplex, or Triplex |
| Detached Accessory Structure | See Section 3.1.8 | | | |

*The total number of units shall not exceed four (4) units on a lot.

Refer to Building Types Article 3 and Use Standards Article 4 for specific definitions.

## Revisions by Zone District

***Revisions for RL and UE*:**

**1** Remove Accessory Dwelling Unit (ADU) as a permitted housing type

***Revisions for NCL/OT-A:***

**2** Remove duplex as a permitted housing type

**3** Maintain current lot size for residential units

**4** Remove affordable housing incentive of additional housing types (apartment, rowhouse, cottage court)

***Revisions for NCM/OT-B:***

**5** Maintain current 4 unit maximum for multi-unit building

**6** Maintain current lot size for residential units

**7** Remove affordable housing incentive of additional density (+1 unit)

***Revisions for HOAs:***

**8** Remove language prohibiting HOAs from regulating the number and/or type of dwelling units permitted on a lot

emove language prohibiting HOAs from regulating the ability to subdivide property

**The Commission unanimously supported the code amendment and proposed the following three changes:**

- Allow attached ADUs in RL,
- Allow ADUs with design parameters in UE,
- Change lot size from 10,000 square feet to 9,500 square feet for allowing carriage houses in the NCM/OTB zone.

**These proposed amendments are not included in the version of the Land Use Code being considered this evening.**

- **If Council approves the ordinances tonight, 2nd Reading will occur on May 7**
- ***Work Session Scheduled on June 11 to discuss:***

Scoping and scheduling for Phase II of the Land Use Code Update: Review and propose updates that impact the City's commercial corridors and non-residential development standards.

- **Continue to monitor state legislation related to housing and development**

Does Council wish to adopt Ordinances Nos. 055, 2024; 056, 2024; and 057, 2024, for the proposed Land Use Code updates on First Reading?