

Fort Collins City Council Agenda

Regular Meeting

6:00 p.m. Tuesday, October 18, 2022

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

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

NOTICE:

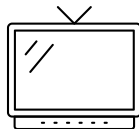
Regular meetings of the City Council are held on the 1st and 3rd Tuesdays of each month in the City Council Chambers. Meetings are conducted in a hybrid format, with a Zoom webinar in addition to the in person meeting in Council Chambers.

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

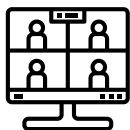
How to view this Meeting:



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



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



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



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

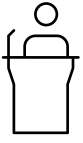
Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 970.221.6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide 48 hours advance notice when possible.

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

Comment in real time:



In person attendees can address the Council in the Chambers. Speakers are required to sign up to speak on sign up sheets on the tables just outside the Chambers.



During the public comment portion of the meeting and discussion items:
The public can join the Zoom webinar and comment from the remote meeting, joining online or via phone.

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 the call in number and meeting ID below:

Call in number: 346-248-7799

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: *If residents wish to speak to a document or presentation, the City Clerk needs to be emailed those materials by 4 p.m. the day of the meeting. 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

October 18, 2022 at 6:00 PM

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

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

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

Carrie Daggett
City Attorney

Kelly DiMartino
City Manager

Anissa Hollingshead
City Clerk

PROCLAMATIONS & PRESENTATIONS 5:00 PM

A) PROCLAMATIONS AND PRESENTATIONS

- [PP 1.](#) Proclamation Declaring October 18, 2022 as Canino's Day.
- [PP 2.](#) Proclamation Declaring October 20, 2022 as Imagine a Day Without Water Day.
- [PP 3.](#) Proclamation Declaring October 20, 2022 as Community Media Day.
- [PP 4.](#) Proclamation Declaring October 28, 2022 as Kilwin's Day.
- [PP 5.](#) Proclamation Declaring October 2022 as Conflict Resolution 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 at the table in the lobby, or online if participating remotely.*
- 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 are asked by the presiding officer 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). Those participating online will be called to speak following those attending the meeting in person.*
- The presiding officer will determine and announce the length of time allowed for each speaker.*
- Each speaker will be asked to state his or her name and general address for the record, and, if their comments relate to a particular agenda item, to identify the agenda item number. Any written comments or materials intended for the Council should be provided to the City Clerk.*
- A timer will beep one time and turn yellow to indicate that 30 seconds of speaking time remain and will beep again and turn red when a speaker's time has ended.*

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

H) PUBLIC COMMENT FOLLOW-UP

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

CONSENT CALENDAR

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

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

1. Items Pertaining to the Annual Adjustment Ordinance.

A. Second Reading of Ordinance No. 102, 2022, Making Supplemental Appropriations from Various City Funds.

B. Second Reading of Ordinance No. 103, 2022, Appropriating Prior Year Reserves in Various City Funds.

These Ordinances, unanimously adopted on First Reading on October 4, 2022, appropriate dedicated and additional revenues or prior year reserves that need to be appropriated before the end of the year to cover related expenses that were not anticipated, and therefore, not included in the 2022 annual budget appropriation. The additional revenue is primarily from fees, charges for service, rents, contributions, donations, and grants that have been paid to City departments to offset specific expenses.

2. Second Reading of Ordinance No. 104, 2022, Authorizing the Conveyance of a Permanent, Nonexclusive Stormwater Drainage Easement on Redtail Grove Natural Area to WWW Properties, LLC.

This Ordinance, unanimously adopted on First Reading on October 4, 2022, authorizes conveyance of a permanent, nonexclusive drainage easement to WWW Properties, LLC (owners of Fort Collins Nissan and Fort Collins Kia) on Redtail Grove Natural Area. The proposed easement area aligns with an existing historic drainage path for stormwater. WWW Properties, LLC will construct underground water quality and detention facilities on their property to capture stormwater, decrease peak flow rates into Fossil Creek, and decrease the amount of water overtopping the Fossil Creek Trail, as well as the time the trail is overtopped, during significant storm events.

3. Second Reading of Ordinance No. 105, 2022, Authorizing the Conditional Conveyance of Certain City-Owned Property Rights to Chris Vandemoer and Geo. A. Henderson Co.

This Ordinance, unanimously adopted on First Reading on October 4, 2022, authorizes the conditional conveyance of certain City-owned real property rights to Chris Vandemoer and Geo. A. Henderson, Co. (collectively “Vandemoer”). The proposed conveyance is part of a proposed settlement agreement between the City, Vandemoer, and The Nature Conservancy (“TNC”) to obtain necessary property rights on the primary private access road for all three phases of the City’s Halligan Water Supply Project (“Halligan Project”), in which the City intends to replace or modify a dam and enlarge Halligan Reservoir. Vandemoer owns certain real property adjacent to the reservoir that includes a private road that serves as the primary access point to the reservoir and the dam. The property is also encumbered by two conservation easements held by TNC. Since late 2018, City representatives have negotiated with Vandemoer to obtain property rights necessary for the Halligan Project. The parties are currently in eminent domain litigation for Phase 1 of the Project and have had productive conversations regarding a global settlement for all three phases of the Halligan Project.

The conveyance of the City-owned property would only occur if: (1) the parties enter into a settlement agreement; and (2) the City completes construction of the Halligan Project. This Ordinance does not seek approval of the settlement agreement itself. The decision whether to enter into the settlement agreement would be made by the City Manager following a recommendation by City staff, in consultation with outside legal counsel and the City Attorney’s Office. This Ordinance is limited only to authorizing the conditional conveyance of City-owned property. The structure of the settlement agreement is explained more fully below.

4. Second Reading of Ordinance No. 106, 2022, Amending Chapter 26 of the Code of the City of Fort Collins Regarding Net Metered Renewable Energy Generation System Sizing and Adopting Administrative Rules for Net Metered System Sizing.

This Ordinance, unanimously adopted on First Reading on October 4, 2022, amends sizing requirements in City Code that limit the generating size (i.e. production capacity) of renewable energy systems, removing reference to 120% of a customer's annual electric consumption and adopts administrative program rules to guide the Utilities' Executive Director to define allowable generation system sizing consistent with the City's 2030 energy and climate goals.

5. First Reading of Ordinance No. 107, 2022, Appropriating Philanthropic Revenue Received By City Give for the Bucking Horse Park Trail Spur Project as Designated by the Donor.

The purpose of this item is to request an appropriation of \$5,000 in philanthropic revenue received by City Give for Park Planning and Development as designated by the donor.

6. First Reading of Ordinance No. 108, 2022, Appropriating Unanticipated Revenue From Philanthropic Donations Received in 2022 By City Give for Various City Programs and Services as Designated by the Donors.

The purpose of this item is to request appropriation of \$4,070 in philanthropic revenue received by City Give. These miscellaneous gifts to various City service areas 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.

7. First Reading of Ordinance No. 109, 2022, Making a Supplemental Appropriation of HOME Investment Partnership Program - American Rescue Plan Act Funding from the Federal Department of Housing and Urban Development.

The purpose of this item is to appropriate \$2,628,410 in HOME Investment Partnership Program – American Rescue Plan funds received from the Department of Housing and Urban Development.

8. First Reading of Ordinance No. 110, 2022, Amending Article IX of Chapter 23 of the Code of the City of Fort Collins Regarding Natural Areas.

The purpose of this item is to amend various provisions in Article IX of Chapter 23 of the City Code regarding natural areas to close loopholes, add new definitions, and add new regulations that better protect the natural environment and promote visitor safety. Natural Areas Department rangers researched existing Code and worked with Natural Areas Department staff and the City Attorney's Office before the proposed changes were brought to the Land Conservation and Stewardship Board in July 2022.

9. First Reading of Ordinance No. 111, 2022, Amending Certain Sections of Chapter 25 of the Code of the City of Fort Collins Relating to the Imposition, Collection, and Enforcement of the City's Sales and Use Taxes.

The purpose of this item is to amend Chapter 25 of City Code concerning sales and use tax. The updates include revisions to the Grocery Tax Rebate Program to increase the area median income threshold for a rebate as part of ongoing City-wide initiatives to streamline and broaden access to City income-qualified programs. Other updates include but are not limited to: (1)

updating the deadlines for refund claims and petitions protesting the denial of tax-exempt organization license applications to align with other deadlines in Chapter 25; (2) amending the appeals process to align with state statute; and (3) adding exemptions from sales and use tax for the state carryout bag fee and retail delivery fee. (The Council approved Ordinance No. 053, 2022, in May 2022, which created an exemption from sales tax for the City's disposable bag fee).

10. First Reading of Ordinance No. 112, 2022, Amending Chapter 23, Article III of the Code of the City of Fort Collins Regarding Obstructions and Encroachments to Allow for the Expansion of Outdoor Dining Areas onto City Property and Adopting by Reference the City of Fort Collins Outdoor Dining Design Manual.

The purpose of this item is to amend City code to allow outdoor dining areas on public property. During the COVID pandemic and declared local emergency, Emergency Orders were put in place to support hospitality businesses by allowing extended outdoor patios on public property. The extended patios have been popular and successful both economically and as a vibrant way to activate streets and sidewalks. Staff is proposing changes to the City Code obstruction and encroachment permit provisions and a framework, including the *City of Fort Collins Outdoor Design Manual* ("Design Manual"), to make these spaces permissible after the expiration of the Emergency Orders.

11. First Reading of Ordinance No. 113, 2022, Suspending Certain Provisions of the City's Land Use Code and Building Code to Permit Temporary Use of City Property at 212 West Mountain Avenue as a Homeless Shelter.

This purpose of this item is to suspend certain provisions of the City's Land Use Code to allow the temporary use of 212 West Mountain Avenue as a men's overflow shelter site from November 2022 – April 2023.

12. Resolution 2022-104 Adopting the City's 2023 Legislative Policy Agenda.

The purpose of this item is to adopt the City's 2023 Legislative Policy Agenda. Each year the Legislative Review Committee develops a legislative agenda to assist in the formation, analysis, and advocacy of pending legislation and regulation. The Legislative Policy Agenda is used as a guide by Council and staff to determine positions on legislation and regulation under consideration at the state and federal levels and as a general reference for state legislators and the City's congressional delegation.

The Legislative Review Committee reviewed and made changes/updates at the August 30, 2022, meeting.

13. Resolution 2022-105 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the Larimer County Board of Health for Purchase and Use of an Optical Gas Imaging (OGI) Camera.

The purpose of this item is to authorize the City Manager to sign an Intergovernmental Agreement (IGA) with Larimer County Board of Health, where the City will provide \$100,000 in appropriated funds toward the purchase of an OGI camera that will be owned and operated by the County, for the purpose of detecting hydrocarbon leaks at oil and gas and other sites within the City and County.

14. Resolution 2022-106 Making Appointments to the Youth Advisory Board.

The purpose of this item is to fill vacancies on the Youth Advisory 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) COUNCILMEMBER REPORTS

M) STAFF REPORTS

A. Bird City Presentation by Environment for the Americas

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. **If attending in person, please sign in at the table in the back of the room.** 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.*

15. **Resolution 2022-107 Adopting Findings of Fact Supporting the Historic Preservation Commission's Decision to Deny Proposed Window Alterations to the Landmarked Property Located at 1306 West Mountain Avenue and Denying the Appeal.**

The purpose of this item is to make findings of fact regarding the appeal of the Historic Preservation Commission's decision to deny the proposed window treatment for the northwest bedroom at 1306 West Mountain Avenue. The appeal was heard by Council on October 4, 2022.

16. **Items Relating to the Adoption of the Land Development Code.**

A. First Reading of Ordinance No. 114, 2022, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt the Land Development Code and Separately Codifying the 1997 Land Use Code as "Transitional Land Use Regulations".

B. First Reading of Ordinance No. 115, 2022, 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 District to the Old Town Zone District in Conjunction with the Adoption of the Land Development Code.

The purpose of this item is to consider adoption of changes to the City's Land Use Code including renaming to the Land Development 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. Changes are intended to address one or more of the following Guiding Principles:

1. Increase overall housing capacity and calibrate market-feasible incentives for affordable housing
2. Enable more affordability, especially near high frequency transit and priority growth areas
3. Allow more diverse housing choices that fit in with the existing context and priority place types
4. Make the LUC easier to use and understand
5. Improve predictability of the development review process, especially for housing

In conjunction with adoption of the Land Development Code, a conforming change to the zoning map to rename the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone District to the Old Town zone district is proposed by means of a rezoning.

If adopted by Council, staff recommends that the proposed LUC changes and renaming to the Old Town zone district take effect on January 1, 2023.

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

Consideration of a motion to adjourn this meeting to 6:00 P.M. on Tuesday, October 25, 2022:

"I move that Council adjourn this meeting to 6:00 P.M. on Tuesday, October 25, 2022, to consider a Resolution related to an Interim Greenhouse Gas Reduction Goal and such other business that may come before Council."

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 City of Fort Collins recognizes Clyde Canino, owner of Canino's Italian Restaurant for the many important contributions to the community and is deserving of special recognition; and

WHEREAS, Clyde Canino and his wife Karen Canino have dedicated themselves to Canino's Italian Restaurant and the preservation of a historical landmark for nearly half a century; and

WHEREAS, Canino's Italian Restaurant is one of the longest-tenured and longest family-owned restaurants in the city; and

WHEREAS, Canino's Italian Restaurant and its signature green canopy has fostered a sense of family and belonging in the community; and

WHEREAS, Canino's Italian Restaurant will forever stand as a Fort Collins staple.

NOW, THEREFORE, I, Jeni Arndt, Mayor of the City of Fort Collins, do hereby proclaim Tuesday, October 18, 2022, as

CANINO'S ITALIAN RESTAURANT DAY

as a thank you for your many years of committed service to the community.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Fort Collins this 18th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk



PROCLAMATION

WHEREAS, the infrastructure that brings water to and from homes and businesses is essential to the quality of life and economic vitality of the city of Fort Collins; and

WHEREAS, the City of Fort Collins Utilities serves over 135,000 treated water customers, has over 500 miles of water mains, and operates and maintains a large water treatment facility and two wastewater treatment facilities; and

WHEREAS, utilities nationwide are grappling with aging infrastructure and lack reliable revenue and funding to maintain systems let alone upgrade their systems; and

WHEREAS, one-fifth of the U.S. economy would grind to a halt without a reliable and clean source of water so the City of Fort Collins is investing in our drinking water and wastewater systems to secure a bright and prosperous future for generations to come; and

WHEREAS, innovation in water efficiency and reuse will drive job growth, economic development, and establish a 21st century paradigm of water management; and

WHEREAS, managing water responsibly is critical to our nation's environmental health and to a high quality of life through economic commerce and recreation; and

WHEREAS, the City of Fort Collins Utilities has a Water Shortage Action Plan which helps mitigate potential risk to our shared water supplies, to avoid water service disruptions and protection of this vital resource we all depend on.

NOW, THEREFORE, I, Jeni Arndt, Mayor of the City of Fort Collins, do hereby declare October 20, 2022 as a day to

IMAGINE A DAY WITHOUT WATER

and we recognize that water is essential to the quality of life and economic competitiveness and acknowledges the importance of educating the public about the value of water through the "Imagine a Day Without Water" campaign.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Fort Collins this 18th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk



PROCLAMATION

WHEREAS, the sharing of ideas and information helps to build common understanding and common values within a community; and

WHEREAS, access to information in today's media environment is critical for the healthy functioning of our community; and

WHEREAS, community media organizations provide a means for diverse communities to tell their stories, hear each other's stories, and create new stories together; and

WHEREAS, community media organizations provide information to the community that is not covered by mainstream commercial media; and

WHEREAS, community media organizations provide people with the skills necessary for the creation, sharing, and consumption of knowledge and ideas through media; and

WHEREAS, community media is an important resource for participating in local democratic policy and processes; and

WHEREAS, community media connects community organizations, schools, and local governments to their constituents; and

WHEREAS, FC Public Media, our non-profit community access media center, plays a vital role in the building of our community by encouraging conversations about our common interests, increasing discourse around policy issues, fostering understanding of local cultures, and sharing information to improve our lives.

NOW, THEREFORE, I, Jeni Arndt, Mayor of the City of Fort Collins, do hereby proclaim October 20, 2022, as

COMMUNITY MEDIA DAY

IN WITNESS WHEREOF, I have here unto set my hand and the seal of the City of Fort Collins this 18th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk



PROCLAMATION

WHEREAS, the City of Fort Collins recognizes the many important contributions of Nora Hill, former owner of Kilwin's Chocolates & Ice Cream and is deserving of special recognition; and

WHEREAS, Nora Hill has dedicated herself to Kilwin's Chocolates & Ice Cream for almost two decades; and

WHEREAS, Nora Hill has fostered a sense of community by providing high quality service and creating a place where community members can find joy in treating themselves and others; and

WHEREAS, Nora Hill and Kilwin's Chocolates & Ice Cream will forever stand as a pillar of Fort Collins.

NOW, THEREFORE, I, Jeni Arndt, Mayor of the City of Fort Collins, do hereby proclaim October 28, 2022, as

KILWIN'S FORT COLLINS DAY

as a thank you for your many years of committed service to the community.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Fort Collins this 18th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk



PROCLAMATION

WHEREAS, the month of October is celebrated across the State of Colorado as Conflict Resolution Month, and October 20, 2022, will be celebrated both nationally and internationally as Conflict Resolution Day; and

WHEREAS, the City of Fort Collins, in conjunction with other local entities, is recognizing this celebration; and

WHEREAS, conflict resolution encompasses mediation, restorative practices, facilitation, collaborative decision-making, and other respectful responses to differences; and

WHEREAS, conflict resolution processes empower individuals, families, communities, neighborhoods, organizations, schools, and businesses to foster communication and devise solutions that are acceptable to the needs and interests of all parties involved; and

WHEREAS, the City of Fort Collins provides conflict resolution services to the community through the Mediation & Restorative Justice Services Program, which celebrated its 20th anniversary in 2020; and

WHEREAS, community-based programs fairly and equitably resolve neighborhood and community conflicts, thereby repairing, creating, and strengthening relationships; and

WHEREAS, I, along with the entire City Council, encourage Fort Collins residents to seek peaceful and collaborative resolutions to conflicts and hence contribute to creating an exceptional, world-class community.

NOW, THEREFORE, I, Jeni Arndt, Mayor of the City of Fort Collins, do hereby proclaim October 2022 as

CONFLICT RESOLUTION MONTH

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Fort Collins this 18th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk

October 18, 2022



AGENDA ITEM SUMMARY

City Council

STAFF

Kelly DiMartino, City Manager
Travis Storin, Chief Financial Officer
Lawrence Pollack, Budget Director
John Duval, Legal

SUBJECT

Items Pertaining to the Annual Adjustment Ordinance.

EXECUTIVE SUMMARY

A. Second Reading of Ordinance No. 102, 2022, Making Supplemental Appropriations from Various City Funds.

B. Second Reading of Ordinance No. 103, 2022, Appropriating Prior Year Reserves in Various City Funds.

These Ordinances, unanimously adopted on First Reading on October 4, 2022, appropriate dedicated and additional revenues or prior year reserves that need to be appropriated before the end of the year to cover related expenses that were not anticipated, and therefore, not included in the 2022 annual budget appropriation. The additional revenue is primarily from fees, charges for service, rents, contributions, donations, and grants that have been paid to City departments to offset specific expenses.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinances on Second Reading.

BACKGROUND / DISCUSSION

These Ordinances appropriate additional revenue and funds received this fiscal year and from prior year reserves in various City funds and authorize the transfer of previously appropriated amounts between funds and/or capital projects. The City Charter permits Council at any time during a fiscal year to make supplemental appropriations of additional revenue and other funds received as a result of rate/fee increases or new revenue sources, such as grants and reimbursements. The Charter also permits Council to provide, by ordinance, for payment of any expense from prior year reserves through a supplemental appropriation. Additionally, it authorizes Council to transfer any unexpended and unencumbered appropriated amount from one fund or project to another fund or project upon recommendation of the City Manager, provided that the purpose for which the transferred funds are to be expended 1) remains unchanged; 2) the purpose for which they were initially appropriated no longer exists; or 3) the proposed transfer is from a Fund or project account in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance.

The City Manager is recommending the proposed appropriations in these Ordinances and has determined that they are available and previously unappropriated from their respective Funds and will not cause the total amount appropriated from such Funds to exceed the current estimate of actual and anticipated revenues and all other funds to be received in each such Fund during this fiscal year.

If these appropriations are not approved, the City will have to reduce expenditures even though revenue and reimbursements have been received to cover those expenditures.

The table below is a summary of the expenses in each fund that make up the increase in requested appropriations. Also included are transfers between funds of unappropriated funds which must be appropriated for expenditure but the transfer will be done administratively. A table with the specific use of prior year reserves appears at the end of this Agenda Item Summary.

Funding	Additional Revenue	Prior Year Reserves	TOTAL
General Fund	\$903,898	\$692,164	\$1,596,062
Data & Communications Fund	0	12,500	12,500
Equipment Fund	104,000	314,847	418,847
Sales & Use Tax Fund	48,076	0	48,076
Natural Areas Fund	48,076	0	48,076
Golf Fund	0	368,348	368,348
CCIP Fund	25,000	0	25,000
Cultural Services Fund	25,000	0	25,000
Water Fund	80,000	0	80,000
Light & Power Fund	4,500,000	0	4,500,000
Transportation Services Fund	442,094	0	442,094
GRAND TOTAL	\$6,176,144	\$1,387,859	\$7,564,003

A. GENERAL FUND

1. Security Classes provided by Emergency Preparedness and Security (EPS)

Revenue collected from security class participants is intended to help offset the cost of providing security training from FRCC for a 3-day Crime Prevention Through Environmental Design (CPTED) class in April and a 5-Day CPTED training in August 2022. This request includes revenue collected between December 2021 - July 2022 and helps offset all class incurred expenses for 2022. This model uses initial investment to prime the pump, using collected fees to supplement ongoing training.

FROM:	Prior Year Reserves (2021 class revenue)	\$13,621
FROM:	Unanticipated Revenue	\$14,290
FOR:	Security Classes	\$27,911

2. Land Bank Operational Expenses

This request is intended to cover expenses related to the land bank property maintenance needs for 2022. Since expenses vary from year to year, funding is requested annually mid-year to cover these costs. Expenses in 2022 include general maintenance of properties, raw water and sewer expenses, electricity, repairs, and other as applicable.

FROM:	Prior Year Reserves (Land Bank reserve)	\$2,750
FOR:	Land Bank Expenses	\$2,750

3. Fort Collins Police Services (FCPS) has received revenue from various sources. A listing of these items follows:

- a. \$36,516 – 2022/2023 BATTLE Grant (Beat Auto Theft Through Law Enforcement) Grant: Police Services was awarded a grant from the Colorado State Patrol to help prevent auto theft in Colorado.
- b. \$44,805 – 2022/2023 Black Market Marijuana Grant: Police Services was awarded the Marijuana grant to support the investigation and prosecution of black market or illegal marijuana cultivation and distribution in the city.
- c. \$75,152 – 2022 Body Worn Camera Grant: In December of 2021, Police Services was awarded a grant to help fund the upgrade of body worn cameras because of the passing of HB 21-1250. This item is to appropriate the money that was received in 2022.
- d. \$11,400 - 2022 Click it or Ticket Grant: In 2021 Police Services was awarded a Click it or Ticket Grant from the Colorado Department of Transportation to pay for officers to work overtime to conduct enforcement activities.
- e. \$7,868 - Contribution to Northern Colorado Drug Taskforce: As a part of the City of Fort Collins contribution to the Northern Colorado Drug Taskforce, any Drug Offender Surcharge, or Court Ordered Restitution that is remitted from Larimer County Court to Fort Collins Police, is then passed along to the NCDTF. Any additional restitution that is collected by FCPS is additionally passed along to the NCDTF.
- f. \$11,400 - 2021/2022 High Visibility Enforcement (HVE) Grant: Police Services was awarded a grant from the Law Enforcement Assistance Fund to pay for overtime for DUI enforcement.
- g. \$15,000 – 2022/2023 HVE Grant: Police Services was awarded a grant from the Law Enforcement Assistance Fund to pay for overtime for DUI enforcement
- h. \$7,682 – 2021 ICAC Grant (Internet Crimes Against Children): In June of 2021 Police Services was awarded the ICAC grant, but the corresponding appropriation was inadvertently excluded from last year's Annual Adjustment Ordinance.
- i. \$300,000 - Northern Colorado Regional Communication Network (NCRCN) Police Radios Upgrades and Repairs: Police Radios have been failing on an increasing level due to aging infrastructure for the Radio Towers in the surrounding area. Information Services is currently working with Motorola and Bearcom to assess the current need, which is still in process. This request is utilizing the dedicated reserves within the General Fund for NCRCN.
- j. \$208,465 - Police Reimbursable Overtime: Police Services help schedule security and traffic control for large events. Since these events are staffed by officers outside of their normal duties, officers are paid overtime. The organization who requested officer presence is then billed for the costs of the officers' overtime. Fort Collins Police Services (FCPS) partners with Larimer County to staff events at The Ranch. Police receives reimbursement from Larimer County for officers' hours worked at Ranch events.
- k. \$42,022 - School Resource Officers: Police Services have a contract with Poudre School District to provide officers on location at a majority of the schools for safety and support. The school district pays Police Services based on a predetermined contract amount and also partially reimbursing for overtime incurred. This request is for the previously billed overtime and anticipated overtime for the remaining year.
- l. \$8,962 - DUI Enforcement: Proceeds that have been received for DUI enforcement from Larimer County.

- m. \$96,243 - Police Miscellaneous Revenue: Police Services receives revenue from the sale of Police reports along with other miscellaneous revenue, like restitution payments, evidence revenue and SWAT training.

TOTAL APPROPRIATION

FROM:	Unanticipated Revenue (2022/2023 BATTLE Grant)	\$36,516
FROM:	Unanticipated Revenue (2022/2023 Black Market Marijuana Grant)	\$44,805
FROM:	Unanticipated Revenue (2022 Body Worn Camera Grant)	\$75,152
FROM:	Unanticipated Revenue (2022 Click it or Ticket Grant)	\$11,400
FROM:	Unanticipated Revenue (Northern Colorado Drug Taskforce)	\$7,868
FROM:	Unanticipated Revenue (2021/2022 HVE Grant)	\$11,400
FROM:	Unanticipated Revenue (2022/2023 HVE Grant)	\$15,000
FROM:	Unanticipated Revenue (2021 ICAC Grant)	\$7,682
FROM:	Prior Year Reserves (NCRCN Police Radios Upgrades & Repairs)	\$300,000
FROM:	Unanticipated Revenue (Police Reimbursable Overtime)	\$208,465
FROM:	Unanticipated Revenue (School Resource Officers)	\$42,022
FROM:	Unanticipated Revenue (DUI Enforcement)	\$8,962
FROM:	Unanticipated Revenue (Police Miscellaneous Revenue)	<u>\$96,243</u>
		\$865,515

FOR:	Help prevent auto theft	\$36,516
FOR:	Support the investigation of illegal marijuana cultivation	\$44,805
FOR:	Upgrade body worn cameras	\$75,152
FOR:	Overtime for Seat Belt enforcement	\$11,400
FOR:	Contribution to Northern Colorado Drug Task Force	\$7,868
FOR:	Overtime for DUI enforcement	\$11,400
FOR:	Help prevent Internet Crimes Against Children	\$15,000
FOR:	Police Radios Upgrades & Repairs	\$7,682
FOR:	Police Reimbursable Overtime for events	\$300,000
FOR:	Overtime for School Resource Officers	\$208,465
FOR:	DUI enforcement	\$42,022
FOR:	Police Miscellaneous Revenue	\$8,962
		<u>\$96,243</u>
		\$865,515

4. Radon Kits

Environmental Services sells radon test kits at cost as part of its program to reduce lung-cancer risk from in-home radon exposure. This appropriation would recover kit sales for the purpose of restocking radon test kits.

FROM:	Unanticipated Revenue (radon kit sales)	\$1,471
FOR:	Radon test kit purchase	\$1,471

5. Manufacturing Equipment Use Tax Rebate

Finance requests the appropriation of \$109,010 to cover the amount due for the 2021 Manufacturing Equipment Use Tax Rebate program as established in Chapter 25, Article II, Division 5, of the Municipal Code. The rebate program was established to encourage investment in new manufacturing equipment by local firms. Vendors have until December 31st of the following year to file for the rebate. This item appropriates the use tax funds to cover the payment of the rebates.

FROM:	Prior Year Reserves (Manufacturing Use Tax Rebate Assignment)	\$109,010
FOR:	Manufacturing Use Tax Rebates	\$109,010

6. Restorative Justice Grant

A grant in the amount of \$67,612 has been awarded and received from the Colorado Division of Criminal Justice (DCJ) Juvenile Diversion fund for the continued operation of Restorative Justice Services, which includes the RESTORE program for shoplifting offenses, the Restorative Justice Conferencing Program (RJCP) and Reflect Program for all other offenses. No match is required for this grant. The grant period is July 1, 2022 to June 30, 2023. Restorative Justice Services and its three programs has been partially grant-funded since its inception in 2000. The Council yearly accepts grant funds from Colorado Division of Criminal Justice to support Restorative Justice Services. This grant helps fund youth referred to the program from the 8th Judicial District Attorney's Office or in lieu of a summons. Since it began, Restorative Justice Services has provided a restorative justice alternative to more than 3,300 young people who committed chargeable offenses in our community.

FROM:	Unanticipated Revenue (Restorative Justice Grant)	\$67,612
FOR:	Restorative Justice Services	\$67,612

7. Appropriation from prior year reserves for IRS alternative fuel vehicles refund in the Equipment Fund (refer to item C34)

Operation Services applied for, and received, a refund from the IRS for alternative fuel vehicles. These funds were received in 2021 but were inadvertently not included in the 2022 annual appropriation ordinance. This will appropriate these funds from the prior year reserves of the General Fund for an administrative transfer to and expenditure from the Equipment Fund of Operation Services.

FROM:	Prior Year General Fund reserves (IRS refund)	\$266,783
FOR:	Equipment Fund - Alternative fuel vehicles	\$266,783

8. Unanticipated Revenue and Expense associated with Purchase of Civic Center Condos

In January of 2022 the City of Fort Collins purchased the Civic Center Condos on Mason Street. These condos are leased out with rental payments coming into the City. The management of the condos have come with costs for operations and maintenance (O&M), and additional appropriation is being requested to cover the O&M costs.

FROM:	Unanticipated Revenue	\$255,010
FOR:	Operations and Maintenance costs	\$255,010

B. DATA & COMMUNICATIONS FUND

1. Accela Permitting System Upgrade

The Information Technology (IT) Department is requesting funds from the Development Tracking Systems (DTS) restricted reserves to fund this unanticipated expense request to upgrade the City's permitting platform system. The City's IT Department recently received notice that the Accela permitting platform will no longer be supported based on the current version the City is utilizing. This is requiring the City to upgrade to the latest version to avoid losing software support and any potential security risks associated with being out-of-date. Upon initiating the upgrade process, staff identified the need for consultant support to assist the City in upgrading its Development, Test, and Production Accela Civic Platform environments. The City intends to contract with TruePoint Solutions, a vendor that has provided Accela support in the past, to provide services as needed, including software installation, pre-installation/upgrade preparation assistance and post-upgrade support. Once completed, the City's permitting platform will be up to date. It

will include a new user interface that offers additional features and functionality not currently available, as well as improve the overall performance of the platform.

FROM: Prior Year Reserves (DTS assignment)	\$12,500
FOR: Accela Permitting System Upgrade	\$12,500

C. EQUIPMENT FUND

1. Unanticipated Fuel Revenue from Price Increase

The price of wholesale fuel has been higher than budgeted. This has in turn also increase the price at which the various City departments will pay for fuel provided by Operation Services. With the anticipated elevated fuel prices for the remainder of the year.

FROM: Unanticipated Revenue	\$50,000
FOR: Fuel price increase	\$50,000

2. Charge Ahead Grant 2022

This is a State of Colorado Charge Ahead grant to install multiple electric vehicle chargers at multiple locations. This grant requires a 20% local match which will come from the Operations Services 2022 operating budget.

FROM: Unanticipated Revenue (Charge Ahead Grant)	\$54,000
FOR: Electric vehicle chargers	\$54,000

3. IRS alternative fuel vehicles refund from General Fund to Equipment Fund (refer to item A7)

Operation Services applied for, and received, a refund from the IRS for alternative fuel vehicles. These funds were received in 2021 but were inadvertently not included in the 2022 annual appropriation ordinance. This will appropriate these funds from the prior year reserves of the General Fund for an administrative transfer to and expenditure from the Equipment Fund of Operation Services.

FROM: Prior Year Reserves (IRS refund)	\$266,783
FOR: Alternative fuel vehicles	\$266,783

4. Equipment Fund Debt Service Payment

The original appropriation for these Certificates of Participation (COPS) was done through Ordinance No. 73, 2022. This request is for the first interest payment owed under the COPs, which payment is due in December 2022. This amount is a one-time payment and will come out of Equipment Fund reserves. This amount was not included in the original Ordinance because it was not anticipated that the first interest payment would be due in 2022.

FROM: Prior Year Reserves	\$48,064
FOR: 2022 interest payment on loan	\$48,064

D. SALES & USE TAX FUND**1. Sales Tax to Natural Areas (refer to item E1)**

Sales tax collections were higher than expected in 2021, this is to transfer remaining amount due to Natural Areas Fund.

FROM: Unanticipated Revenue (Sales tax collections)	\$48,076
FOR: Natural Areas Fund land purchase and operations	\$48,076

E. NATURAL AREAS FUND**1. Sales Tax to Natural Areas (refer to item D1)**

Sales tax collections were higher than expected in 2021, this is to transfer remaining amount due to Natural Areas Fund.

FROM: Unanticipated Revenue	\$48,076
FOR: Natural Areas land purchase and operations	\$48,076

F. GOLF FUND**1. Golf Fund Debt Service Payment**

The original appropriation for the payment of these Certificates of Participation (COPs) was done through Ordinance No. 72, 2022. This request is for the first interest payment owed under the COPs, which is due in December 2022. This amount is a one-time payment and will come out of Golf Fund reserves. This amount was not included in the original Ordinance because it was not anticipated that the first interest payment would be due in 2022.

FROM: Prior Year Reserves	\$80,022
FOR: 2022 interest payment on loan	\$80,022

2. Golf Player Assistant Pay

This is the cost associated with contractual labor payment increases to Golf Professionals for fees associated with the required payment of Player Assistants. The Golf Fund is an enterprise fund and receives no tax dollar support. In 2022, the Golf Division required the contracted golf professionals at all three of the City's golf courses to pay for Player Assistants on the golf course. In the past these positions were filled by volunteers that were reimbursed only with playing privileges. Recent changes in labor laws have required these individuals be paid for the work.

FROM: Prior Year Reserves	\$288,326
FOR: Contractual Labor payment increases	\$288,326

G. COMMUNITY CAPITAL IMPROVEMENT PROGRAM (CCIP) FUND**1. Carnegie Library renovation operations & maintenance support (refer to item H1)**

This is the 2022 amount for the operations and maintenance support for the Carnegie Library renovation as part of the Community Capital Improvements Program.

FROM: Unanticipated Revenue	\$25,000
FOR: Cultural Services (Carnegie Library)	\$25,000

H. CULTURAL SERVICES FUND

1. Carnegie Library renovation operations & maintenance support (refer to item G1)

This is the 2022 amount for the operations and maintenance support for the Carnegie Library renovation as part of the Community Capital Improvements Program.

FROM:	Unanticipated Revenue via transfer	\$25,000
FOR	Carnegie Library Operations & Maintenance	\$25,000

I. WATER FUND

1. Bureau of Reclamation 2019 additional amount - Grant Xeriscape Incentive Program

This Bureau of Reclamation grant R19A00169 was awarded to Water Conservation for the Xeriscape Incentive Program. The Bureau has increased that award by \$5,000. The Bureau released the additional funds after having retained the amount for administrative costs. This money goes toward Xeriscape Incentive Program reimbursements for customers.

FROM:	Unanticipated Revenue (Bureau of Reclamation grant)	\$5,000
FOR	Xeriscape Incentive Program	\$5,000

2. Bureau of Reclamation 2022 - Grant Xeriscape Incentive Program

A Bureau of Reclamation grant was awarded to Water Conservation for the Xeriscape Incentive Program. The full grant award of \$75,000 will be used as customer reimbursements for the program. The match funding requirement will be met by the program participants' required match.

FROM:	Unanticipated Revenue (Bureau of Reclamation grant)	\$75,000
FOR	Xeriscape Incentive Program	\$75,000

J. LIGHT & POWER FUND

1. Wholesale Purchased Power

Through July 2022 the amount of wholesale purchased power needed for Residential, Commercial & Industrial sales has exceeded the budgeted amount of \$1,833,680. One of the factors for this increase in cost, besides increased demand, is the amount of intermittent energy sold to Fort Collins Utilities as opposed to dispatchable energy. Intermittent energy costs just over twice the amount of dispatchable energy costs. While our costs for wholesale purchased power have exceeded budget, so has our revenue generated by sales of that energy to the rate payers. Through July 2022 revenues are in excess of budget by \$4,469,729.

FROM:	Unanticipated Revenue (sales of purchased power)	\$2,000,000
FOR	Wholesale purchased power	\$2,000,000

2. Systems Additions & Replacement

Through July 2022 the system additions & replacement budget, which is comprised of several business units, is over budget by \$1,297,000. The related revenues generated from development and upgrades to the electric system are over budget by \$3,894,735 through July 2022.

FROM:	Unanticipated Revenue (electric capacity charge)	\$2,500,000
FOR	Electric systems additions & replacements	\$2,500,000

K. TRANSPORTATION SERVICES FUND

1. South Timberline Corridor - Fort Collins-Loveland Water District - Reimbursement for Water Line Improvements

Fort Collins-Loveland Water District (FCLWD) agreed to reimburse the City for water line improvements within the footprint of the City's South Timberline Corridor project. FCLWD asked that the City perform the water line improvements as part of the transportation capital improvement project to minimize traffic disruptions. The water line improvements were not required as part of the City's transportation project. The total amount of the reimbursement is \$132,094 and will be credited to the South Timberline Corridor project.

FROM:	Unanticipated Revenue (reimbursement)	\$132,094
FOR	South Timberline Corridor project	\$132,094

2. Shift Your Ride Transportation Demand Management (TDM) Program: Electric Micromobility Pass and Education Series Pilot

The contract with SPIN requires them to pay \$10,000 to the City annually for transportation programs deemed appropriate by staff. These funds will be used to cover printing costs, payroll taxes on the employee SPIN passes, and other expenses associated with the program.

FROM:	Unanticipated Revenue (Vendor payment (SPIN))	\$10,000
FOR	Shift Your Ride TDM Program	\$10,000

3. Streets: Work for Others

The Planning, Development and Transportation Work for Others program is a self-supported program for all "Work for Others" activities within Streets. Expenses are tracked and billed out to other City departments, Poudre School District, CSU, CDOT, Larimer County, developers and other public agencies. The original budget of \$3.0M was an estimate based on scheduled projects and anticipated rates. Due to increased cost of asphalt, fuel, parts, and other materials, an additional \$300,000 is requested to cover costs through the end of 2022. Revenue for performing the work will offset the expense (note: expense will not be incurred without offsetting revenue).

FROM:	Unanticipated Revenue (reimbursement for work done)	\$300,000
FOR	Work for Others program	\$300,000

CITY FINANCIAL IMPACTS

This Ordinance increases total City 2022 appropriations by \$7,564,003. Of that amount, this Ordinance increases General Fund 2022 appropriations by \$1,596,062, including use of \$692,164 in prior year reserves. Funding for the total increase to City appropriations is \$6,176,144 from unanticipated revenue and \$1,387,859 from prior year reserves.

The following is a summary of the items requesting prior year reserves:

Item #	Fund	Use	Amount
A1	General Fund	Emergency Preparedness and Security (EPS) Security Classes	\$13,621
A2	General Fund	Land Bank Operational Expenses	2,750
A3i	General Fund	NCRCN Police Radios Upgrades and Repairs	300,000
A5	General Fund	Manufacturing Equipment Use Tax Rebate	109,010
A7	General Fund	IRS alternative fuel vehicles refund from General Fund to Equipment Fund	266,783
B1	Data & Comm. Fund	Accela Permitting System Upgrade	12,500
C3	Equipment Fund	IRS alternative fuel vehicles refund from General Fund to Equipment Fund (refer to item A7)	266,783
C4	Equipment Fund	Equipment Fund Debt Service Payment	48,064
F1	Golf Fund	Golf Fund Debt Service Payment	80,022
F2	Golf Fund	Golf Player Assistant Pay	288,326
Total Use of Prior Year Reserves:			\$1,387,859

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Not applicable.

PUBLIC OUTREACH

Not applicable.

ATTACHMENTS

First Reading attachments not included.

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

ORDINANCE NO. 102, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING SUPPLEMENTAL APPROPRIATIONS
FROM VARIOUS CITY FUNDS

WHEREAS, the City has received additional revenue and other funds this fiscal year that were not anticipated; and

WHEREAS, the City has also received revenue and other funds that has been anticipated but was not appropriated in the 2022 annual appropriation or previous supplemental appropriations; and

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

WHEREAS, the City Manager is recommending the appropriations described herein and determined that these appropriations are available and previously unappropriated from the Funds named within Section 2 of this Ordinance and will not cause the total amount appropriated in each Fund named within Section 2 of this Ordinance to exceed the current estimate of actual and anticipated revenues and all other funds to be received in each such Fund during this fiscal year; and

WHEREAS, the City Council finds and determines that the adoption of this Ordinance is necessary for the public's health, safety, and welfare, and therefore, wishes to authorize the expenditures described in this Ordinance and that such expenditures will serve the public purposes for which they are designated.

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

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

Section 2. That there is hereby appropriated from the following Funds the amounts of additional revenue and other funds to be expended for the public purposes stated below.

A. GENERAL FUND

1.	FROM: Unanticipated Revenue	\$14,290
	FOR: Security Classes (City Manager's Office)	\$14,290

2a.	FROM:	Additional Revenue (2022/2023 BATTLE Grant)	\$36,516
	FOR:	Help prevent auto theft (Police Services)	\$36,516
2b.	FROM:	Additional Revenue (2022/2023 Black Market Marijuana Grant)	\$44,805
	FOR:	Support the investigation of illegal marijuana cultivation (Police Services)	\$44,805
2c.	FROM:	Additional Revenue (2022 Body Worn Camera Grant)	\$75,152
	FOR:	Upgrade body worn cameras (Police Services)	\$75,152
2d.	FROM:	Additional Revenue (2022 Click it or Ticket Grant)	\$11,400
	FOR:	Overtime for Seat Belt enforcement (Police Services)	\$11,400
2e.	FROM:	Additional Revenue (Northern Colorado Drug Taskforce)	\$7,868
	FOR:	Contribution to Northern Colorado Drug Task Force (Police Services)	\$7,868
2f.	FROM:	Additional Revenue (2021-22-23 HVE Grant)	\$26,400
	FOR:	Contribution to Northern CO Drug Task Force (Police Services)	\$26,400
2g.	FROM:	Additional Revenue (2021 ICAC Grant)	\$7,682
	FOR:	Help prevent Internet Crimes Against Children (Police Services)	\$7,682
2h.	FROM:	Additional Revenue (Police Reimbursable Overtime)	\$208,465
	FOR:	Overtime for School Resource Officers (Police Services)	\$208,465
2i.	FROM:	Additional Revenue (School Resource Officers)	\$42,022
	FOR:	DUI enforcement (Police Services)	\$42,022
2j.	FROM:	Additional Revenue (DUI Enforcement From Larimer County)	\$8,962
	FOR:	Police Miscellaneous Revenue (Police Services)	\$8,962
2k.	FROM:	Additional Revenue (Police Miscellaneous Revenue from Sales)	\$96,243
	FOR:	Police Miscellaneous Revenue (Police Services)	\$96,243
3.	FROM:	Unanticipated Revenue (radon kit sales)	\$1,471
	FOR:	Radon test kit purchase (Environmental Services)	\$1,471
4.	FROM:	Unanticipated Revenue (Restorative Justice Grant)	\$67,612
	FOR:	Restorative Justice Services (Neighborhood Services)	\$67,612
5.	FROM:	Unanticipated Revenue (Purchase of Civic Center Condos)	\$255,010
	FOR:	Operations and Maintenance costs (Operation Services)	\$255,010

B. EQUIPMENT FUND

- | | | |
|----|---|----------|
| 1. | FROM: Unanticipated Revenue (Fuel Price Increase) | \$50,000 |
| | FOR: Fuel Price Increase (Operation Services) | \$50,000 |
| 2. | FROM: Unanticipated Revenue (Charge Ahead Grant) | \$54,000 |
| | FOR: Electric vehicle chargers (Operation Services) | \$54,000 |

C. SALES AND USE TAX FUND

- | | | |
|----|---|----------|
| 1. | FROM: Unanticipated Revenue (Sales tax collections) | \$48,076 |
| | Natural Areas land purchase and operations | |
| | FOR: (Natural Areas) (Refer to item D1.) | \$48,076 |

D. NATURAL AREAS FUND

- | | | |
|----|---|----------|
| 1. | FROM: Unanticipated Revenue (Sales tax collections) | \$48,076 |
| | FOR: Natural Areas land purchase and operations (Natural Areas) | \$48,076 |

E. COMMUNITY CAPITAL IMPROVEMENT PROGRAM (CCIP) FUND

- | | | |
|----|---|----------|
| 1. | FROM: Unanticipated Revenue (Carnegie Operations) | \$25,000 |
| | FOR: Cultural Services (Carnegie Library)(Refer To Item F1) | \$25,000 |

F. CULTURAL SERVICES FUND

- | | | |
|----|--|----------|
| 1. | FROM: Unanticipated Revenue (Library Ops and Renovation) | \$25,000 |
| | FOR: Cultural Services (Cultural Services) | \$25,000 |

G. WATER FUND

- | | | |
|----|--|----------|
| 1. | FROM: Unanticipated Revenue (Bureau of Reclamation grant 2019) | \$5,000 |
| | FOR: Xeriscape Incentive Program (UT Customer Connections) | \$5,000 |
| 2. | FROM: Unanticipated Revenue (Bureau of Reclamation grant) | \$75,000 |
| | FOR: Xeriscape Incentive Program (UT Customer Connections) | \$75,000 |

H. LIGHT AND POWER FUND

- | | | |
|----|--|-------------|
| 1. | FROM: Unanticipated Revenue (sales of purchased power) | \$2,000,000 |
| | FOR: Wholesale purchased power (UT Electric Systems) | \$2,000,000 |
| 2. | FROM: Unanticipated Revenue (electric capacity charge) | \$2,500,000 |
| | FOR: Electric systems additions & replacements (UT Distribution) | \$2,500,000 |

I. TRANSPORTATION SERVICES FUND

1.	FROM:	Unanticipated Revenue (reimbursement)	\$132,094
	FOR:	South Timberline Corridor project (Engineering)	\$132,094
2.	FROM:	Unanticipated Revenue (Vendor payment (SPIN))	\$10,000
	FOR:	Shift Your Ride TDM Program (FC Moves)	\$10,000
3.	FROM:	Unanticipated Revenue (reimbursement for work done)	\$300,000
	FOR:	Work for Others program (Streets)	\$300,000

Introduced, considered favorably on first reading, and ordered published this 4th day of October, A.D. 2022, and to be presented for final passage on the 18th day of October, A.D. 2022.

 Mayor

ATTEST:

 City Clerk

Passed and adopted on final reading this 18th day of October, A.D. 2022.

 Mayor

ATTEST:

 City Clerk

ORDINANCE NO. 103, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PRIOR-YEAR RESERVES
IN VARIOUS CITY FUNDS

WHEREAS, the City has prior year-reserves available for appropriation; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to appropriate 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 funds were not previously appropriated; and

WHEREAS, the City Manager is recommending the appropriations described herein and has determined that these appropriations are available and previously unappropriated from the Funds named within Section 2 of this Ordinance and will not cause the total amount appropriated in each Fund named within Section 2 of this Ordinance to exceed the current estimate of actual and anticipated revenues and all other funds to be received in each such Fund during this fiscal year; and

WHEREAS, the City Council finds and determines that the adoption of this Ordinance is necessary for the public's health, safety, and welfare, and therefore, wishes to authorize the expenditures described in this Ordinance and that such expenditures will serve the public purposes for which they are designated in Section 2 below.

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

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

Section 2: That there is hereby appropriated from the following Funds the amounts of prior year reserves set forth below to be expended for the public purposes stated below.

A. GENERAL FUND

1.	FROM:	Prior Year Reserves (2021 class revenue)	\$13,621
	FOR:	Security Classes (City Manager's Office)	\$13,621
2.	FROM:	Prior Year Reserves (Land Bank reserve)	\$2,750
	FOR:	Land Bank Expenses	\$2,750
3.	FROM:	Prior Year Reserves (NCRCN Police Radios Upgrades & Repairs)	\$300,000
	FOR:	Police Radios Upgrades & Repairs	\$300,000
4.	FROM:	Prior Year Reserves (Manufacturing Use Tax Rebate Assignment)	\$109,010
	FOR:	Manufacturing Use Tax Rebates	\$109,010

- | | | |
|----|---|-----------|
| 5. | FROM: Prior Year General Fund reserves (IRS refund) | \$266,783 |
| | FOR: Equipment Fund - Alternative fuel vehicles (Operation Services) (Refer to Item C2) | \$266,783 |

B. DATA AND COMMUNICATIONS FUND

- | | | |
|----|--|----------|
| 1. | FROM: Prior Year Reserves (DTS assignment) | \$12,500 |
| | FOR: Accela Permitting System Upgrade | \$12,500 |

C. EQUIPMENT FUND

- | | | |
|----|--|-----------|
| 1. | FROM: Prior Year Reserves | \$48,064 |
| | FOR: 2022 interest payment on loan | \$48,064 |
| 2. | FROM: Prior Year General Fund Reserves (IRS refund) | \$266,783 |
| | FOR: Alternative fuel vehicles (Operation Services) (Refer to Item A5) | \$266,783 |

D. GOLF FUND

- | | | |
|----|--|-----------|
| 1. | FROM: Prior Year Reserves | \$80,022 |
| | FOR: 2022 interest payment on loan | \$80,022 |
| 2. | FROM: Prior Year Reserves | \$288,326 |
| | FOR: Contractual Labor payment increases | \$288,326 |

Introduced, considered favorably on first reading, and ordered published this 4th day of October, A.D. 2022, and to be presented for final passage on the 18th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 18th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk

October 18, 2022

AGENDA ITEM SUMMARY

City Council



STAFF

Katie Donahue, Natural Areas Director
Julia Feder, Environmental Program Manager
Alynn Karnes, Land Conservation Specialist
Tawnya Ernst, Sr. Real Estate Specialist
Ingrid Decker, Legal

SUBJECT

Second Reading of Ordinance No. 104, 2022, Authorizing the Conveyance of a Permanent, Nonexclusive Stormwater Drainage Easement on Redtail Grove Natural Area to WWW Properties, LLC.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on October 4, 2022, authorizes conveyance of a permanent, nonexclusive drainage easement to WWW Properties, LLC (owners of Fort Collins Nissan and Fort Collins Kia) on Redtail Grove Natural Area. The proposed easement area aligns with an existing historic drainage path for stormwater. WWW Properties, LLC will construct underground water quality and detention facilities on their property to capture stormwater, decrease peak flow rates into Fossil Creek, and decrease the amount of water overtopping the Fossil Creek Trail, as well as the time the trail is overtopped, during significant storm events.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

Redtail Grove Natural Area is a 51-acre natural area situated west of College Avenue between Harmony and Trilby Roads. The natural area conserves riparian habitat along Fossil Creek while providing visitor use amenities, including the paved Fossil Creek Trail, to adjacent neighborhoods and businesses along College Avenue.

WWW Properties, LLC owns three parcels (totaling 24+/- acres) south of the natural area, including the site of the existing Fort Collins Nissan dealership. WWW Properties intends to expand its operations at the Nissan dealership site to collocate a Kia dealership that is currently at another location. It submitted expansion plans for conceptual review to the City's Development Review Center in the fall of 2021.

The City's Land Use Code requires mitigation of any stormwater generated on the property due to the proposed development. Late last year, representatives of WWW Properties contacted Natural Areas' staff with a request for a non-exclusive drainage easement as they explored alternatives to route stormwater flows.

Currently and historically, stormwater from the east side of WWW Properties' land flows north into a natural drainage swale in the southeast corner of Redtail Grove Natural Area. Stormwater from the west side of the WWW Properties' land drains west to Lang Gulch. During significant storm events, existing drainage flows overtop Fossil Creek Trail. WWW Properties' proposed development plan would increase the paved area on their property, which in turn would increase the amount of impermeable surface, lessening the ability of stormwater to naturally infiltrate the soil. Therefore, this development would increase the overall volume of water that would run downhill through the existing swale and enter Fossil Creek, if no mitigation actions were taken.

Numerous alternatives for mitigation were reviewed as part of the design process. The preferred alternative for protecting the Redtail Grove Natural Area involves the installation of underground water quality detention facilities on WWW Properties' land. The applicant has secured a letter of intent from the owner of the property (Silverthorne, LLC) that lies between the WWW Properties' land and the natural area to collaborate on easements through this property. However, the stormwater would still flow across the natural area to Fossil Creek.

WWW Properties' project team has met with staff (including Natural Areas, Park Planning and Development, and Utilities-Stormwater representatives) on several occasions to discuss permitting and master storm drainage issues related to the proposed development. In addition, multiple internal discussions between these departments, as well as the Parks Department, have occurred to determine a preferred alternative to manage the potential increased flows.

Alternatives Analysis:

The following location and design alternatives were submitted by WWW Properties in its alternatives analysis to manage the stormwater outfall coming from the eastern portion of the property:

Alternative 1 (Preferred):

WWW Properties would install underground water quality detention facilities on its land. The collected stormwater from these facilities would release to Fossil Creek across the Silverthorne property. Once reaching the natural area's border, the stormwater would flow along a 30'-wide, 370'+/- long segment of a natural drainage swale, through an existing 12" culvert under the Fossil Creek Trail, and into Fossil Creek. The total proposed easement area is 11,045 square-feet (0.254 acres). The installation of the underground water quality detention facilities would:

- Filter stormwater runoff for water quality prior to being released.
- Help slowly release the collected stormwater and mitigate for some of the existing issues during storm events. This includes reducing projected peak flow rates and decreasing the quantity of water and duration of time the Fossil Creek Trail is overtopped during significant storm events.
- Direct stormwater flows along a historic drainage way.

This preferred alternative would not involve any construction or installation disturbance on Natural Areas' property or to the Fossil Creek Trail.

Installation of larger or additional culverts was considered as part of this alternative. However, impacts of culvert installation would include:

- Closing Fossil Creek Trail for approximately two weeks to remove pavement, install the culvert, and reconnect the trail.
- Construction equipment would be mobilized across approximately 500 feet of natural area and paved trail, likely necessitating restoration.

Alternative 2:

This alternative is in the same location as the preferred alternative. However, a storm sewer would be constructed to carry water from WWW Properties' land and through the natural area before discharging in Fossil Creek. The sewer would require permanent maintenance access across the natural area for the added infrastructure. This alternative would require significant disturbance through the natural area and within existing wetlands, floodway and erosion buffer at Fossil Creek. Historic drainage patterns would also be disrupted.

Alternative 3:

This alternative mirrors Alternative 2, but the storm sewer would be constructed on the northeast portion of WWW Properties' land where it directly connects to Natural Areas' property. As in Alternative 2, the sewer would require permanent maintenance access across the natural area for the added infrastructure. This alternative would require significant disturbance through the natural area and within existing wetlands, floodway, and erosion buffer at Fossil Creek. Historic drainage patterns would also be disrupted.

Alternative 4:

This alternative would reroute stormwater runoff via a pipe to the west of WWW Properties' land and discharge the water to Lang Gulch, where the western portion of the property's stormwater runoff would already be directed, to avoid passing the water over the natural area. Detention of all the property's runoff would not be possible through underground facilities on the western side of the property. A direct connection to Lang Gulch for the east side's outfall would increase the flowrates that would be seen to Lang Gulch and ultimately to Fossil Creek. Impacts to Lang Gulch would be significant with an added pipe for outfall and additional, un-detained runoff being directed to the channel.

While discharge of stormwater into Lang Gulch would keep the drainage on WWW Properties land, this alternative has the potential to increase erosion, putting sediment and additional untreated water into Lang Gulch and Fossil Creek. Lang Gulch, a small tributary to Fossil Creek, contains significant rock outcrops with numerous fossils, native vegetation, and a narrow fringe of wetlands.

Alternative 5:

This alternative contemplated drainage onto College Avenue/Highway 287. WWW's project team has met with the Colorado Department of Transportation (CDOT) about diverting the water through the right-of-way at College Avenue in a storm sewer, until it reaches the box culvert that drains into Fossil Creek underneath College Avenue. CDOT staff have said they cannot accept increased flow rates into CDOT right-of-way.

Due to the significant amount of disturbance for all culvert installation or replacement designs, or the addition of a storm sewer through the natural area (Alternative 2 and 3) staff did not believe that these designs and alternatives are the best way to protect the existing natural resources. Ultimately, a no-build approach (Alternative 1 without culvert installation) was selected as the preferred option. Additionally, Alternatives 2, 3, 4 and 5 would greatly reduce or eliminate the stormwater that has historically flowed across the swale on Redtail Grove, removing water from a portion of the Redtail Grove habitat.

CITY FINANCIAL IMPACTS

Application fee	\$3,000
Mitigation Fee - non-wetland - \$3,800/ac. @ 0.254 acres	\$3,800
Easement fee - \$5,000/ac. - \$0.254/ac. @ 50% of fair market value	\$1,270

To mitigate for an increase in volume of stormwater outflow through the historic natural area drainage path, Natural Areas staff is requesting the applicant provide payment in lieu to mitigate a portion of land on both

sides of the existing culvert with native vegetation, slowing down the volume of water entering and exiting the culvert at one time. This would prevent erosion to the natural area over time.

These estimated fees would be paid to the Natural Areas Department to support administrative costs and land conservation efforts.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Land Conservation and Stewardship Board reviewed this request at its July 13, 2022, meeting. Conversation centered around the presentation of the easement proposal and analysis as well as the overall Natural Areas' easement policy. Following the presentation, the Board voted to table the WWW Properties' request indefinitely. Questions and concerns regarding the clarity of the proposal details have been addressed in the revised package presented to Council.

PUBLIC OUTREACH

Not applicable.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration
2. Exhibit A

ORDINANCE NO. 104, 2022
 OF THE COUNCIL OF THE CITY OF FORT COLLINS
 AUTHORIZING THE CONVEYANCE OF A PERMANENT, NONEXCLUSIVE
 STORMWATER DRAINAGE EASEMENT ON REDTAIL GROVE NATURAL AREA TO
 WWW PROPERTIES, LLC

WHEREAS, the City is the owner of real property located south of Harmony Road along South College Avenue known as Redtail Grove Natural Area (the “City Property”); and

WHEREAS, WWW Properties, LLC (“WWW”) owns property south of the City Property, at 5811 South College Avenue, which is the site of the Fort Collins Nissan dealership (the “WWW Property”); and

WHEREAS, the City is in the process of reviewing a Final Development Plan for the WWW Property that would include taking down the existing building on the property and replacing it with a new Kia dealership and a new Nissan dealership; and

WHEREAS, for the proposed development to be approved, WWW must acquire any needed easements to manage stormwater drainage issues associated with increased development on its property; and

WHEREAS, WWW and City staff considered five alternatives for managing stormwater outfall and concluded that the preferred option is to collect stormwater in underground water quality detention facilities on the WWW property and then direct it in an easement over a historic natural drainage swale on downstream properties, including the City Property, to Fossil Creek; and

WHEREAS, this option benefits the City Property by filtering stormwater runoff for water quality before it is released and reducing the overtopping of the Fossil Creek Trail on the City Property during significant storm events; and

WHEREAS, the location of the proposed stormwater easement is shown and described on Exhibit “A”, attached and incorporated herein by reference (the “Easement”); and

WHEREAS, WWW would pay the City fair market value of \$1,270 for the Easement, plus a \$3,000 application fee, and a \$3,800 mitigation fee that Natural Areas will use to plant vegetation on the City Property to mitigate erosion from stormwater drainage; and

WHEREAS, the Easement would be nonexclusive and would not grant WWW any right to install any new improvements on the City Property; and

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

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

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

Section 2. That the City Council hereby finds that the conveyance of the Easement to WWW as provided herein is in the best interests of the City.

Section 3. That the Mayor is hereby authorized to execute such documents as are necessary to convey the Easement to WWW 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 or effectuate the purposes of this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 4th day of October, A.D. 2022 and to be presented for final passage on the 18th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on this 18th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk

PROPERTY DESCRIPTION

A strip of land, 30.00 feet in width for easement purposes, located in the Northeast Quarter (NE1/4) of Section Eleven (11) and in the Southeast Quarter (SE1/4) of Section Two (2), Township Six North (T.6N.), 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 Northeast corner of said Section 11 and assuming the North line of said NE1/4 as bearing South 88°31'52" West being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 2621.55 feet with all other bearings contained herein relative thereto;

THENCE South 88°31'52" West along the North line of said NE1/4 a distance of 593.07 feet to the **POINT OF BEGINNING**;

THENCE South 14°59'12" East a distance of 117.34 feet;

THENCE South 25°09'48" East a distance of 129.31 feet to the North line of that parcel of land described in Warranty Deed recorded January 13, 2000 as Reception No. 2000003397 of the Records of Larimer County;

THENCE South 87°14'48" West along said North line a distance of 32.45 feet;

THENCE North 25°19'48" West a distance of 119.61 feet;

THENCE North 14°59'12" West a distance of 245.04 feet;

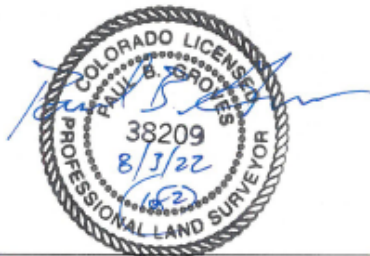
THENCE North 75°00'48" East a distance of 30.00 feet;

THENCE South 14°59'12" East a distance of 125.03 feet to the **POINT OF BEGINNING**.

Said described parcel of land contains 11,045 Square Feet or 0.254 Acres, more or less (±), and is subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

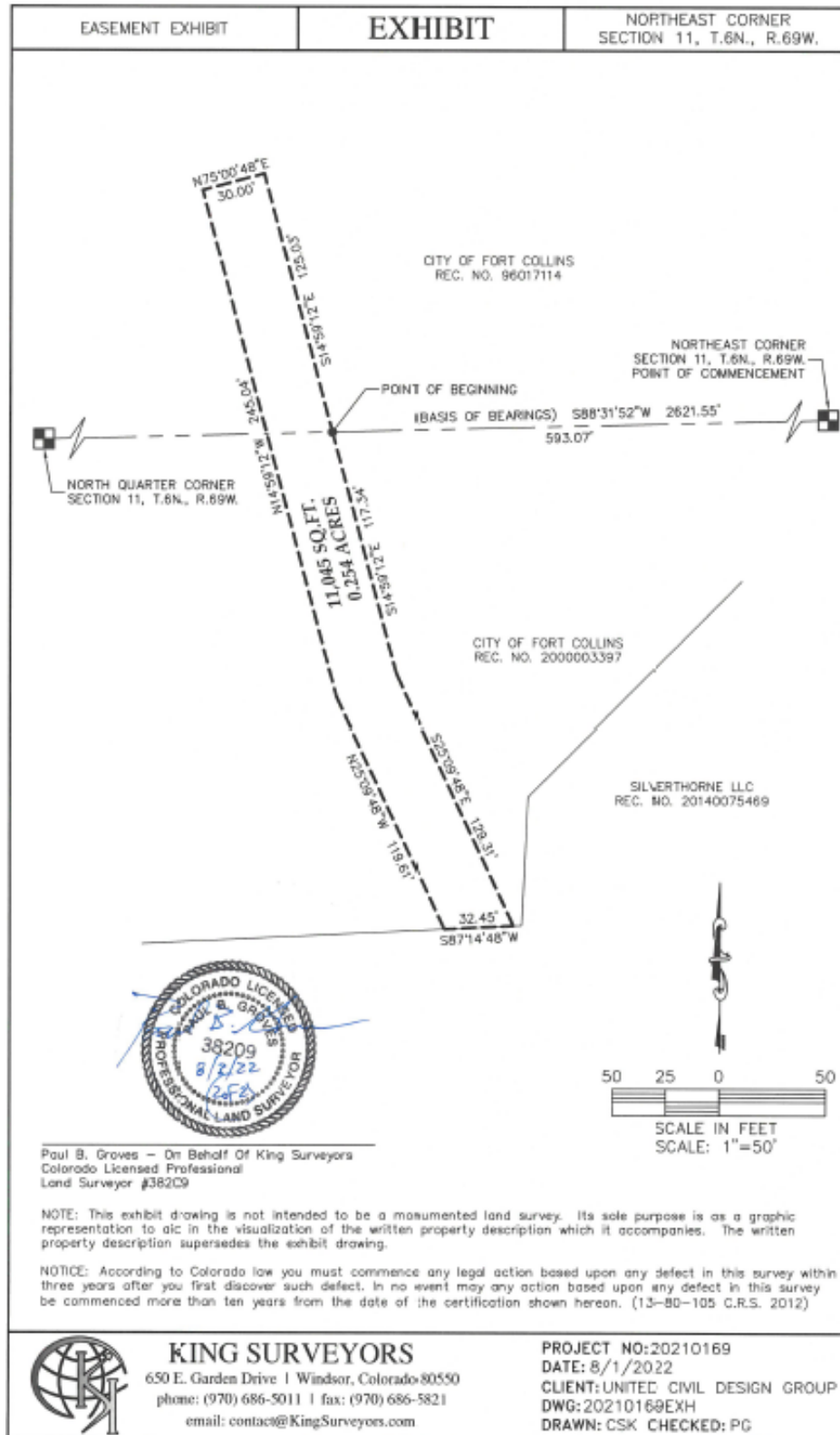
SURVEYORS STATEMENT

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



Paul B. Groves - on behalf of King Surveyors
Colorado Licensed Professional
Land Surveyor #38209

KING SURVEYORS
650 East Garden Drive
Windsor, Colorado 80550
(970) 686-5011



October 18, 2022

AGENDA ITEM SUMMARY

City Council



STAFF

Jason Graham, Utilities
Tawnya Ernst, Real Estate Services
Ryan Malarky, Legal

SUBJECT

Second Reading of Ordinance No. 105, 2022, Authorizing the Conditional Conveyance of Certain City-Owned Property Rights to Chris Vandemoer and Geo. A. Henderson Co.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on October 4, 2022, authorizes the conditional conveyance of certain City-owned real property rights to Chris Vandemoer and Geo. A. Henderson, Co. (collectively "Vandemoer"). The proposed conveyance is part of a proposed settlement agreement between the City, Vandemoer, and The Nature Conservancy ("TNC") to obtain necessary property rights on the primary private access road for all three phases of the City's Halligan Water Supply Project ("Halligan Project"), in which the City intends to replace or modify a dam and enlarge Halligan Reservoir. Vandemoer owns certain real property adjacent to the reservoir that includes a private road that serves as the primary access point to the reservoir and the dam. The property is also encumbered by two conservation easements held by TNC. Since late 2018, City representatives have negotiated with Vandemoer to obtain property rights necessary for the Halligan Project. The parties are currently in eminent domain litigation for Phase 1 of the Project and have had productive conversations regarding a global settlement for all three phases of the Halligan Project.

The conveyance of the City-owned property would only occur if: (1) the parties enter into a settlement agreement; and (2) the City completes construction of the Halligan Project. This Ordinance does not seek approval of the settlement agreement itself. The decision whether to enter into the settlement agreement would be made by the City Manager following a recommendation by City staff, in consultation with outside legal counsel and the City Attorney's Office. This Ordinance is limited only to authorizing the conditional conveyance of City-owned property. The structure of the settlement agreement is explained more fully below.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

Discussions and Negotiations

Vandemoer's property serves as the primary access point to Halligan Reservoir. An existing private road traverses Vandemoer's property and ends at the Halligan dam. City staff have been

communicating with Vandemoer for more than five years to share information, better understand Vandemoer's concerns, and to work towards addressing those concerns while also moving the Halligan Project forward. A map of the Reservoir area is included with this AIS for reference.

Pursuant to Council authorization in Ordinance No. 013, 2020, the City is engaged in eminent domain litigation with Vandemoer, TNC, and other parties to acquire access rights along the existing road for Phase 1 (Permitting and Design) of the project. City staff and Vandemoer have been negotiating a possible settlement of the litigation that would result in the City obtaining the property rights it needs from Vandemoer for all three phases of the Project, including construction and ongoing operation.

More recently, City staff have been communicating with TNC about the Project's impacts to TNC's conservation easements. The ongoing eminent domain litigation only concerns Phase 1 of the Project, which does not impact TNC's conservation easements. However, a settlement of property rights for Phase 2 would impact the conservation easements because that is when construction will begin, the road would be modified, and more substantial use of the road will occur. Phase 3 includes perpetual use of the road, which may also have impacts to the conservation easements. Accordingly, a proposed 3-phase settlement includes expanding the scope of the pending eminent domain case to include the property rights for Phases 2 and 3. Because the City's use in those later phases would impact the conservation easements, TNC's agreement to the settlement is appropriate. TNC has made certain requests regarding project means and methods with the intent towards mitigating impacts to wildlife and conservation interests. City staff and TNC are continuing discussions regarding the feasibility of those requests.

Proposed Agreement Benefits

While this Ordinance does not ask Council to approve the settlement agreement, an explanation of the proposed settlement framework may be helpful. City staff views the proposed settlement agreement as beneficial to the City because the proposed agreement would give the City the property rights it needs on this primary access to Halligan dam for all three phases of the Project and would eliminate the risk and expense of ongoing and future eminent domain litigation.

The City would acquire from Vandemoer property rights for all three phases as follows:

- Phase 1
 - The City would continue to have access along the existing road from Highway 287 under the existing temporary access agreement with Vandemoer.
- Phase 2
 - The City's Phase 2 property rights would begin when its Phase 1 rights end.
 - In exchange for compensation, the City would have a temporary construction easement generally along the existing road on Vandemoer's property.
 - The City would be able to widen and modify the road to meet the access needs of heavy equipment and materials.
 - When this temporary construction easement, the City's access rights would transition to its Phase 3 rights.
- Phase 3
 - The City would have permanent property rights it will need to operate and maintain the Reservoir, including, but not limited to, use of the improved road for access to the reservoir for all reservoir and dam operations, inspection, maintenance, repair. The City would also have the property rights it needs to raise the water level of the reservoir.

Consideration from the City

In exchange for Vandemoer conveying the property rights to the City, the City would pay a negotiated amount as a single payment for all property rights acquired, impaired or damaged. This amount is currently contemplated to be \$1,543,000 but is subject to change as negotiations continue. The intent is that the single payment will compensate both Vandemoer and TNC, which is customary in eminent domain cases. This amount would also cover all claims for costs and attorney fees either Vandemoer or TNC might be entitled to.

Consideration would also include the City conditionally conveying property rights to Vandemoer, which is the purpose of the proposed Ordinance. The City owns real property at the reservoir by way of a Halligan Reservoir agreement with the North Poudre Irrigation Company ("NPIC"), dated November 8, 1993, pursuant to which NPIC conveyed property to the City and retained the right to the return of that property in the event the City terminates the project. Accordingly, the City's conveyance of property rights to Vandemoer would be conditioned upon the City completing construction of the Project and NPIC's right to reacquire property irrevocably lapsing or being expressly released in writing by NPIC.

The City would conditionally convey fee title to Vandemoer of three parcels of City land adjacent to the reservoir, totaling approximately 23 acres, while retaining for the City an access easement to the reservoir for inspection and maintenance. The land to be conveyed to Vandemoer would include a permanent restrictive covenant that would prohibit commercial uses and building on the property. Cattle grazing would be allowed, but the City could fence out livestock to protect wetlands and vegetation under restoration.

The City would also conditionally grant Vandemoer an access easement (~7 acres) over City land that would fluctuate with the water level. The easement would only allow pedestrian access and cattle grazing, although the City could fence out livestock to protect wetlands and vegetation under restoration. No commercial uses or improvements would be allowed, such as buildings or roads.

The conveyance of any City property rights to Vandemoer would not take place until: (1) after the City entered into the proposed settlement agreement; (2) the City finished construction of the Project; and (3) the North Poudre Irrigation Company's right to reacquire the City property rights is extinguished.

This means that if the City ultimately does not pursue the Halligan Project, the City would retain the property rights that are the subject of this Ordinance.

Consideration from Vandemoer

In exchange, Vandemoer would convey to the City:

- The City would continue to have its temporary access along the road for Phase 1 permitting and design.
- Three parcels of land in fee for the permanent inundation of reservoir water, totaling approximately 5 acres.
- A permanent inundation easement on his land for high water events and to allow the City access for inspection and maintenance, covering approximately 9 acres.
- A temporary construction easement for the construction in Phase 2 construction, which would become a permanent access easement at Phase 3 operations and maintenance.

Settlement with TNC

TNC has a conservation easement on a portion of Vandemoer's land that would be impacted by the City work on the Project. Staff are coordinating with TNC to incorporate mitigation measures into the Project and, to the extent necessary, subordinate the conservation easements on those portions of the Vandemoer

property that will be impacted by the improvement and use of the road for Phases 2 and 3.

CITY FINANCIAL IMPACTS

While negotiations are ongoing and settlement is not final, the estimated compensation to be paid by the City is \$1,543,000. City staff calculates that the exchange in real property interests between the City and Vandemoer, combined with the value of avoiding the risks and expense of protracted litigation, is equivalent to or exceeds the City receiving fair market value for the City property.

ATTACHMENTS

First Reading attachments not included.

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

ORDINANCE NO. 105, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONDITIONAL CONVEYANCE OF CERTAIN CITY-OWNED
PROPERTY RIGHTS TO CHRIS VANDEMOER AND GEO. A. HENDERSON CO.

WHEREAS, by the adoption of Resolution 2003-121, City Council authorized the City Manager to proceed with investigation, planning, regulatory review processes, site acquisition, design, and construction of the Halligan Reservoir Enlargement Project, now referred to as the Halligan Water Supply Project (the “Project”); and

WHEREAS, the City is proceeding with Phase 1 of three phases of the Project, which will include site visits and data collection related to the permitting and design work for the reservoir enlargement and replacement or modification of the dam and diversion structures; and

WHEREAS, to accomplish the work of Phase 1, the City needs access to Halligan Reservoir; and

WHEREAS, Chris Vandemoer and Geo. A. Henderson Co. (collectively, “Vandemoer”) jointly own property adjacent to the reservoir and which is encumbered by conservation easements owned by The Nature Conservancy (“TNC”); and

WHEREAS, the primary access to the reservoir and the Halligan dam is by a private road that crosses Vandemoer’s property; and

WHEREAS, pursuant to the authorization by City Council in Ordinance No. 013, 2020, the City is engaged in eminent domain litigation with Vandemoer, TNC, and other parties to acquire access rights along the existing road for Phase 1 of the Project; and

WHEREAS, negotiations with Vandemoer and TNC have led to the possible settlement of access rights and real property acquisitions for all three phases of the Project; and

WHEREAS, part of the proposed settlement with respect to Vandemoer would include a cash payment by the City to Vandemoer as compensation for certain property rights the City would unconditionally acquire from Vandemoer, including land in fee, temporary and permanent access easements, and a permanent inundation easement; and

WHEREAS, the City owns real property at the reservoir by way of a Halligan Reservoir agreement with the North Poudre Irrigation Company (“NPIC”), dated November 8, 1993, pursuant to which NPIC conveyed property to the City and retained the right to the return of that property in the event the City terminates the project to enlarge Halligan Reservoir; and

WHEREAS, as additional consideration for said settlement, the City would convey certain property rights to Vandemoer, conditioned upon the City completing construction of the Project and NPIC’s right to reacquire property either irrevocably lapsing or being expressly released in writing by NPIC; and

WHEREAS, the property rights the City would conditionally convey to Vandemoer are described on Exhibits “A” and “B”, attached hereto and incorporated herein by this reference (the “City Property Rights”); and

WHEREAS, more specifically, the City would conditionally convey to Vandemoer fee interest in certain real property, subject to a restrictive covenant that would limit Vandemoer’s use of the property and subject to a flood easement to allow the City to inundate the property during high water events; and

WHEREAS, the City would also conditionally convey to Vandemoer a permanent shoreline access easement that would allow Vandemoer the use of other City property to access the reservoir; and

WHEREAS, if City Council approves the conditional conveyance, City staff has determined the City will receive sufficient value for the City Property Rights by way of the value of the property rights it would obtain from Vandemoer in the proposed settlement combined with the value of avoiding the risk and expense of eminent domain litigation to obtain property rights for all three phases of the Project; and

WHEREAS, the parties are engaged in ongoing negotiations with the intent of executing a settlement agreement in advance of the Phase 1 eminent domain trial set to begin October 31, 2022; and

WHEREAS, the proposed settlement of all three phases would include the City’s acquisition of property rights that are desirable and necessary for the design, permitting, construction, long-term maintenance and operation of the Project, is in the City’s best interest, and enhances public health, safety, and welfare because it is in furtherance of the Project, which will meet the demands of future Fort Collins Utilities customers and provide added reliability for all Utilities customers; and

WHEREAS, Section 23-111(a) of the City Code authorizes the City Council to sell, convey, or otherwise dispose of any and all interests in real property owned in the name of 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; and

WHEREAS, Section 23-111(b) of the City Code further requires that, for the conveyance of real property that is part of the City’s water or utility systems, the City Council must also find that the disposition will not materially impair the viability of the particular utility system as a whole and that it will be for the benefit of the citizens of the City.

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

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

Section 2. That the City Council hereby finds and determines, pursuant to Section 23-111(a) of the City Code, that it is necessary in the public interest and in the best interests of the City to conditionally convey the City Property Rights as described herein for the purpose of settling the eminent domain litigation with Vandemoer and TNC so that the City acquires all property interests it needs from Vandemoer and TNC for all three phases of the Project.

Section 3. That the City Council hereby finds and determines, pursuant to Section 23-111(b) of the City Code, that the conveyance of the City Property Rights will not materially impair the viability of the City's water utility system as a whole and will be for the benefit of the citizens and residents of the City;

Section 4. That the City Council finds and determines, pursuant to Section 23-114 of the City Code, that the disposition of the subject real property interests described in this Ordinance will result in the City receiving value in an amount equal to or greater than the fair market value of such land.

Section 5. That the City Council hereby authorizes the Mayor to execute deeds and other instruments of conveyance to conditionally convey the City Property Rights to Vandemoer, and the City Manager is authorized to execute such other documents related to the property conveyances as may be necessary, all 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 such property interest, 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, and ordered published this 4th day of October, A.D. 2022, and to be presented for final passage on the 18th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 18th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk

**DESCRIPTION OF TRACTS OF LAND TO BE CONVEYED IN FEE BY
THE CITY OF FORT COLLINS TO VANDEMOER – GEO. A. HENDERSON CO. INC.**

TRACTS OF LAND LOCATED IN THE EAST HALF OF SECTION 34, TOWNSHIP 11 NORTH, RANGE 71 WEST OF THE SIXTH PRINCIPAL MERIDIAN; COUNTY OF LARIMER, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THOSE PORTIONS OF THE EAST 400 FEET OF THE SOUTH 1050 FEET OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 34, LYING AT OR ABOVE THE 110-FOOT CONTOUR LINE OF THE HALLIGAN RESERVOIR (NAVD88 6398-FOOT CONTOUR LINE).

ALSO:

BEGINNING AT THE SOUTHEAST SIXTEENTH CORNER OF SAID SECTION 34, AND CONSIDERING THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 34 TO BEAR N89°59'20"W, SAID LINE BEING MONUMENTED ON BOTH ENDS BY A 3-1/4" ALUMINUM CAP STAMPED LS 30829, BASED UPON THE COLORADO STATE PLANE NORTH ZONE COORDINATE SYSTEM NAD 83(1992), WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE ALONG SAID SOUTH LINE, N89°59'20"W, A DISTANCE OF 551.32 FEET;
THENCE N41°19'36"W, A DISTANCE OF 289.94 FEET;
THENCE N56°17'49"W, A DISTANCE OF 168.53 FEET;
THENCE N05°40'37"E, A DISTANCE OF 121.21 FEET TO THE POINT OF INTERSECTION OF THE CENTER LINE OF AN EXISTING GULCH WITH THE 110-FOOT CONTOUR LINE OF THE HALLIGAN RESERVOIR (NAVD88 6398-FOOT CONTOUR LINE);
THENCE IN A NORTHEASTERLY DIRECTION ALONG SAID 110-FOOT CONTOUR LINE (NAVD88 6398-FOOT CONTOUR LINE) TO A POINT ON THE EAST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34
THENCE ALONG SAID EAST LINE, S01°00'06"E, A DISTANCE OF 1,298.26 FEET TO THE **POINT OF BEGINNING.**

SAID 110-FOOT CONTOUR HAS BEEN DETERMINED TO BE AT NAVD 88 ELEVATION 6398' THROUGH THE RECOVERY AND GPS SURVEY OF BENCHMARK MARKED "ELEVATION 76.47" ESTABLISHED IN 1910 AND SHOWN ON THE 'MAP OF RESURVEY OF THE HALLIGAN RESERVOIR' APPROVED BY THE STATE ENGINEER ON MARCH 10, 1941 UNDER FILE "DENVER 012781". SAID BENCHMARK IS A NAIL SET FLUSH IN A 1-FOOT BY 1-FOOT CONCRETE PAD POURED INTO NATURAL ROCK MARKED "HALLIGAN DAM ELEV. 76.47". COLORADO NORTH ZONE STATE PLANE COORDINATES NAD83(1992) FOR THIS POINT ARE:

N 1563477.85', E 3045283.95', NAVD 88 ELEVATION OF 6364.27'
THIS BENCHMARK WILL BE INUNDATED WITH THE PLANNED EXPANSION OF THE RESERVOIR.

SECONDARY BENCHMARK CONTROL INCLUDES:

- 1) CONTROL POINT "CP-905" SET BY SURVCON INC. AS A PART OF THEIR 2003 SURVEY OF THE HALLIGAN RESERVOIR, BEING A PUNCHMARK IN A 3-1/4" ALUMINUM DISK SET IN A ROCK OUTCROPPING LYING APPROXIMATELY 550 FEET SOUTHEAST OF THE EXISTING DAM.

COLORADO NORTH ZONE STATE PLANE COORDINATES NAD83(1992):

N 1562799.92', E 3045307.92', NAVD 88 ELEVATION OF 6446.06'

- 2) THE CENTER QUARTER CORNER OF SECTION 34 (A NO. 6 REBAR WITH 3-1/4" ALUMINUM CAP STAMPED LS 30829) – COLORADO NORTH ZONE STATE PLANE COORDINATES NAD83(1992):
N 1563260.74', E 3045370.82', NAVD 88 ELEVATION OF 6400.73'

THE TRACTS CONTAIN A TOTAL OF 22.91 ACRES, MORE OR LESS, AND ARE SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, AND OTHER MATTERS OF RECORD OR THAT NOW EXIST.

I HEREBY STATE THAT THE ABOVE DESCRIPTION WAS PREPARED BY ME AND IS TRUE AND CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF, AND OPINION.

JOHN STEVEN VON NIEDA, COLORADO P.L.S. 31169
FOR AND ON BEHALF OF THE CITY OF FORT COLLINS
P.O. BOX 580, FORT COLLINS, CO 80522



**DESCRIPTION OF TRACTS OF LAND TO BE RESERVED AS A FLOOD EASEMENT BY
THE CITY OF FORT COLLINS**

TRACTS OF LAND LOCATED IN THE EAST HALF OF SECTION 34, TOWNSHIP 11 NORTH, RANGE 71 WEST OF THE SIXTH PRINCIPAL MERIDIAN; COUNTY OF LARIMER, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THOSE PORTIONS OF THE EAST 400 FEET OF THE SOUTH 1050 FEET OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 34, LYING AT OR ABOVE THE 110-CONTOUR LINE OF THE HALLIGAN RESERVOIR (NAVD88 6398-FOOT CONTOUR LINE) AND AT OR BELOW THE NAVD88 6414-FOOT CONTOUR LINE.

ALSO:

COMMENCING AT THE SOUTHEAST SIXTEENTH CORNER OF SAID SECTION 34, AND CONSIDERING THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 34 TO BEAR N89°59'20"W, SAID LINE BEING MONUMENTED ON BOTH ENDS BY A 3-1/4" ALUMINUM CAP STAMPED LS 30829, BASED UPON THE COLORADO STATE PLANE NORTH ZONE COORDINATE SYSTEM NAD 83(1992), WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

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THENCE N41°19'36"W, A DISTANCE OF 289.94 FEET;
THENCE N56°17'49"W, A DISTANCE OF 168.53 FEET;
THENCE N05°40'37"E, A DISTANCE OF 91.08 FEET TO A POINT ON THE NAVD88 6414-FOOT CONTOUR LINE, SAID POINT BEING THE **POINT OF BEGINNING**;

THENCE N05°40'37"E, A DISTANCE OF 30.13 FEET TO THE POINT OF INTERSECTION OF THE CENTER LINE OF AN EXISTING GULCH WITH THE 110-FOOT CONTOUR LINE OF THE HALLIGAN RESERVOIR (NAVD88 6398-FOOT CONTOUR LINE);
THENCE IN A NORTHEASTERLY DIRECTION ALONG SAID 110-FOOT CONTOUR LINE (NAVD88 6398-FOOT CONTOUR LINE) TO A POINT ON THE EAST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34;
THENCE SOUTHERLY ALONG SAID EAST LINE TO THE SAID NAVD88 6414-FOOT CONTOUR LINE;
THENCE IN A SOUTHWESTERLY DIRECTION ALONG SAID NAVD88 6414-FOOT CONTOUR LINE TO THE **POINT OF BEGINNING**.

SAID 110-FOOT CONTOUR HAS BEEN DETERMINED TO BE AT NAVD 88 ELEVATION 6398' THROUGH THE RECOVERY AND GPS SURVEY OF BENCHMARK MARKED "ELEVATION 76.47" ESTABLISHED IN 1910 AND SHOWN ON THE 'MAP OF RESURVEY OF THE HALLIGAN RESERVOIR' APPROVED BY THE STATE ENGINEER ON MARCH 10, 1941 UNDER FILE "DENVER 012781". SAID BENCHMARK IS A NAIL SET FLUSH IN A 1-FOOT BY 1-FOOT CONCRETE PAD POURED INTO NATURAL ROCK MARKED "HALLIGAN DAM ELEV. 76.47". COLORADO NORTH ZONE STATE PLANE COORDINATES NAD83(1992) FOR THIS POINT ARE:

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THE TRACTS CONTAIN A TOTAL OF 3.50 ACRES, MORE OR LESS, AND ARE SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, AND OTHER MATTERS OF RECORD OR THAT NOW EXIST.

I HEREBY STATE THAT THE ABOVE DESCRIPTION WAS PREPARED BY ME AND IS TRUE AND CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF, AND OPINION.

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P.O. BOX 580, FORT COLLINS, CO 80522

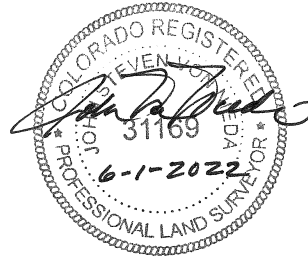
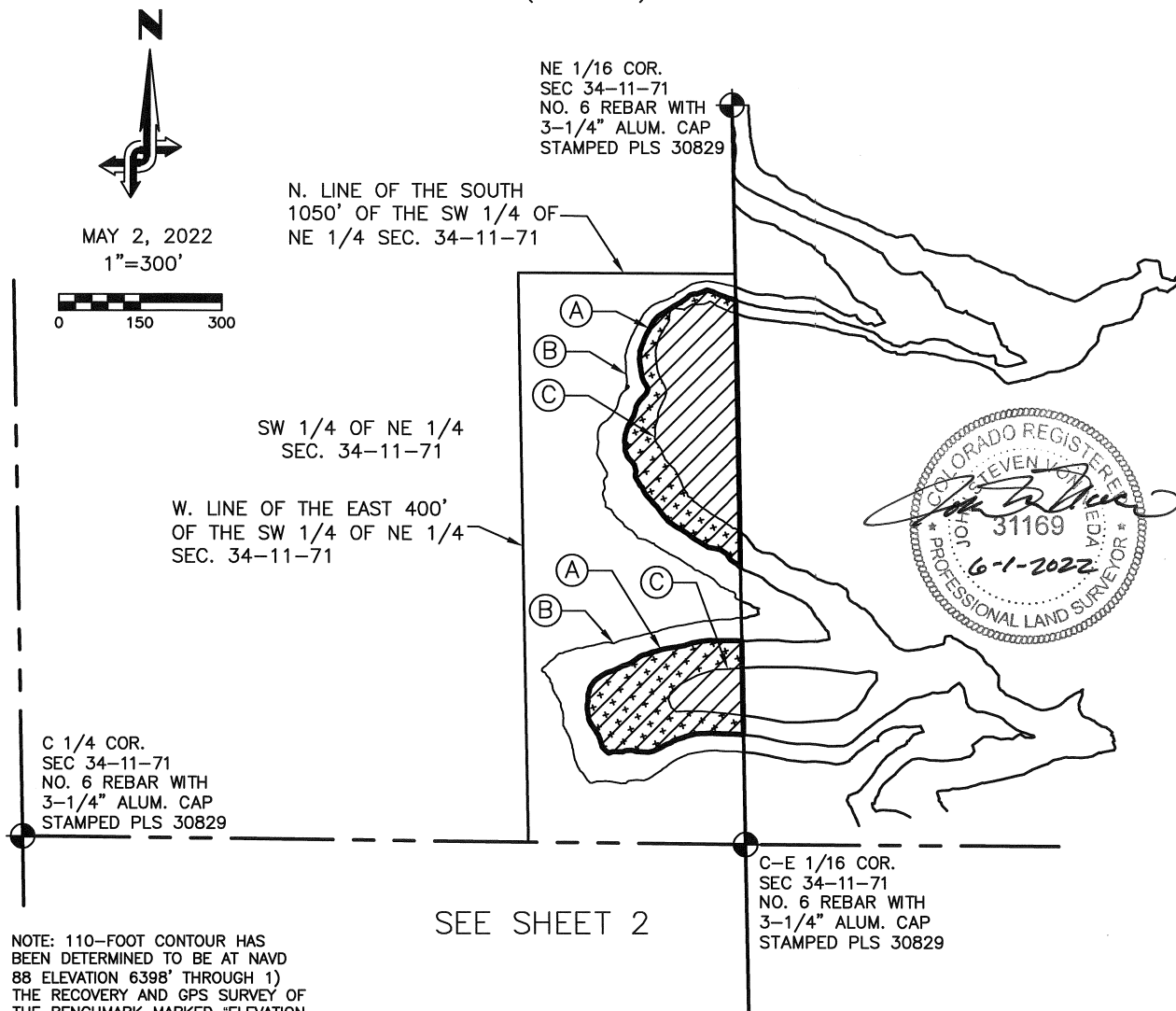


EXHIBIT OF
FEE CONVEYANCE FROM THE CITY OF FORT COLLINS TO VANDEMOER –
GEO A. HENDERSON CO. INC., AND RESERVATION OF FLOOD EASEMENT
BY THE CITY OF FORT COLLINS
(SHEET 1)



SEE SHEET 2

NOTE: 110-FOOT CONTOUR HAS BEEN DETERMINED TO BE AT NAVD 88 ELEVATION 6398' THROUGH 1) THE RECOVERY AND GPS SURVEY OF THE BENCHMARK MARKED "ELEVATION 76.47" ESTABLISHED IN 1910 AND SHOWN ON THE 'MAP OF RESURVEY OF THE HALLIGAN RESERVOIR', AND 2) THE SURVEY OF THE SPILLWAY WHOSE ELEVATION IS 70' AS INDICATED ON SAID MAP.

THIS EXHIBIT'S SOLE INTENT IS TO GRAPHICALLY REPRESENT AND AUGMENT THE ATTACHED PROPERTY DESCRIPTION. IT DOES NOT REPRESENT A MONUMENTED LAND SURVEY AS DEFINED IN C.R.S. 38-51-102. IN THE EVENT OF DISCREPANCIES BETWEEN THIS EXHIBIT AND THE ATTACHED PROPERTY DESCRIPTION, THE INFORMATION CONTAINED WITHIN THE ATTACHED PROPERTY DESCRIPTION SHOULD BE RELIED UPON.

- (A) 110-FT CONTOUR LINE OF THE HALLIGAN RES. (ELEV. 6398' - NAVD88) (SEE NOTE)
- (B) CONTOUR LINE AT NAVD88 ELEV. 6384' (PERMANENT WATER SURFACE ELEV.)
- (C) CONTOUR LINE AT NAVD88 ELEV. 6414' (30' ABOVE PERMANENT WATER SURFACE ELEV.)

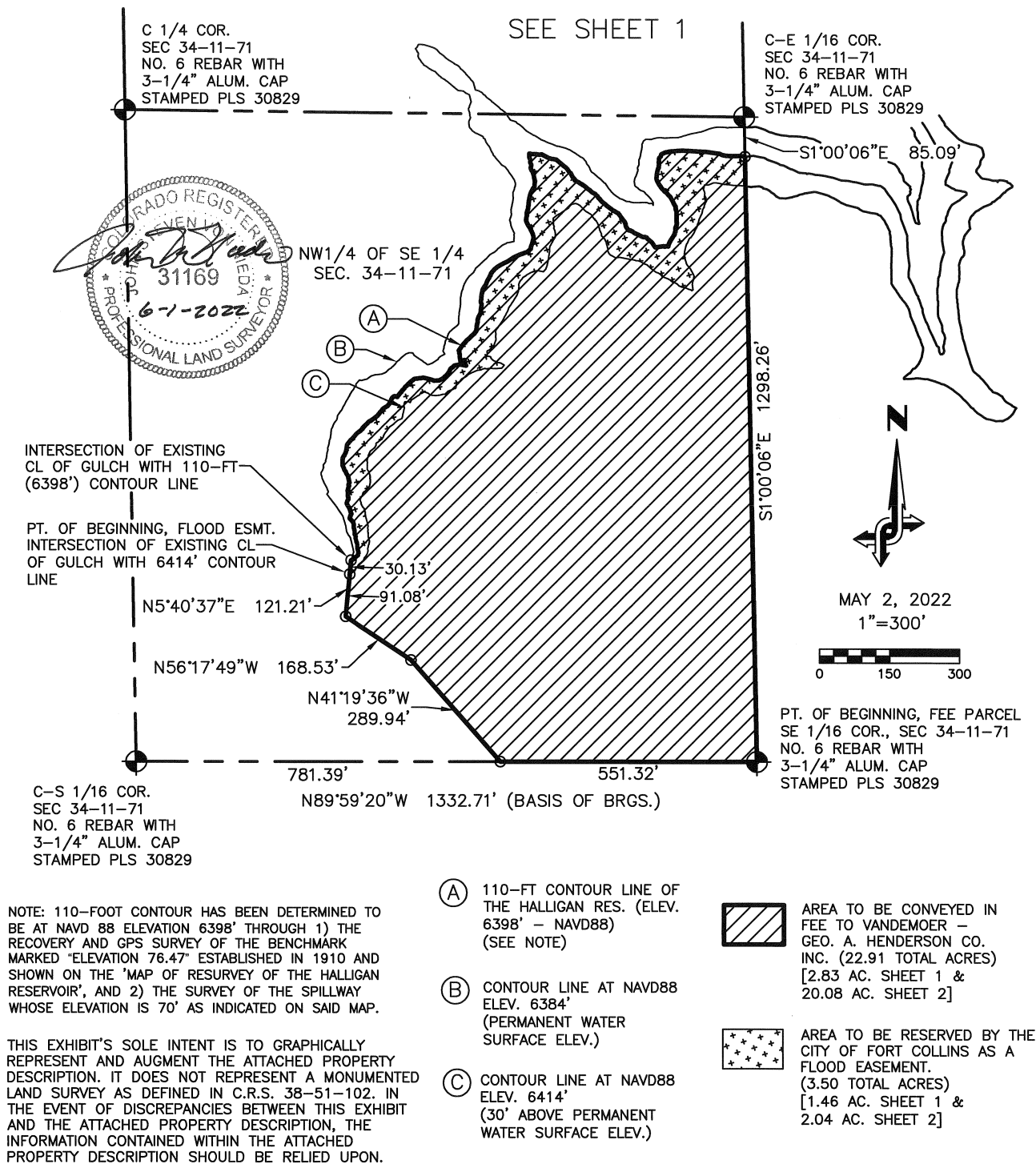


AREA TO BE CONVEYED IN FEE TO VANDEMOER – GEO. A. HENDERSON CO. INC. (22.91 TOTAL ACRES) [2.83 AC. SHEET 1 & 20.08 AC. SHEET 2]



AREA TO BE RESERVED BY THE CITY OF FORT COLLINS AS A FLOOD EASEMENT. (3.50 TOTAL ACRES) [1.46 AC. SHEET 1 & 2.04 AC. SHEET 2]

EXHIBIT OF
FEE CONVEYANCE FROM THE CITY OF FORT COLLINS TO VANDEMOER –
GEO A. HENDERSON CO. INC., AND RESERVATION OF FLOOD EASEMENT
BY THE CITY OF FORT COLLINS
(SHEET 2)



**DESCRIPTION OF A SHORELINE ACCESS EASEMENT TO BE CONVEYED BY
THE CITY OF FORT COLLINS TO VANDEMOER – GEO. A. HENDERSON CO. INC.**

TRACTS OF LAND LOCATED IN THE EAST HALF OF SECTION 34, TOWNSHIP 11 NORTH, RANGE 71 WEST OF THE SIXTH PRINCIPAL MERIDIAN; COUNTY OF LARIMER, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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ALSO:

COMMENCING AT THE SOUTHEAST SIXTEENTH CORNER OF SAID SECTION 34, AND CONSIDERING THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 34 TO BEAR N89°59'20"W, SAID LINE BEING MONUMENTED ON BOTH ENDS BY A 3-1/4" ALUMINUM CAP STAMPED LS 30829, BASED UPON THE COLORADO STATE PLANE NORTH ZONE COORDINATE SYSTEM NAD 83(1992), WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

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THENCE NORTHERLY ALONG SAID CENTER LINE OF GULCH TO ITS INTERSECTION WITH THE NAVD88 6384-FOOT CONTOUR LINE;
THENCE IN A NORTHEASTERLY DIRECTION ALONG SAID 6384-FOOT CONTOUR LINE TO A POINT ON THE EAST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34;
THENCE SOUTHERLY ALONG SAID EAST LINE TO THE SAID 110-FOOT CONTOUR LINE (NAVD88 6398-FOOT CONTOUR LINE);
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IT IS THE INTENT OF THIS RESERVATION THAT THE EASEMENT SHALL ALSO INCLUDE ADDITIONAL AREAS IMMEDIATELY ADJACENT AND BELOW THE 6384' ELEVATION TO THE ACTUAL ELEVATION OF THE RESERVOIR WATER LEVEL, BUT ONLY WHEN AND TO THE EXTENT THE ACTUAL ELEVATION OF THE RESERVOIR WATER LEVEL IS BELOW THE 6384' ELEVATION.

THE TRACTS CONTAIN A MINIMUM OF 3.71 ACRES, MORE OR LESS, AND ARE SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, AND OTHER MATTERS OF RECORD OR THAT NOW EXIST.

I HEREBY STATE THAT THE ABOVE DESCRIPTION WAS PREPARED BY ME AND IS TRUE AND CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF, AND OPINION.

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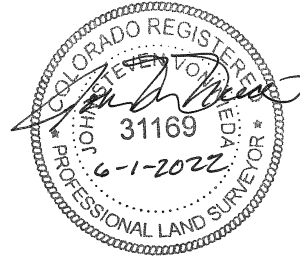
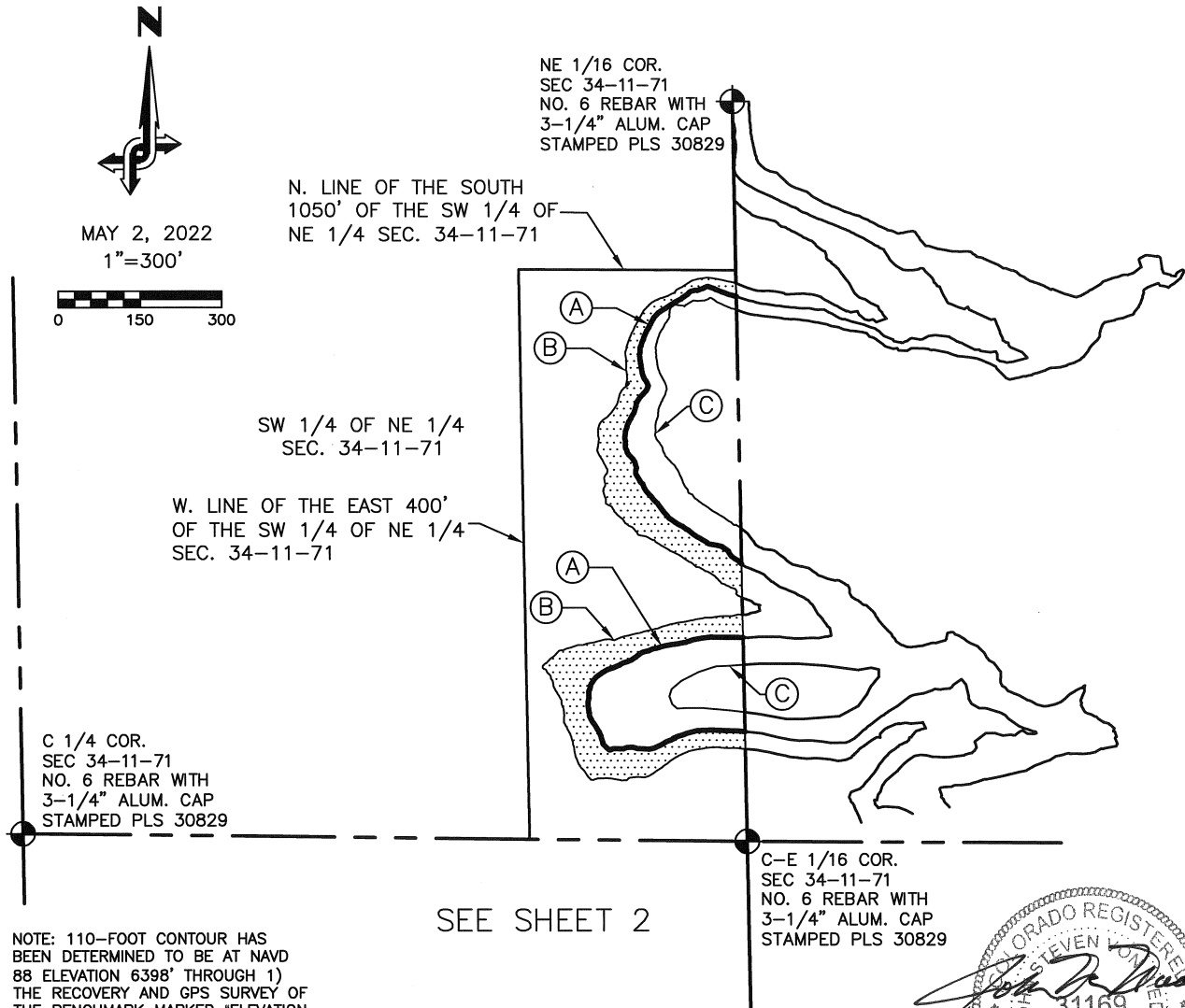


EXHIBIT OF
SHORELINE ACCESS EASEMENT FROM THE CITY OF FORT COLLINS TO
VANDEMOER – GEO. A. HENDERSON CO. INC.
(SHEET 1)



NOTE: 110-FOOT CONTOUR HAS BEEN DETERMINED TO BE AT NAVD 88 ELEVATION 6398' THROUGH 1) THE RECOVERY AND GPS SURVEY OF THE BENCHMARK MARKED "ELEVATION 76.47" ESTABLISHED IN 1910 AND SHOWN ON THE 'MAP OF RESURVEY OF THE HALLIGAN RESERVOIR', AND 2) THE SURVEY OF THE SPILLWAY WHOSE ELEVATION IS 70' AS INDICATED ON SAID MAP.

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AREA TO BE CONVEYED AS SHORELINE ACCESS EASEMENT TO VANDEMOER – GEO. A. HENDERSON CO. INC. (3.71 TOTAL ACRES MINIMUM) [1.57 AC. SHEET 1 & 2.14 AC. SHEET 2]

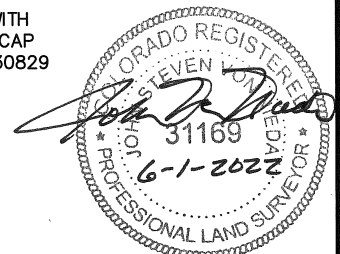
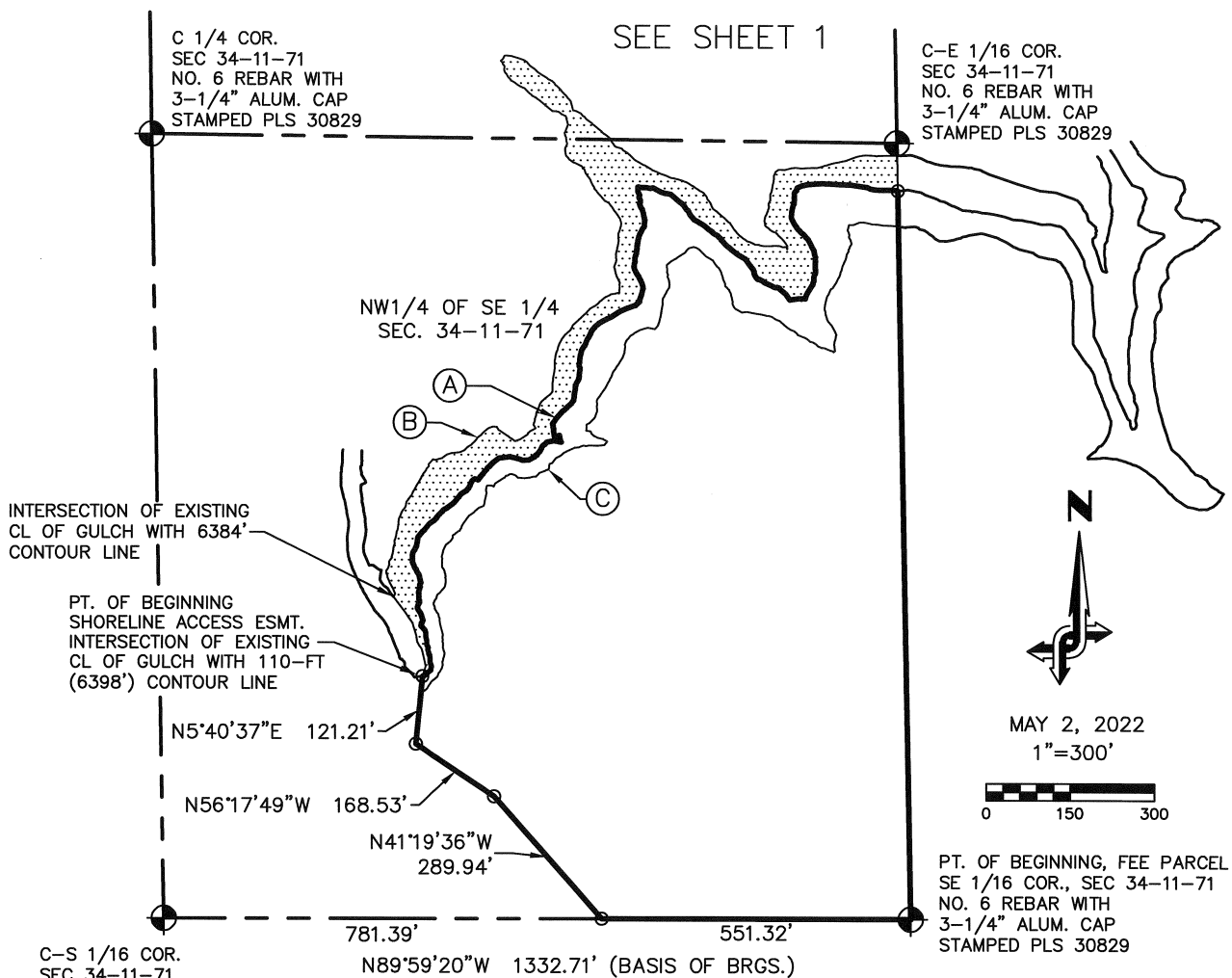


EXHIBIT OF
SHORELINE ACCESS EASEMENT FROM THE CITY OF FORT COLLINS TO
VANDEMOER – GEO A. HENDERSON CO. INC.
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October 18, 2022

AGENDA ITEM SUMMARY

City Council



STAFF

John Phelan, Energy Services Senior Manager and Policy Advisor
Leland Keller, Energy Services Engineer
Cyril Vidergar, Legal

SUBJECT

Second Reading of Ordinance No. 106, 2022, Amending Chapter 26 of the Code of the City of Fort Collins Regarding Net Metered Renewable Energy Generation System Sizing and Adopting Administrative Rules for Net Metered System Sizing.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on October 4, 2022, amends sizing requirements in City Code that limit the generating size (i.e. production capacity) of renewable energy systems, removing reference to 120% of a customer's annual electric consumption and adopts administrative program rules to guide the Utilities' Executive Director to define allowable generation system sizing consistent with the City's 2030 energy and climate goals.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

Renewable energy system generation sizing requirements in City Code tied to 120% of customer consumption (the "120% Rule") were designed as a financial limit, mitigating the financial exposure for Fort Collins Utilities in paying retail solar credit rates by limiting the size of customer-sited generation. As Fort Collins seeks to achieve the ambitious target of 5% of energy delivered in 2030 to be generated by local renewable resources, as well as the electrification of transportation and buildings, the existing sizing requirements represent an inflexible constraint on that effort, imposing a point-in-time limit on how and when customers can make investments in electrification and renewable generation.

Administrative rules submitted for Council adoption with this Ordinance, in combination with Utilities metering standards and electric rates, provide similar financial risk management as the 120% Rule, while aligning with policies and strategies to achieve 2030 goals.

This Ordinance does not propose changes to solar credit rates. Rather, solar credit rates will be included with the electric rate agenda item at the Council meeting November 1.

Understanding the Existing 120% Rule Sizing Requirement

The existing City Code Sections governing electric rates (Sec. 26-464 for residential and all rate categories following) limit the size of a renewable energy generation system (typically solar) to a production capacity of no more than 120% of a customer's annual historical electric use. The intent of the 120% Rule is to support customers who want to self-generate electricity in an amount that matches their typical annual use and enables them to offset a majority of their electric bill (i.e. net-metering), rather than creating a situation where Utilities is buying/crediting for excess energy produced by customers whose generation significantly exceeds their regular consumption.

120% Rule Key Points

- The intent was to set a practical financial limit; it was not related to distribution system requirements or capacity.
- The 120% Rule is defined in City Code and was aligned with state statute until the passage of [SB21-261](#) in 2021, which expanded the sizing limit to 200% in other Colorado utility service territories.
- The 120% Rule is currently applied only at the time of solar system interconnection application and is not tracked or (re)calculated related to electric use by subsequent homeowners.
- Additional sizing limitations on solar systems include the National Electric Code (NEC) related to the home's electric panel and the customer service entrance capacity.
- The proposed changes to City Code will not affect reference to 120% sizing in the Platte River Power Supply Agreement that constrains renewable generation system sizing in circumstances where a third party is the generator, rather than the utility electric customer.

Why Replace the 120% Code Language with Administrative Rules

The 120% Rule has been an effective tool for many years. However, new practices are needed that will better serve updated community climate and renewable strategies along with existing advanced metering and time-based electric rates. Utilities and Platte River are planning for widespread solar adoption by 2030 with an estimated 5,000 to 7,000 solar systems in place providing between 60 and 75 megawatts of capacity.

More flexibility for customer solar generation under administrative policies, maintained by the Utilities Executive Director pursuant to Section 26-463 of the City Code will:

- *Encourage* solar systems that serve increased use from electrification (e.g. electric vehicles, heat pumps). Customers are regularly inquiring about sizing their solar systems to accommodate increased usage as they electrify their home heating, cooking and transportation. These electrification strategies are a key strategy for Our Climate Future and will be essential to reducing emissions from natural gas and petroleum.
- *Accelerate* local solar contribution to reaching community renewable electricity goals. The increased size of solar systems envisioned supports the ambitious target of reaching 5% local renewable electricity, as a part of our 100% renewable electricity goal by 2030. With aligned rate and incentive components, this is an effective approach to leverage customer interest and investment.
- *Simplify* and streamline solar application and interconnection processes for customers, solar trade allies and staff. The 120% Rule adds multiple evaluation steps to the solar application process for all parties without providing significant short or long-term benefit.

Additional rationale for replacing the 120% Rule include:

- It is applied as a one-time estimate when a new solar application is received. It represents only a snapshot of the home and current customer.
- It does not take into account a customer's future potential electrification, nor can it be used for customers without a use history (e.g. new home or recent move). There is no tracking of usage of homes with solar that change ownership or when a customer's household situation changes.

- As solar has become common, residents are purchasing existing homes with solar, and the system sizing may not be aligned with the new household's usage.

CITY FINANCIAL IMPACTS

Adoption of this ordinance has no direct impact to City finances. Utilities uses the Budgeting for Outcomes process to plan for purchases of surplus renewable energy from solar customers based on the applicable rate structures adopted by Council.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Energy Board voted to recommend Council adopt the Ordinance based on the materials presented and discussion at the September 8, 2022, Energy Board meeting.

PUBLIC OUTREACH

Utilities shared a draft of the proposed administrative rules with the Colorado Solar and Storage Association and gathered input from local solar contractors, each of whom voiced enthusiastic support.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration
2. Exhibit A

ORDINANCE NO. 106, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 26 OF THE CODE OF THE CITY OF FORT COLLINS
REGARDING NET METERED RENEWABLE ENERGY GENERATION SYSTEM SIZING
AND ADOPTING ADMINISTRATIVE RULES FOR NET METERED SYSTEM SIZING

WHEREAS, Chapter 26 of the City Code regulates and governs the provision of utility services, and sets forth definitions and terms for applying fees and bill-credits for delivery of specified utility services; and

WHEREAS, such provisions require periodic updating and modification for purposes of clarification and to ensure that the Code remains a dynamic document capable of responding to issues identified by staff, customers, residents and changing technology for and manner of delivering utility services; and

WHEREAS, Utilities staff has identified provisions of Chapter 26 of the Code where updates to net metered customer solar generation project sizing criteria are required to align with Colorado statute, Utility practices, and the City's Energy Policy and Climate Action Plan goals; and

WHEREAS, on March 3, 2015, City Council adopted Resolution 2015-030, updating City Energy Policy and Climate Action Plan goals to reduce emissions to 20% below 2005 levels by 2020, to 80% below 2005 levels by 2030, and to be carbon neutral by 2050; and

WHEREAS, on December 6, 2011, City Council adopted Ordinance No. 166, 2011, enacting a rate structure to encourage customer net metered energy generation and further City Energy Policy and Climate Action Plan goals; and

WHEREAS, on August 20, 2019, the City Council adopted Resolution 2019-091, acknowledging the global climate emergency and reaffirming the City's commitment to climate action, as reflected in City Energy Policy and Climate Action Plan goals; and

WHEREAS, since 2011, Chapter 26 of the City Code reflected the sizing limit on new customer net metered energy generation systems found in Colorado Revised Statutes §40-2-124, i.e. systems sized to supply no more than one hundred twenty percent of the average annual consumption of electricity by the consumer at the customer's site ("120% Rule"); and

WHEREAS, in 2021, the Colorado General Assembly adopted SB 21-261, amending the statutory sizing limit on customer net metered energy generation systems to allow sizes up to 200% of the "reasonably expected annual total consumption of electricity at all properties owned or leased by a customer within a public utility's service territory"; and

WHEREAS, Section 26-463 of the City Code provides that rules, regulations, and standards applicable to electric service and persons receiving electric service provided by the City may be adopted by the Utilities Executive Director and approved by ordinance of the City Council; and

WHEREAS, Sections 26-464 through 26-470 of the City Code provide that the Utilities Executive Director may advance programs to assist customers or provide incentives to customers to reduce energy consumption in furtherance of Council-adopted policies; and

WHEREAS, on June 28, 2022, Utilities staff presented to Council a recommendation to remove the 120% Rule language from Chapter 26 of the City Code to incentivize customer investment in net metered energy generation systems up to size limits set by the Utilities Executive Director based on Council-approved administrative rules; and

WHEREAS, the proposed Renewable Energy System Sizing administrative rules attached hereto as Exhibit “A” establish criteria to consider when energy consumption is not a reliable factor for limiting the size of a customer’s new net metered system; and

WHEREAS, on September 8, 2022, the Energy Board reviewed the Renewable Energy System Sizing administrative rules, and unanimously recommended approval by Council; and

WHEREAS, the City Council has determined it is desirable to maintain appropriate net metering utility service practices and the recommended update of such practices in the City Code, as set forth herein, is in furtherance of benefits available to utility ratepayers; and

WHEREAS, the Utilities Executive Director recommends Council approve the administrative rules in Exhibit “A,” incorporated by this reference, to update system sizing practices and incentivize customer investment in net metered energy generation systems; and

WHEREAS, the City Council has determined that continued customer investment in net metered energy generation systems directly benefits electric utility ratepayers by facilitating local renewable energy generation, and the recommended administrative rules, regulations, and standards set forth in Exhibit “A” are in the best interests of the electric utility and its customers.

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

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

Section 2. That Section 26-463(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-463. - Electric rates; general service rules, regulations and interconnection standards.

(a) The rules, regulations and Interconnection Standards for Generating Facilities Connected to the Fort Collins Distribution System applicable to electric service and persons generating electricity or receiving electric service from the City shall be such rules, regulations and Interconnection Standards for Generating Facilities Connected to the Fort

Collins Distribution System as are adopted by the Utilities Executive Director and approved by ordinance of the City Council.

...

Section 3. That Section 26-464(h), (p)(1)a. and (r)(1)b. of the Code of the City of Fort Collins are hereby amended to read as follows:

Sec. 26-464. - Residential energy service, schedule R.

...

(h) *Conservation assistance, rebates and incentives.* The utility may establish programs to assist customers or provide incentives to customers in order to reduce energy consumption or system peak demands consistent with Council-adopted policy applicable to the utility. Such programs may include financial or technical assistance, incentives or rebates and shall be consistent with program objectives approved by the Utilities Executive Director. The Utilities Executive Director will notify Council of changes to the reference customer class average annual electricity consumption size used to evaluate net metered systems.

...

(p) *Net metering.*

(1) ...

a. The qualifying facility is sized according to program objectives set by the Utilities Executive Director under Subsection (h) of this Section to supply no more than two hundred (200) percent of a customer class average annual electricity consumption or the customer-generator's average annual electricity consumption at that site including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way. The customer class average annual electricity consumption size will be reviewed annually by the Utilities Executive Director under Subsection (h) of this Section; and

...

(r) *Net metering—Community solar projects.*

(1) ...

b. The generating capacity of the customer's interest in a subscriber-owned facility is sized according to program objectives set by the Utilities Executive Director under Subsection (h) of this Section to supply no more than two hundred (200) percent of a customer class average annual

electricity consumption or the customer-generator's average annual electricity consumption at the customer-generator's point of service, including all contiguous property owned or leased by the customer, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way. The customer class average annual electricity consumption size will be reviewed annually by the Utilities Executive Director under Subsection (h) of this Section.

...

Section 4. That Section 26-465(h), (q)(1)a. and (r)(1)b. of the Code of the City of Fort Collins are hereby amended to read as follows:

Sec. 26-465. - All-electric residential service, schedule RE.

...

(h) *Conservation assistance, rebates and incentives.* The utility may establish programs to assist customers or provide incentives to customers in order to reduce energy consumption or system peak demands consistent with Council-adopted policy applicable to the utility. Such programs may include financial or technical assistance, incentives or rebates and shall be consistent with program objectives approved by the Utilities Executive Director. The Utilities Executive Director will notify Council of changes to the reference customer class average annual electricity consumption size used to evaluate net metered systems.

...

(q) *Net metering.*

(1) ...

a. The qualifying facility is sized according to program objectives set by the Utilities Executive Director under Subsection (h) of this Section to supply no more than two hundred (200) percent of a customer class average annual electricity consumption or the customer-generator's average annual electricity consumption at that site including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way. The customer class average annual electricity consumption size will be reviewed annually by the Utilities Executive Director under Subsection (h) of this Section; and

...

(r) *Net metering—Community solar projects.*

(1) ...

b. The generating capacity of the customer's interest in a subscriber-owned facility is sized according to program objectives set by the Utilities Executive Director under Subsection (h) of this Section to supply no more than two hundred (200) percent of a customer class average annual electricity consumption or the customer-generator's average annual electricity consumption at the customer's point of service, including all contiguous property owned or leased by the customer, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way. The customer class average annual electricity consumption size will be reviewed annually by the Utilities Executive Director under Subsection (h) of this Section.

...

Section 5. That Section 26-466(q)(1)a. and (r)(1) of the Code of the City of Fort Collins are hereby amended to read as follows:

Sec. 26-466. - General service, schedule GS.

...

(q) *Net metering.*

(1) ...

a. The qualifying facility is sized according to program objectives set by the Utilities Executive Director under Subsection (g) of this Section to supply no more than two hundred (200) percent of the customer-generator's average annual electricity consumption at that site including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way; and; and

...

(r) *Net metering—community solar projects.*

(1) Net metering service is available to a customer who holds an exclusive interest in a portion of the electric energy generated by a community solar project when the generating capacity of the customer's interest is sized according to program objectives set by the Utilities Executive Director under Subsection (g) of this Section to supply no more than two hundred (200) percent of the customer-

generator's average annual electricity consumption at the customer's point of service, including all contiguous property owned or leased by the customer, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way.

...

Section 6. That Section 26-467(r)(1)a. of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-467. - General service 25, schedule GS25.

...

(r) *Net metering.*

(1) ...

a. The qualifying facility is sized according to program objectives set by the Utilities Executive Director under Subsection (h) of this Section to supply no more than two hundred (200) percent of the customer-generator's average annual electricity consumption at that site, including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way; and

...

Section 7. That Section 26-468(u)(1)a. of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-468. - General service 50, schedule GS50.

...

(u) *Net metering.*

(1) ...

a. The qualifying facility is sized according to program objectives set by the Utilities Executive Director under Subsection (i) of this Section to supply no more than two hundred (200) percent of the customer-generator's average annual electricity consumption at that site, including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way; and

...

Section 8. That Section 26-469(v)(1)a. of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-469. - General service 750, schedule GS750.

...

(v) *Net metering.*

(1) ...

a. The qualifying facility is sized according to program objectives set by the Utilities Executive Director under Subsection (i) of this Section to supply no more than two hundred (200) percent of the customer-generator's average annual electricity consumption at that site, including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way; and

...

Section 9. That Section 26-470(s)(1)a. of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-470. - Substation service, schedule SS.

...

(s) *Net metering.*

(1) ...

a. The qualifying facility is sized according to program objectives set by the Utilities Executive Director under Subsection (g) of this Section to supply no more than two hundred (200) percent of the customer-generator's average annual electricity consumption at that site, including all contiguous property owned or leased by the customer-generator, without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way or utility rights-of-way; and

...

Section 10. That the Renewable Energy System Sizing administrative rules set forth in Exhibit "A," attached hereto and incorporated herein by this reference, are hereby approved by the City Council pursuant to Section 26-463(a) of the City Code.

Introduced, considered favorably on first reading, and ordered published this 4th day of October, A.D. 2022, and to be presented for final passage on the 18th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 18th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk

Solar System Sizing

Issue Date:
October 2022

Issued by: Kendall Minor,
Utilities Executive Director

Purpose:

The purpose of this policy for Solar System Sizing is to provide specific details and procedures for the allowable sizing of customer-sited renewable energy generation resources in alignment with Fort Collins Municipal Code Sections 26-464 through 26-470. Nothing contained herein is intended to supersede the Fort Collins Municipal Code.

Applicability:

This policy applies to the Utilities Electric Service Areas of the City.

Authorized by:

City Council, October 2022

Utilities Executive Director, October 2022

Executive Summary

These administrative rules adhere to the legal parameters and objectives established in the Fort Collins Municipal Code Sections 26-464 through 26-470. The processes and procedures contained within are based on procedures established and tested under the Solar Rebate Program (Program) from 2010 to date. The Program is managed by Utilities Energy Services division in collaboration with Light & Power, Finance and Customer Connections. The Utilities Program Manager (UPM) is supported by the Utilities Program Specialist (UPS) who are primarily responsible for the implementation of these requirements.

Solar System Sizing Summary: As described in this policy:

- For customer-owned systems, allowable solar sizing is determined by compliance with either:
 - intended renewable energy offset is no more than 200% of the customer's annual electric use at the time of interconnection application, or
 - generating capacity is no more than the allowable reference system size (currently 12 kW-DC, based on the residential customer class average annual electricity consumption).
- Systems that are not owned by the customer will be limited to an intended renewable energy offset of less than 120%.
- If sufficient electric use history is not available, then Utility established standard values can be substituted.
- Sizing takes into account generation onsite and Community Solar shares.
- Sizing does not include the Green Energy Program participation, the share of grid energy delivered to all customers generated by renewable resources, or on-site battery storage equipment.

Solar System Sizing

Issue Date:
October 2022

Issued by: Kendall Minor,
Utilities Executive Director

Sizing Assessment Terms and Methods: Sizing analysis of solar PV systems and other qualifying renewable generators refers to the following terms and methods:

- *Intended renewable energy offset* = (modeled annual energy production of all renewable sources) / (average annual electric consumption), where:
 - *Annual energy production of all renewable sources* is the sum of the modeled average annual energy production (or average of observed data for installed generation) of qualified renewable energy generation sources located onsite as well as offsite sources owned by the customer or benefitting that unique customer account (such as Community Solar)
 - *Average annual electric consumption* is the customer's total electric energy consumption at the site over the previous 24 calendar months divided by 2.
- *Allowable reference system size:* Staff will annually review the annual sector consumption values and determine a system size that aligns with the 200% sizing criteria on an average basis. *The value of this reference size is 12 kilowatts-DC as of October 2022 for residential customers, based on the residential customer class average annual electricity consumption.*
- For customers who have less than 6 months of electric usage history that's representative of their full occupation of the premises, the best available information on the electric use of the proposed building(s) will be substituted. New homes may use a Home Energy Rating Score (HERS) or other energy modeling provided for energy code compliance. For older homes, Utilities reference data for energy use per square foot will be combined with Larimer County Tax Assessor's office building size data (sum of "Total Sq Ft" + the "Bsmt. Fin. Sq Ft" values) to calculate annual electric use. For example, the average annual electric consumption for single-family detached homes with gas heat built before 2020 is 3 kWh per square foot of conditioned space.

Solar System Size Allowance

- For solar systems not owned by the owner of the property where installed, solar system sizing is limited to 120% of intended renewable energy offset.
- For solar systems owned by the same owner as the property where it is to be installed, solar PV system sizing is limited by the following combination of program rules:
 - At the time of project application, the contractor shall provide the intended renewable energy offset percentage.
 - Staff will approve the system size if either of the following conditions are met:
 - intended renewable energy offset is less than 200%, or
 - system size is less than the allowable reference system size (currently 12 kW-DC, based on the residential customer class average annual electricity consumption).
 - If the total size of the generation system is greater than allowable reference system size and the intended energy offset is greater than 200%, the customer may submit an exception request documenting why the system is oversized. Exceptions related to electrification of customer loads or anticipated increases in use may be approved on a case-by-case basis.

This policy is subject to revision at the discretion of the Utilities Executive Director.

October 18, 2022



AGENDA ITEM SUMMARY

City Council

STAFF

Nina Bodenhamer, City Give Director
John Duval, Legal

SUBJECT

First Reading of Ordinance No. 107, 2022, Appropriating Philanthropic Revenue Received By City Give for the Bucking Horse Park Trail Spur Project as Designated by the Donor.

EXECUTIVE SUMMARY

The purpose of this item is to request an appropriation of \$5,000 in philanthropic revenue received by City Give for Park Planning and Development as designated by the donor.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The purpose of this item is to appropriate \$5,000 in unanticipated philanthropic revenue received from the Bucking Horse Residential Association. The award is designated by the contributor for the Bucking Horse Park Trail Spur project for the maintenance of a drainage channel and will benefit the park, trail, and Bucking Horse neighborhood.

The award will support the total costs of dredging an overgrown storm drainage channel adjacent to the neighborhood park under construction in the Bucking Horse neighborhood to reestablish proper stormwater drainage.

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. City Give creates a financial pathway for partnerships to support the City's strategic priorities and community services.

CITY FINANCIAL IMPACTS

This Ordinance will appropriate \$5,000 in unanticipated philanthropic revenue received by City Give for Park Planning and Development.

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 Conservation Trust Fund and will not cause the total amount appropriated in the Conservation Trust

Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in the Conservation Trust Fund during fiscal year 2022.

The donation has been received and accepted per the City Give Administrative and Financial Policy.

BOARD / COMMISSION RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Ordinance for Consideration

ORDINANCE NO. 107, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PHILANTHROPIC REVENUE RECEIVED BY CITY GIVE FOR THE
BUCKING HORSE PARK TRAIL SPUR PROJECT AS DESIGNATED BY THE DONOR

WHEREAS, the Bucking Horse Residential Association has donated \$5,000 to be used by Park Planning and Development for the maintenance of a drainage channel adjacent to Bucking Horse Park; and

WHEREAS, the donated funds are designated for the Bucking Horse Park Trail Spur project to support the total costs of dredging an overgrown storm drainage channel; and

WHEREAS, the dredging work will benefit the park, trail, and Bucking Horse neighborhood by reestablishing proper stormwater drainage; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of improving stormwater drainage within the City; and

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

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

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

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

Section 2. That there is hereby appropriated from unanticipated philanthropic revenue in the Conservation Trust Fund the sum of FIVE THOUSAND DOLLARS (\$5,000) to be expended in the Conservation Trust Fund for the Bucking Horse Park Trail Spur project.

Introduced, considered favorably on first reading, and ordered published this 18th day of, October A.D. 2022, and to be presented for final passage on the 1st day of November, A.D. 2022.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading this 4th day of October, A.D. 2022.

Mayor

ATTEST:

City Clerk

October 18, 2022

AGENDA ITEM SUMMARY

City Council



STAFF

Nina Bodenhamer, City Give Director
John Duval, Legal

SUBJECT

First Reading of Ordinance No. 108, 2022, Appropriating Unanticipated Revenue From Philanthropic Donations Received in 2022 By City Give for Various City Programs and Services as Designated by the Donors.

EXECUTIVE SUMMARY

The purpose of this item is to request appropriation of \$4,070 in philanthropic revenue received by City Give. These miscellaneous gifts to various City service areas 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.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The City has long been the beneficiary of local generosity and has a valuable role in our community's philanthropic landscape. Generosity is demonstrated in both large and modest gifts, each appreciated for its investment in the mission and the range of services the City strives to deliver.

In 2022, the City received several individual philanthropic donations supporting various departments totaling \$4,070 and these funds are currently unappropriated.

As acknowledged by Section 2.5 of the City's Fiscal Management Policy 2-Revenue approved by City Council, the City Manager has adopted the City Give Financial Governance Policy to provide for the responsible and efficient management of charitable donations to the City; and 52.2.C. of the City Give Policy authorizes the City Give Director to accept donations of \$5,000 or less for the City service area as designated by the donor.

These generous donations have been directed by the respective donors to be used by the City for designated uses within and for the benefit of City service areas and programs as each donation is described in Exhibit "A" attached to the Ordinance.

CITY FINANCIAL IMPACTS

This Ordinance will appropriate \$4,070 in philanthropic revenue received through City Give for gifts to various City service areas to support a variety of programs and services.

The funds have been received and accepted per the City Give Administrative and Financial Policy. The City Manager has also determined that these appropriations are available and previously unappropriated from the designated funds and will not cause the total amount appropriated in these funds to exceed the current estimate of actual and anticipated revenues and all other funds to be received in these funds during fiscal year 2022.

The proposed increase to appropriated expenditures is summarized below:

2022 Unanticipated Revenue

Police Services	\$	3,520.00
Golf Fund	\$	50.00
Forestry/General Fund	\$	500.00

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

BOARD / COMMISSION RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Ordinance for Consideration
2. Exhibit A

ORDINANCE NO. 108, 2022
 OF THE COUNCIL OF THE CITY OF FORT COLLINS
 APPROPRIATING UNANTICIPATED REVENUE
 FROM PHILANTHROPIC DONATIONS RECEIVED IN 2022 BY CITY GIVE
 FOR VARIOUS CITY PROGRAMS AND SERVICES AS DESIGNATED BY THE DONORS

WHEREAS, the City has recently received three individual philanthropic donations of \$5,000 or less and these funds are currently unappropriated; and

WHEREAS, these donations have been directed by the donors to be used by the City for certain designated uses within and for the benefit of certain City service areas as each donation is described in Exhibit “A” attached hereto and incorporated herein by reference; and

WHEREAS, as acknowledged by Section 2.5 for the City’s Fiscal Management Policy 2 – Revenue approved by City Council, the City Manager has adopted the City Give Financial Governance Policy to provide for the responsible and efficient management of charitable donations to the City (the “City Give Policy”); and

WHEREAS, Section 52.2.C. of the City Give Policy authorizes the City Give Director to accept donations of \$5,000 or less for the City service area intended by the donor to be benefited; and

WHEREAS, as so authorized, the City Give Director has accepted for the benefited City service areas, as applicable, the donations to be appropriated in this Ordinance to be used as directed by each donor as described in Exhibit “A”; and

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

WHEREAS, the City Manager has recommended the appropriations described in Sections 2 of this Ordinance and determined that the amount of each of these appropriations is available and previously unappropriated from the funds named in Sections 2 and will not cause the total amount appropriated in each such fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in those funds during this fiscal year; and

WHEREAS, these appropriations will serve the public purpose of providing additional revenue to each of the benefited service areas to aid in accomplishing the public purposes for which each service area is established thereby benefiting the public’s health, safety and welfare.

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

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

Section 2. That there is hereby appropriated from the following funds these amounts of philanthropic unanticipated revenue in 2022 to be expended as designated by the donors in support of the various City programs and services as described in Exhibit “A”:

2022 Unanticipated Revenue

Police Services/General Fund	\$ 3,520.00
Golf Fund	\$ 50.00
Forestry/General Fund	\$ 500.00

Introduced, considered favorably on first reading, and ordered published this 18th day of October A.D. 2022, and to be presented for final passage on the 1st day of November, A.D. 2022.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading on the 1st day of November, A.D. 2022.

Mayor

ATTEST:

City Clerk



City Give
 215 N Mason Street, 2nd Floor
 PO Box 580
 Fort Collins, CO 80522

970.221.6687
fcgov.com

UNANTICIPATED REVENUE (2022 Donations)

City Department/Donor Designation	Donor	Gift Date	Gift Amount
K9, Fort Collins Police Services	The Geroy Family	10/03/2022	\$3,500.00
K9, Fort Collins Police Services	The DePrue Family	07/17/2022	20.00
Youth Golf Scholarship	Marsh & Karppinen	10/01/2022	50.00
Living Tribute Tree, Forestry	Vince Sierra	9/28/2022	500.00

October 18, 2022



AGENDA ITEM SUMMARY

City Council

STAFF

Beth Rosen, Grants Compliance and Policy Manager
Ingrid Decker, Legal

SUBJECT

First Reading of Ordinance No. 109, 2022, Making a Supplemental Appropriation of HOME Investment Partnership Program - American Rescue Plan Act Funding from the Federal Department of Housing and Urban Development.

EXECUTIVE SUMMARY

The purpose of this item is to appropriate \$2,628,410 in HOME Investment Partnership Program – American Rescue Plan funds received from the Department of Housing and Urban Development.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

On March 11, 2021, President Biden signed the American Rescue Plan Act (ARPA) into law, enabling over \$1.9 trillion in relief to address the continued impact of the COVID-19 pandemic on the economy, public health, state and local governments, individuals and businesses.

ARPA appropriated \$5 billion to help communities provide housing, shelter and services for people experiencing homelessness and other qualifying populations. These funds are administered by the Department of Housing and Urban Development (HUD) through the HOME Investment Partnership Program – American Rescue Plan (HOME-ARP) to be used for individuals and families from the following qualifying populations:

- homeless, at-risk of homelessness;
- fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking or human trafficking;
- other populations where provision of assistance would prevent homelessness or would serve those with the greatest risk of housing instability; and
- veterans and families that include a veteran family member that meet one of the preceding criteria.

HOME-ARP funds can be used for four eligible activities, which include:

1. Production or preservation of affordable housing
2. Tenant-based rental assistance (TBRA)
3. Provision of supportive services, including homeless prevention services
4. Acquisition and development of non-congregate shelter

As a HOME program participating jurisdiction, the City of Fort Collins received a HOME-ARP Award of \$2,628,410 to benefit qualifying populations in our community. This amount is in addition to the annual allocation of HOME funds the City receives from HUD.

Once appropriated, these funds will be allocated through a Competitive Process according to the HOME-ARP Allocation Plan. Approximately \$228,000 of the funds will be used in 2022 to cover the City's administrative costs to administer the funding program. Funding recommendations for specific projects and programs will be presented to City Council by the Human Services and Housing Funding Board in 2023. All funding must be expended, and all projects completed, no later than June 30, 2030.

CITY FINANCIAL IMPACTS

This will increase the City's total available HOME funding for the 2022-2023 fiscal year from \$803,409 to \$3,431,819. These funds will provide additional capacity for the City to address critical housing needs for persons experiencing homelessness and persons at risk of homelessness.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Ordinance for Consideration
2. Award Letter

ORDINANCE NO. 109, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING A SUPPLEMENTAL APPROPRIATION OF HOME INVESTMENT
PARTNERSHIP PROGRAM - AMERICAN RESCUE PLAN ACT FUNDING FROM THE
FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WHEREAS, on March 11, 2021, President Biden signed the American Rescue Plan Act (ARPA), enabling over \$1.9 trillion in relief to address the continued impact of the COVID-19 pandemic on the economy, public health, state and local governments, individuals and businesses; and

WHEREAS, ARPA appropriated \$5 billion to help communities provide housing, shelter, and services for people experiencing homelessness and other qualifying populations, to be administered by the Department of Housing and Urban Development (HUD) through the HOME Investment Partnership Program – American Rescue Plan (HOME-ARP); and

WHEREAS, populations qualifying for assistance from HOME-ARP funds include persons who are homeless or at-risk of homelessness, fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking or human trafficking, other populations where provision of assistance would prevent homelessness or would serve those with the greatest risk of housing instability, and veterans; and

WHEREAS, as a HOME program participating jurisdiction, the City received a HOME-ARP Award of \$2,628,410 to benefit qualifying populations in our community, in addition to the annual allocation of HOME funds the City receives from HUD; and

WHEREAS, once appropriated, HOME-ARP funds will be allocated through a Competitive Process according to the HOME-ARP Allocation Plan, with funding recommendations for specific projects and programs presented to City Council by the Human Services and Housing Funding Board in 2023; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of providing additional financial capacity to address critical housing needs for persons experiencing homelessness and persons at risk of homelessness; and

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

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

WHEREAS, Article V, Section 11 of the City Charter authorizes the City Council to designate in the ordinance when appropriating funds for a federal, state or private grant 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; and

WHEREAS, the City Council wishes to designate the appropriation herein of HOME-ARP grant funds from the Federal American Recovery Plan Act as an appropriation that shall not expire until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

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

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

Section 2. That there is hereby appropriated from grant revenue in the HOME Investment Partnership Fund the sum of TWO MILLION SIX HUNDRED TWENTY-EIGHT THOUSAND FOUR HUNDRED TEN DOLLARS (\$2,628,410) to be expended in the HOME Investment Partnership Fund for production or preservation of affordable housing, tenant-based rental assistance, provision of supportive services including homeless prevention services, and acquisition and development of non-congregate shelter.

Section 3. That the appropriation herein of HOME-ARP grant funds from the Federal American Recovery Plan Act is hereby designated, as authorized in Article V, Section 11 of the City Charter, as an appropriation that shall not lapse at the end of this fiscal year but continue until the earlier of the expiration of the grant or the City's expenditure of all funds received from such grant.

Introduced, considered favorably on first reading, and ordered published this 18th day of October, A.D. 2022, and to be presented for final passage on the 1st day of November, A.D. 2022.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading on the 1st day of November, A.D. 2022.

Mayor

ATTEST:

City Clerk



OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

April 28, 2021

The Honorable Jeni Arndt
Mayor of Fort Collins
P.O. Box 580
Fort Collins, CO 80522

Dear Mayor Arndt:

I am pleased to inform you of your jurisdiction's Fiscal Year (FY) 2021 allocation for HUD's HOME Investment Partnerships Program – American Rescue Plan (HOME-ARP) funding. The American Rescue Plan appropriated \$5 billion to help communities provide housing, shelter, and services for people experiencing and other qualifying populations. These HOME-ARP funds are in addition to your regular FY 2021 HOME formula allocation. This one-time funding creates a significant opportunity for you to meet the housing and service needs of your community's most vulnerable populations.

Your jurisdiction's FY 2021 HOME-ARP allocation is **\$2,628,410**.

HOME-ARP funding gives jurisdictions significant new resources to address their homeless assistance needs by creating affordable housing or non-congregate shelter units and providing tenant-based rental assistance or supportive services. Later this year, the Department will issue an implementing notice providing guidance on HOME-ARP, including instructions and requirements for developing a substantial amendment to your jurisdiction's FY 2021 Annual Action Plan describing your proposed use of the funds. HOME-ARP funds are available for expenditure until September, 2030.

HOME-ARP funds are allocated through the HOME formula to all participating jurisdictions that qualified for an annual HOME Program allocation for FY 2021. HOME-ARP funds must be used for individuals or families from the following qualifying populations: homeless; at-risk of homelessness; fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; other populations where providing assistance would prevent the family's homelessness or would serve those with the greatest risk of housing instability; and veterans and families that include a veteran family member that meet one of the preceding criteria.

HOME-ARP funds can be used for four eligible activities including the production or preservation of affordable housing; tenant-based rental assistance; supportive services, including homeless prevention services and housing counseling; and the purchase or development of non-congregate shelter for individuals and families experiencing homelessness. Additionally, HOME-ARP provides up to 15 percent of the allocation for administrative and planning costs of the participating jurisdiction and for subrecipients administering all or a portion of the grant. HOME-ARP can provide up to 5 percent of the grant for operating costs of Community Housing

Development Organizations (CHDOs) and other non-profit organizations, including homeless providers. Additional funding is available to these organizations for capacity building. Like other formula grant funds, HOME-ARP funds will be administered in the Integrated Disbursement and Information System (IDIS).

While your jurisdiction will not have access to HOME-ARP funds until HUD has issued an implementing notice and subsequently reviewed and accepted a substantial amendment to your FY 2021 Annual Action Plan, I urge you to begin consulting with homeless service providers, domestic violence service organizations, public housing agencies, and other organizations and agencies that assist qualifying populations in your area. Early identification of the unmet needs among these populations and consideration of potential uses of HOME-ARP funds will position your jurisdiction to design and implement its HOME-ARP Program expeditiously.

The Office of Community Planning and Development looks forward to working with you to ensure the success of this critical program. If you or any member of your staff have questions, please contact your local CPD Office Director.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Jemison II', with a stylized, cursive script.

James Arthur Jemison II
Principal Deputy Assistant Secretary
for Community Planning and Development

October 18, 2022

AGENDA ITEM SUMMARY

City Council



STAFF

Katie Donahue, Natural Areas Director
Jesse Green, Natural Areas and Trails Ranger
Ingrid Decker, Legal

SUBJECT

First Reading of Ordinance No. 110, 2022, Amending Article IX of Chapter 23 of the Code of the City of Fort Collins Regarding Natural Areas.

EXECUTIVE SUMMARY

The purpose of this item is to amend various provisions in Article IX of Chapter 23 of the City Code regarding natural areas to close loopholes, add new definitions, and add new regulations that better protect the natural environment and promote visitor safety. Natural Areas Department rangers researched existing Code and worked with Natural Areas Department staff and the City Attorney's Office before the proposed changes were brought to the Land Conservation and Stewardship Board in July 2022.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The Natural Areas Team works diligently to protect the ecological value of natural resources owned and managed by the City. Currently, there is a disparity between violations and enforcement that has been recognized by both Natural Areas rangers and the City Attorney's Office. By revising and improving the current City Code we are striving to better educate, enforce, and track violations within the City's Natural Areas as well as improve safety for all visitors. The recommended changes include the following:

- New Definitions are proposed for the following terms:
 - Hunt
 - Natural Area
 - Public Safety Agency
 - Vessel

- Adjustments are proposed to the following regulations in Section 23-193 (prohibited acts and permits):
 - (a)(8) regarding skating
 - (a)(14) regarding boats/vessels
 - (b)(1) regarding walking or skating on ice
 - (d)(1) regarding access hours
 - (d)(2) regarding motorized boats/vessels
 - (e) regarding public safety training activities
 - (f) regarding penalties, designating two new violations [Sections 23-193(c)(1) and (c)(2)] as civil infractions
- Several new regulations would be created in Section 23-193:
 - (c)(1) regarding posted closed natural areas due to wet or muddy conditions
 - (c)(2) regarding posting areas where animals are not allowed
 - (c)(3) regarding disregarding signs designating trail-only access areas
 - (c)(4) regarding entering closed areas
 - (d)(21) regarding hunting
 - (d)(22) regarding use of inflated devices in the water

CITY FINANCIAL IMPACTS

No financial impact is expected with the recommended code changes.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The changes to Chapter 23, Article IX of the City Code were brought to the Land Conservation and Stewardship Board (LCSB) for discussion at the July 13, 2022 meeting. At the August 10, 2022, meeting, the LCSB voted unanimously to recommend approval of the changes to Chapter 23, Article IX of the City Code as proposed.

PUBLIC OUTREACH

Public outreach was not conducted as the recommended code changes largely reflect administrative changes and updates.

ATTACHMENTS

1. Ordinance for Consideration
2. Natural Areas City Code Amendments (draft)
3. Land Conservation and Stewardship Board Minutes, July 13, 2022 (excerpt)
4. Land Conservation and Stewardship Board Minutes, August 10, 2022 (excerpt)
5. Presentation

ORDINANCE NO. 110, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE IX OF CHAPTER 23 OF THE CODE OF THE CITY OF
FORT COLLINS REGARDING NATURAL AREAS

WHEREAS, in 1999 the City Council adopted Ordinance No. 027, 1999, enacting certain requirements and regulations related to the use by the general public of the City's natural areas, codified in Chapter 23, Article IX of the City Code; and

WHEREAS, those Code provisions have since been updated periodically to address and clarify points of concern or new issues related to the public's use of the City's natural areas; and

WHEREAS, in 2021 Natural Areas staff, working with the City Attorney's Office, began a comprehensive review of the Natural Areas provisions of the City Code to identify disparities between the existing regulations and staff's management and enforcement goals and draft amendments to those provisions; and

WHEREAS, staff's recommended amendments include adding or clarifying several defined terms, clarifying several existing regulations, creating six new specific violations, and designating two of the new violations as civil infractions (all other Natural Areas violations are either petty offenses or misdemeanors); and

WHEREAS, at its regular meeting on August 10, 2022, the Land Conservation and Stewardship Board voted unanimously to recommend approval of the proposed amendments; and

WHEREAS, the City Council has determined that the proposed amendments are in the best interests of the City, and are necessary for the health, safety and welfare of the City's residents and visitors.

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

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

Section 2. That Section 23-192 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-192. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

...

Hunt shall mean to pursue, attract, stalk, lie in wait for, or attempt to shoot, wound, kill, trap, capture, collect, or take wildlife. *Hunt* does not include stalking, attracting, searching, or lying in wait for wildlife by an unarmed person solely for the purpose of watching or taking photographs of wildlife.

...

Natural area shall mean any area designated and posted by the City as a City natural area, ~~whether either~~ within ~~or without~~ the City limits, whether open or closed to access and use by the public, or outside the City limits and open in whole or in part for access and use by the public, and shall include any trails to the extent the same are within the boundaries of a natural area.

...

Public safety agency shall mean an agency providing law enforcement, fire protection, emergency medical, emergency response or search and rescue services.

...

Vessel shall mean every description of watercraft used or capable of being used as a means of transportation of persons and property on the water, other than single-chambered air-inflated devices or seaplanes.

...

Section 3. That Section 23-193 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-193. Prohibited acts; permits.

(a) It shall be unlawful to:

...

(8) Bicycle, skateboard or **roller** skate (in-line or otherwise) in a natural area, except upon a roadway or designated trail.

...

(14) Operate any ~~boat~~ **vessel** in waters within a natural area unless the ~~boat~~ **vessel** contains at least one (1) personal flotation device that is in good and serviceable condition and of a type approved for recreational use by the United States Coast Guard for each person on board. Any such use must also be consistent with Paragraph (d)(2) below.

...

(b) Unless a sign has been posted by the Service Unit that the particular natural area or a portion thereof is open for such use, it shall be unlawful to:

- (1) Walk, ice skate or otherwise ~~E~~enter upon the ice of any waters of a natural area.

...

(c) It shall be unlawful to engage in any activity within or upon a natural area when a sign has been posted by the Service Unit that the particular area or a portion of the area is closed for such use, based upon a determination by the Service Unit that such prohibition is appropriate to protect the safety or well-being of persons or animals; the natural area, related facilities or any other City property or facility; the use and enjoyment of said areas or facilities by the general public; the needs and objectives of the City in maintaining and operating the same; and/or the natural environment in general. Specific activities that shall be unlawful when posted as prohibited by a sign include (but are not limited to):

- (1) Entering upon any natural area that has been closed due to wet or muddy conditions.
- (2) Entering upon any natural area with a dog, horse or other animal.
- (3) Leaving any marked or designated trail in any natural area designated as trail-only access.
- (4) Entering upon any area that is designated as closed.

(d) Except as authorized by a permit obtained for such use from the Service ~~Area~~ Unit, it shall be unlawful to:

- (1) Enter or remain upon a natural area during the hours of 11:00 p.m. to 5:00 a.m., or during the time from one-half hour after sunset to one-half hour before sunrise at properties where the Service Unit has posted a sign designating the property as open from dawn to dusk except:
 - a. As otherwise permitted by a sign posted by the Service Unit opening or closing the particular area or a portion of the area for public use for a specified time or during specified hours; or
 - b. As necessary to participate as a registered or otherwise officially recognized participant in a City-sponsored or permitted event in a natural area.

(2) Operate a motorized ~~boat~~ vessel, other than one with a wakeless, electric trolling motor in a natural area.

...

(21) Hunt or take by any means any animal within in a Natural Area or, when hunting is permitted, to violate any state laws, rules or regulations regarding hunting.

(22) Use, or allow use of, on the waters in any Natural Area (excluding the Poudre River), any floating mats, air mattresses, inner tubes, air inflated devices, rubber rafts with less than two (2) air chambers or other flotation device that is not included in the definition of "vessel".

(e) Research ~~or public safety related training activities~~ involving any of the activities prohibited in this Article, ~~or public safety related training activities conducted by a public safety agency involving any of the activities prohibited in this Article,~~ including ~~without limitation~~ the training of search and rescue dogs off-leash, may be authorized by the Service Unit by permit in accordance with the procedures and standards set forth in § 23-194.

(f) Any person who violates a provision of subsections (c)(1) or (c)(2) of this § 23-193 is guilty of a civil infraction punishable by a fine in accordance with § 1-15(f). Any person who violates subsections (a)(2), (a)(5), (a)(6), (a)(7), (a)(8), (a)(12), (a)(14), (a)(17), (b), (d)(2), (d)(3), (d)(5), (d)(11), (d)(12), or (d)(16) of this § 23-193 is guilty of a petty offense punishable by a fine in accordance with § 1-15(h). Any person who violates any other subsection of this § 23-193 commits a misdemeanor punishable by a fine or jail in accordance with § 1-15(a).

...

Introduced, considered favorably on first reading and ordered published this 18th day of October, A.D. 2022, and to be presented for final passage on the 1st day of November, A.D. 2022.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading this 1st day of November, A.D. 2022.

Mayor

ATTEST:

City Clerk

ARTICLE IX. NATURAL AREAS

DRAFT

Sec. 23-191. Purpose and scope.

This Article establishes the standards for conduct within City-designated natural areas by the general public. The requirements and prohibitions of this Article shall not apply to emergency or law enforcement operations or to City management and maintenance activities to the extent the operation of this Article would impair the performance of the same.

Sec. 23-192. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Camping shall mean to sleep or spend the night or reside or dwell temporarily in a natural area, with or without bedding or other camping gear, and with or without shelter, or to conduct activities of daily living, such as eating or sleeping, in such place. *Camping* shall not include incidental napping or picnicking.

Designated trail shall mean a trail or path within the boundaries of a natural area, whether paved or unpaved, maintained or unmaintained, designated as a trail for use by the public by the posting of signs or by designation on official maps of a natural area.

Director shall mean the Director of the Natural Areas Department.

Group event shall mean an event such as an athletic event, class, fair, festival or other activity that is planned or reasonably expected to include fifteen (15) or more persons, that will include activities other than those expressly authorized in a particular location, such as picnicking in a posted picnic area, and that is reasonably expected to:

- (1) Obstruct, delay or interfere with the normal use of any natural area or any trails, viewing stations or other facilities located therein;
- (2) Present a risk of negative impact to animal or plant life, or the ecology of any natural area; or
- (3) Constitute an event or other special event as the same are defined in § 23.5-2, in which event any applicable requirements of Chapter 23.5 shall also apply.

Hazardous substance shall mean any chemical, compound, substance or mixture that state or federal law designates as hazardous because it is ignitable, corrosive, reactive or toxic, or any petroleum-based substance or by-product, including but not limited to solvents, degreasers, paint thinners, cleaning fluids, pesticides, adhesives, strong acids and alkalis, paints, inks, gasoline, oil and diesel fuel.

Hunt shall mean to pursue, attract, stalk, lie in wait for, or attempt to shoot, wound, kill, trap, capture, collect, or take wildlife. "Hunt" does not include stalking, attracting, searching, or lying in wait for wildlife by an unarmed person solely for the purpose of watching or taking photographs of wildlife.

Incidental trash shall mean discarded items reasonably and actually used or consumed in the course of appropriate use of a natural area, or packaging from the same, and shall not include household or yard waste, commercial or construction waste, or other waste brought into a natural area for the purpose of disposal of such waste, or any hazardous substance.

Mobility disability shall mean a disability, as defined in Title II of the Americans with Disabilities Act, that limits an individual's mobility within a natural area.

Natural area shall mean any area designated and posted by the City as a City natural area and open in whole or in part for access and use by the public, whether within or without the City limits, and shall include any trails to the extent the same are within the boundaries of a natural area.

Other power-driven mobility device shall have the meaning ascribed to it by Title II of the Americans with Disabilities Act.

Public safety agency shall mean an agency providing law enforcement, fire protection, emergency medical, emergency response or search and rescue services.

Service Unit shall mean the Natural Areas Department.

Vessel shall mean every description of watercraft used or capable of being used as a means of transportation of persons and property on the water, other than single-chambered air-inflated devices or seaplanes.

Waste shall mean solid or liquid waste, except hazardous substances, whether organic or inorganic, including by way of illustration and not limitation, wastes and materials commonly known as trash, garbage, debris or litter, animal carcasses, offal or manure, paper, ashes, cardboard, cans, yard clippings, tree limbs, glass, rags, discarded clothes or wearing apparel of any kind, or any other discarded object.

Sec. 23-193. Prohibited acts; permits.

(a) It shall be unlawful to:

- (1) Discard, dispose or release any waste or hazardous substance of any kind in a natural area or in a manner reasonably likely to result in the entrance of such waste or hazardous substance into or upon a natural area, except for the disposal of incidental trash in receptacles provided by the City for disposal of trash.
- (2) Bring any glass container into a natural area or possess the same while in any natural area except when removing containers during site clean-up activities sponsored or permitted by the City.
- (3) Bathe or wash any persons or objects in any waters of a natural area, or otherwise in any manner reasonably likely to result in the release of any waste or hazardous substance into any waters of a natural area.
- (4) Drive, hit or throw golf balls into or upon a natural area.
- (5) Fly a kite within a natural area.
- (6) Operate a motorized model boat, car, truck, aircraft or other motorized model vehicle in a natural area.
- (7) Launch a model rocket in, onto or over a natural area.
- (8) Bicycle, skateboard or roller skate (in-line or otherwise) in a natural area, except upon a roadway or designated trail.
- (9) Knowingly or negligently harass wildlife, or permit or direct a dog, falcon or other animal under one's care or control to harass wildlife, in a natural area, whether or not the same results in injury to such wildlife.
- (10) Remove, destroy, mutilate, modify or deface any building, structure, water control device, fence, gate, notice, sign, survey or section marker, tree, shrub or other plant or vegetation, insect, bird or other animal, or any other object, in a natural area, except during site clean-up activities, when taking fish in a manner otherwise permitted under this Article, or as specifically allowed by permit issued pursuant to §§ 23-193 and 23-194.
- (11) Possess or consume in a natural area any alcoholic beverage or possess any container, whether open or unopened, that contains or has been used to contain any alcoholic beverage.
- (12) Fish in a natural area without a valid license as required by the State of Colorado through Colorado Parks and Wildlife, or in violation of any requirements of Colorado Parks and Wildlife, or possess a fish taken in violation thereof.

- (13) Leave any fire unattended in a natural area.
 - (14) Operate any ~~boat~~ vessel in waters within a natural area unless the ~~boat~~ vessel contains at least one (1) personal flotation device that is in good and serviceable condition and of a type approved for recreational use by the United States Coast Guard for each person on board. Any such use must also be consistent with Paragraph (d)(2) below.
 - (15) Ride a horse, bicycle, skateboard or other means of conveyance, or skate, in a reckless or unsafe manner in a natural area.
 - (16) Violate the following in any natural area:
 - a. Division 5 of Chapter 4, regarding control of animals;
 - b. Chapter 9, regarding fire prevention and protection;
 - c. Chapter 11, regarding hazardous materials transportation;
 - d. Section 12-37, prohibiting tampering with refuse or rubbish containers;
 - e. Chapter 17, regarding miscellaneous offenses, including, without limitation, the discharge of weapons, trespass, loitering, disturbing the peace and the transfer or display of marijuana; and
 - f. Chapter 23.5, regarding special events.
 - (17) Fail to comply with any posted yield, right-of-way or other trail use requirement on a trail subject to the provisions of this Article.
 - (18) Violate any term, condition or requirement of any permit issued pursuant to this Article.
- (b) Unless a sign has been posted by the Service Unit that the particular natural area or a portion thereof is open for such use, it shall be unlawful to:
- (1) Walk, ice skate or otherwise Enter upon the ice of any waters of a natural area.
 - (2) Swim, wade or otherwise enter into any waters of a natural area, or allow any pet animal or any riding or pack animal to do so.
 - (3) Sled, snow tube, downhill ski or snowboard in a natural area.
 - (4) Ride a horse in a natural area, other than on or within ten (10) feet of a designated trail, except to the extent unavoidable circumstances require that a horse be ridden beyond this ten-foot limit briefly to avoid imminent danger to other persons.
 - (5) Climb rocks or boulders with or without ropes, fixtures or other apparatus.
 - (6) Kick, hit or throw a flying disc, ball or boomerang in, onto or over a natural area, except within a fenced area designated and posted to allow dogs off-leash.
 - (7) Affix to any object or use an affixed rope, line, or other similar equipment for the purposes of walking, jumping, crawling, sitting, lying, or balancing along a suspended or partially suspended plane between two objects.
- (c) It shall be unlawful to engage in any activity within or upon a natural area when a sign has been posted by the Service Unit that the particular area or a portion of the area is closed for such use, based upon a determination by the Service Unit that such prohibition is appropriate to protect the safety or well-being of persons or animals; the natural area, related facilities or any other City property or facility; the use and enjoyment of said areas or facilities by the general public; the needs and objectives of the City in maintaining and operating the same; and/or the natural environment in general. Specific activities that shall be unlawful when posted as prohibited by a sign include (but are not limited to):
- (1) Entering upon any natural area that has been closed due to wet or muddy conditions.
 - (2) Entering upon any natural area with a dog, horse or other animal.

- (3) Leaving any marked or designated trail in any natural area designated as trail-only access.
- (4) Entering upon any area that is closed to protect natural vegetation, wildlife, restoration, other resource protection efforts or safety issues.

(d) Except as authorized by a permit obtained for such use from the Service Area, it shall be unlawful to:

- (1) Enter or remain upon a natural area during the hours of 11:00 p.m. to 5:00 a.m., or between dusk and dawn at properties signed and posted except:
 - a. As otherwise permitted by a sign posted by the Service Unit opening or closing the particular area or a portion of the area for public use for a specified time or during specified hours; or
 - b. As necessary to participate as a registered or otherwise officially recognized participant in a City-sponsored or permitted event in a natural area.
- (2) Operate a motorized ~~boat~~ vessel, other than one with a wakeless, electric trolling motor in a natural area.
- (3) Land or launch in a natural area, or fly lower than five hundred (500) feet above a natural area, any type of aircraft, including hot air balloons and hang gliders, except within takeoff or landing airways of a commercial airport or in emergency situations.
- (4) Remove, disturb or damage any archaeological, geological or paleontological materials from a natural area.
- (5) Remove from a natural area downed trees, logs or groupings of branches or sticks, or disturb or damage any of the same.
- (6) Collect seeds, plants or cuttings of trees, shrubs, vines, grasses, wildflowers or other plants in a natural area, or otherwise remove the same from a natural area.
- (7) Plant trees, shrubs, vines, grasses, wildflowers or other plants in a natural area.
- (8) Construct a structure or pitch a tent in a natural area. For purposes of this section, daytime use of a sun shelter erected and used for a few hours and removed before dusk for recreational purposes, shall not be considered a tent.
- (9) Build a campfire, bonfire or other fire in a natural area.
- (10) Allow livestock to graze in a natural area.
- (11) Feed, or attempt to feed, songbirds, squirrels, ducks, geese or any other wildlife species in a natural area.
- (12) Post a notice or sign, including fastening, displaying or depositing cards, posters or other written materials in a natural area, or to erect a display in a natural area, unless such items are incidental to another ongoing permitted activity and are specifically authorized by the permit for such activity.
- (13) Conduct or sponsor a group event in a natural area.
- (14) Perform a service for commercial gain or sell or offer to sell any item for commercial gain in a natural area.
- (15) Deposit rocks, wood, dirt or any other material in a natural area.
- (16) Release or otherwise introduce into a natural area an insect, bird or other animal.
- (17) Deposit or scatter in a natural area cremated remains of any human or animal origin.
- (18) Operate or park a motor vehicle or other motorized means of conveyance anywhere in a natural area other than on established roadways and in designated parking areas, with the following exceptions:

- a. Class 1 and Class 2 electrical assisted bicycles, as defined in Section 2002(12) of the Fort Collins Traffic Code, are allowed within natural areas, on paved, designated trails only, unless prohibited by signs;
 - b. a motorized wheelchair may be used by any person with a temporary or permanent mobility disability anywhere in a natural area that public access is allowed; and
 - c. an other power-driven mobility device may be used in a natural area by any person with a temporary or permanent mobility disability, in accordance with City regulations regarding such use of other power-driven mobility devices.
- (19) Camp in a natural area.
- (20) Possess in a natural area any gun, pistol, crossbow, bow and arrow, slingshot or other firearm or weapon whatsoever, including BB guns or pellet or paintball guns, except as permitted by a City-issued or other lawfully issued permit. Discharge of any such firearm or weapon shall be prohibited, except in a natural area as expressly permitted by a City-issued hunting permit.
- (21) Hunt or take by any means any animal within in a Natural Area or, when hunting is permitted, to violate any state laws, rules or regulations regarding hunting.
- (22) Use, or allow use of, on the waters in any Natural Area (excluding the Poudre River), any floating mats, air mattresses, inner tubes, air inflated devices, rubber rafts with less than two (2) air chambers or other flotation device that is not included in the definition of "vessel".
- (e) ~~Research or public safety related training activities~~ involving any of the activities prohibited in this Article, ~~or public safety related training activities conducted by a public safety agency involving any of the activities prohibited in this Article,~~ including ~~without limitation~~ the training of search and rescue dogs off-leash, may be authorized by the Service Unit by permit in accordance with the procedures and standards set forth in § 23-194.
- (f) Any person who violates a provision of subsections (c)(1) or (c)(2) of this § 23-193 is guilty of a civil infraction punishable by a fine in accordance with § 1-15(f). Any person who violates subsections (a)(2), (a)(5), (a)(6), (a)(7), (a)(8), (a)(12), (a)(14), (a)(17), (b), (d)(2), (d)(3), (d)(5), (d)(11), (d)(12), or (d)(16) of this § 23-193 is guilty of a petty offense punishable by a fine in accordance with § 1-15(h). Any person who violates any other subsection of this § 23-193 commits a misdemeanor punishable by a fine or jail in accordance with § 1-15(a).
- (g) Any person who violates subsection (a)(16) of this § 23-193 shall be guilty of the level of offense applicable to the underlying violation.

Sec. 23-194. Natural areas permit process.

- (a) Any person or organization seeking a permit for the purposes set forth in this Article shall apply for a natural area permit by filing a verified application with the Service Unit on a form supplied by the Service Unit, except that permit applications for which a routine permit process has been established by the Director under § 23-195 below shall be governed by and processed in accordance with the routine permit process. A fully completed application must be filed with the Director not less than twenty-one (21) business days nor more than ninety (90) business days before the date on which a permitted activity is to commence; provided, however, that the Service Unit may accept and process an application that is filed after the filing deadline if, in the judgment of the Director, there are sufficient time and sufficient resources for the Service Unit to process and investigate the application and make any preparations necessary for the activity.
- (b) The Director shall approve, conditionally approve or deny an application on the grounds set forth in this Subsection, and the Director's action and the basis therefor shall be stated in a written notice to the applicant, no later than fifteen (15) business days after receipt of a fully completed application. The Director may deny any application or impose any reasonable permit conditions or requirements upon the approval of the same in order to protect the safety or well-being of persons or animals; the natural area, related facilities or any other

City property or facility; the use and enjoyment of said areas or facilities by the general public; the needs and objectives of the City in maintaining and operating the same; and/or the natural environment in general.

- (c) A permit decision by the Director under Subsection (b) above may be appealed to the City Manager pursuant to the appeals procedure set forth in Article VI of Chapter 2 of this Code. If a permit is denied for an activity or event consisting of speech or other expressive conduct that may be protected by the First Amendment to the United States Constitution, the permit applicant shall have the right to seek immediate judicial review of such denial without first appealing such denial to the City Manager.

Sec. 23-195. Routine permit processes.

The Director may establish an alternative permit process for any activity specified in Subsection 23-193(d) that is subject to standardized requirements and conditions, including but not limited to issuance of hunting permits in a natural area through a lottery system. Issuance of a permit under any such routine permit process shall be on a first-come, first-served basis, or first-drawn basis when a lottery system is used to determine recipients of a limited number of permits. A routine permit process for an activity such as camping may utilize an on-site system located at the permitted camping area. In connection with and as a condition of any routine permit process, the payment of an administrative fee may be required by the City Manager pursuant to Chapter 7.5 of this Code.

Secs. 23-196—23-200. Reserved.

MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



Item 8.

Land Conservation & Stewardship Board

July 13, 2022

Regular Meeting – Excerpt

Land Use Code Update

Jesse Green, NAD Ranger presented proposed updates to the Natural Areas Municipal Code. The purpose is to close loopholes, add new definitions and add new regulations that protect the natural environment and promote visitor safety. NAD is working with City Attorney's Office to look at the current Code to ensure alignment with the values and mission of the Fort Collins Natural Areas. Jesse reviewed the new definitions such as hunt, Natural Area, public safety agency and vessel. Jesse also reviewed proposed adjustments to the regulations to include clarifying terminology, clarifying different methods used for entering ice and waters that are prohibited and clarifying language about a wide range of prohibited activities.

Jesse's memorandum includes a recommendation to the Board that City Council approve the proposed updates and changes to the Natural Areas Municipal Code, however he will bring the issue back to the Board in August for an official recommendation.

MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



Item 8.

Land Conservation & Stewardship Board August 10, 2022 Regular Meeting – Excerpt

Municipal Code Updates

Jesse Green, NAD Ranger led the LCSB through a brief review of the proposed changes to the municipal code he presented to the board during the July meeting, answered follow up questions and explained the rationale for the changes. Prior to his presentation to the Board, Jesse reviewed the changes with City's attorney and assured LCSB the changes are primarily refinements of definitions and will not impact the day-to-day work of the NAD Ranger staff. The proposed changes align with the Natural Areas Department mission and values as well as Colorado State statutes. The proposed changes only apply to the Fort Collins Municipal Code Chapter 23, Article IX, which cover Natural Areas regulations.

Discussion: The Board and NAD staff engaged in a brief discussion of the proposed changes: that a property must be open to the public to allow NAD jurisdiction and enforcement capabilities; dusk to dawn closures now include a 30-minute buffer on either end of the day; added enforcement capability for illegal hunting in natural areas; and align with Larimer County in the prohibition of air mattresses/pool toys (which are not designated for open water use) on

Natural Areas ponds. LCSB acknowledged the importance of clarifying definitions and updating the code. Member Cuniff stated data reporting before and after implementing the changes would be informative.

Member Piesman made a motion that Land Conservation and Stewardship Board recommend that City Council approve the proposed updates and changes to the Natural Areas Municipal Code. Member Elson seconded the motion. The motion was approved 8-0.

Proposed Natural Area Municipal Code Changes

Jesse Green

Natural Areas and Trails Ranger



Purpose of Code Changes

The reasoning behind updating the Fort Collins Municipal Code in reference to Natural Areas is to further protect the natural resources of the city in an ever-evolving environment; while also closing loopholes and allowing for appropriate enforcement actions for violations in partnership with the City Attorney's Office.

- Anything highlighted is new

Regulation Infraction levels 1-15(a-h)

- Civil Infraction – Option to appear in court or pay the fine. Fine schedule \$100-\$300 typical, Maximum \$3,000. Fail to pay or appear in court goes to collections.
 - 3 of the same infraction within 12 months can be charged as a misdemeanor
- Petty Offense – Court Appearance Only. Maximum fine \$3,000 (no possibility of jail). Warrant for failure to appear in court.
- Misdemeanor – Court Appearance Only. Maximum fine \$3,000 or 180 days in jail. Warrant for failure to appear in court.

Combined Citation and Warning Totals

Violation	2018	2019	2020	2021
23-193(c)	134	145	130	226
Animal at Large	125	162	178	193
Camp in a NA	88	70	75	31*
Alcohol in a NA	32	35	90	45
Fishing w/o a license	31	26	16	24
Cordial Contacts	3503	3619	3923	4107

* Direction from City Attorney's Office to stop issuing "camping citations" in 2021-current

New Definitions



Hunt

- *Hunt* shall mean to pursue, attract, stalk, lie in wait for, or attempt to shoot, wound, kill, trap, capture, collect, or take wildlife. "Hunt" does not include stalking, attracting, searching, or lying in wait for wildlife by an unarmed person solely for the purpose of watching or taking photographs of wildlife.
- Same legal definition used in the Colorado Revised Statutes
- Same legal definition used by Colorado Parks and Wildlife

Natural Area

- *Natural area* shall mean any area designated and posted by the City as a City natural area whether open or closed to access and use by the public, or outside the City limits and open in whole or in part for access and use by the public, whether within or without the City limits, and shall include any trails to the extent the same are within the boundaries of a natural area.
- Cleaning up verbiage for enforcement capabilities
- Clarifying sites like Prairie Dog Meadows that only have a single trail and are otherwise closed to the public.

Natural Area

- 31-25-216. Cities control park grounds outside limits. (1) In all cases where any city, or any city or city and county organized under a special charter or created under the state constitution, has acquired lands outside its municipal limits for parks, parkways, boulevards, or roads, said city or city and county has full police power and jurisdiction and full municipal control and full power and authority in the management, control, improvement, and maintenance of and over any such lands so acquired. It has power and authority to provide by ordinance for the regulation and control of its lands so acquired, to prevent the commission of any acts which are or may be declared unlawful pursuant to the provisions of this part 2, and to prosecute and punish the violation of any ordinances in its municipal courts. Such city or city and county also has like power and jurisdiction to prevent pollution of the water in all reservoirs, streams, and pipes which may be included within any such parks, parkways, boulevards, or roads and over the stream or source from which such water is taken as far as ten miles above the point from which it is diverted. Such city or city and county has like power and jurisdiction to regulate and prevent the erection, construction, and maintenance, within three hundred feet of any such park, parkway, boulevard, or road outside its municipal limits, of any advertisement or of any billboard or other structure for advertisements. Such city or city and county also has like power and jurisdiction over the use of any public roads, boulevards, or parkways within such parks and running over or through or between such lands and any public roads, boulevards, or parkways between any such park or pleasure ground and its municipal boundaries and not included within the municipal limits of any incorporated city or town.

Public Safety Agency

- *Public safety agency* shall mean an agency providing law enforcement, fire protection, emergency medical, emergency response or search and rescue services.
- Specifying those that can apply for certain permits (i.e. search and rescue dog training vs general dog training)

Vessel

- *Vessel* shall mean every description of watercraft used or capable of being used as a means of transportation of persons and property on the water, other than single-chambered air-inflated devices or seaplanes.
- Same legal definition used in the Colorado Revised Statutes
- Current codes reference “Boat” but there is no legal definition of what a boat is.



Updated Regulations



23-193(a)

- It shall be unlawful to:

23-193(a)(8)

- Bicycle, skateboard or **roller** skate (in-line or otherwise) in a natural area, except upon a roadway or designated trail.
- Addition of the term *roller* to solidify the difference between this regulation and another that pertains to *ice* skating.

23-193(a)(14)

- Operate any ~~boat~~ vessel in waters within a natural area unless the ~~boat~~ vessel contains at least one (1) personal flotation device that is in good and serviceable condition and of a type approved for recreational use by the United States Coast Guard for each person on board. Any such use must also be consistent with Paragraph (d)(2) below.
- Replacing *boat* with the updated term *vessel*

23-193(b)

- Unless a sign has been posted by the Service Unit that the particular natural area or a portion thereof is open for such use, it shall be unlawful to:

23-193(b)(1)

- Walk, ice skate or otherwise Enter upon the ice of any waters of a natural area.
- Additional clarification about what can be done. Also clearing up confusion with aforementioned change in 23-193(a)(8).

23-193(c)

- It shall be unlawful to engage in any activity within or upon a natural area when a sign has been posted by the Service Unit that the particular area or a portion of the area is closed for such use, based upon a determination by the Service Unit that such prohibition is appropriate to protect the safety or well-being of persons or animals; the natural area, related facilities or any other City property or facility; the use and enjoyment of said areas or facilities by the general public; the needs and objectives of the City in maintaining and operating the same; and/or the natural environment in general. Specific activities that shall be unlawful when posted as prohibited by a sign include (but are not limited to):
- Allows for better tracking of offenses

23-193(c)(1)

- Entering upon any natural area that has been closed due to wet or muddy conditions.
- Specific charge for entering a property during a wet and muddy closure (i.e. Maxwell, etc..)
- Will be a Civil Citation in line with Dog Off Leash charge allowing parties to pay without a mandatory court appearance.
- One of our most cited offenses.
- If major damage is done to the trail can be used in conjunction with 23-193(a)(10).

23-193(c)(2)

- Entering upon any natural area with a dog, horse or other animal.
- Only applies to NA's that restrict animal access (i.e. Coyote Ridge not allowing dogs, etc...)
- Will be a Civil Citation in line with Dog Off Leash charge allowing parties to pay without a mandatory court appearance.

23-193(c)(3)

- Leaving any marked or designated trail in any natural area designated as trail-only access.
- Specific to NA's that are designated as "On Trail Only" (i.e. Reservoir Ridge, etc...)
- Will remain a mandatory court appearance charge.

23-193(c)(4)

- Entering upon any area that is designated as closed.
- Designed for temporary or non-permanent closures and restrictions (i.e. closures for fire or weed mitigation operations, etc...)
- Will remain a mandatory court appearance charge.

23-193(d)

- Except as authorized by a permit obtained for such use from the Service Area, it shall be unlawful to:

23-193(d)(1)

- Enter or remain upon a natural area during the hours of 11:00 p.m. to 5:00 a.m., or during the time from one-half hour after sunset to one-half hour before sunrise at properties where the Service Unit has posted a sign designating the property as open from dawn to dusk except:
- Closing a loop-hole in the verbiage restricting use after hours.

23-193(d)(2)

- Operate a motorized ~~boat~~ vessel, other than one with a wakeless, electric trolling motor in a natural area.
- Changing boat to vessel

23-193(d)(21)

- Hunt or take by any means any animal within in a Natural Area or, when hunting is permitted, to violate any state laws, rules or regulations regarding hunting.
- Allows rangers to cite and enforce for Hunting in any Natural Area as well as enforce all CPW hunting regulations on Natural Area properties during legal hunts (i.e. Pronghorn at Soapstone).
- There was a deer poached at Bobcat Ridge last fall and CPW couldn't cite as Natural Areas are technically public property.
- Will have an increased fine schedule from City Attorneys Office and Mandatory Court Appearance.

23-193(d)(22)

- Use, or allow use of, on the waters in any Natural Area (excluding the Poudre River), any floating mats, air mattresses, inner tubes, air inflated devices, rubber rafts with less than two (2) air chambers or other flotation device that is not included in the definition of “vessel”.
- Natural Area waters (i.e. Arapaho Bend and Pineridge) are seeing increased pressure from water based recreation due to crowding at Horsetooth Reservoir.
- The above devices do NOT meet the definition of a *Vessel*
- Natural Area waters are not tested and cannot be used as “swim beaches”

23-193(e)

- ~~Research or public safety related training activities~~ involving any of the activities prohibited in this Article, **or public safety related training activities conducted by a public safety agency involving any of the activities prohibited in this Article,** including ~~without~~ ~~limitation~~ the training of search and rescue dogs off-leash, may be authorized by the Service Unit by permit in accordance with the procedures and standards set forth in § 23-194.
- Updated language from City Attorney's Office

23-193(f)

- Any person who violates a provision of subsections (c)(1) or (c)(2) of this § 23-193 is guilty of a civil infraction punishable by a fine in accordance with § 1-15(f). Any person who violates subsections (a)(2), (a)(5), (a)(6), (a)(7), (a)(8), (a)(12), (a)(14), (a)(17), (b), (d)(2), (d)(3), (d)(5), (d)(11), (d)(12), or (d)(16) of this § 23-193 is guilty of a petty offense punishable by a fine in accordance with § 1-15(h). Any person who violates any other subsection of this § 23-193 commits a misdemeanor punishable by a fine or jail in accordance with § 1-15(a).

Questions?

October 18, 2022



AGENDA ITEM SUMMARY

City Council

STAFF

Jennifer Poznanovic, Sr. Revenue Manager
Ryan Malarky, Legal

SUBJECT

First Reading of Ordinance No. 111, 2022, Amending Certain Sections of Chapter 25 of the Code of the City of Fort Collins Relating to the Imposition, Collection, and Enforcement of the City's Sales and Use Taxes.

EXECUTIVE SUMMARY

The purpose of this item is to amend Chapter 25 of City Code concerning sales and use tax. The updates include revisions to the Grocery Tax Rebate Program to increase the area median income threshold for a rebate as part of ongoing City-wide initiatives to streamline and broaden access to City income-qualified programs. Other updates include but are not limited to: (1) updating the deadlines for refund claims and petitions protesting the denial of tax-exempt organization license applications to align with other deadlines in Chapter 25; (2) amending the appeals process to align with state statute; and (3) adding exemptions from sales and use tax for the state carryout bag fee and retail delivery fee. (The Council approved Ordinance No. 053, 2022, in May 2022, which created an exemption from sales tax for the City's disposable bag fee).

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Code changes being requested are as follows:

CHAPTER 25, ARTICLE II

Sales Tax Rebate on Food

For the City's rebate program for sales tax imposed on food, the Council Finance Committee and City staff recommend amending City Code Chapter 25, Article II, Division 3 to change income eligibility from 50 percent annual median income (AMI) for the applicable household size to 60 percent AMI with the goal of increasing program participation. In collaboration with the City-wide consolidation of income-qualified programs and the Get FoCo application the City is developing, staff is committed to returning to Council Finance Committee to discuss the effectiveness of this update on program participation after approximately one year.

CHAPTER 25, ARTICLE III

Definition of “Engaged in Business in the City”

City staff recommends a clean-up change to the definition of “engaged in business in the City” to make clear that delivery into the City includes by common carrier.

Imposition of the Sales Tax and Exemptions

Staff recommends creating a sales tax exemption for the State of Colorado’s recently adopted carryout bag fee created by House Bill 21-1162 and the retail delivery fee created by Senate Bill 21-260. The proposed exemption will make clear that the fees are not part of the purchase price against which sales tax is imposed. The proposed exemption would be consistent with state law, which specifically exempted the fees from state sales tax.

CHAPTER 25, ARTICLE III

Imposition of the Use Tax and Exemptions

City staff recommends creating a use tax exemption for the City’s disposable bag fee. This fee is already exempt from City sales tax. This change updates the use tax exemption for the City’s disposable bag fee to mirror the sales tax exemption.

City staff recommends adding a use tax exemption for the State of Colorado’s recently adopted carryout bag fee created by House Bill 21-1162 and the retail delivery fee created by Senate Bill 21-260. As noted above, staff is proposing that this fee be exempt from City sales tax. This change would update the use tax exemption to mirror the sales tax exemption.

CHAPTER 25, ARTICLE III

Exempt Organization License; application procedure

City staff recommends revising the amount of time for an applicant to petition the Financial Officer for a hearing regarding the denial of an exempt organization license application from twenty (20) days to twenty-one (21) days. The purpose is to align this petition timeframe with the sales and use tax petition timeframe in the Code.

CHAPTER 25, ARTICLE III

Procedure for Refund of Disputed Tax

City staff recommends updating the application deadline for a refund from 20 days to 21 days to correspond with the sales and use tax petition deadlines in the Code.

Additionally, City staff recommends removing the language allowing the Financial Officer to extend the deadline to apply for a refund for good cause. This recommended change is in line with the collection of sales and use tax sections of City Code and would provide consistency regarding when an application is due.

City staff also recommends adding language to clarify that the process applies regardless of the form of reimbursement sought, whether it be a refund or credit.

CHAPTER 25, ARTICLE III

Review of Decisions of Financial Officer

City staff recommends revising the section of the Code addressing the venue where one can seek review of the Financial Officer's decisions. Currently the Code states that when a taxpayer requests review of such a decision, the hearing shall be held in the state district court or the City's Municipal Court. The change would add that a taxpayer may seek a review of the Financial Officer's decision as provided in Colorado Revised Statutes § 29-2-106.1, which would include review at the Colorado Department of Revenue. This change would bring consistency with state law.

CITY FINANCIAL IMPACTS

City staff anticipates that the change in AMI for the Grocery Tax Rebate Program will increase participation and result in an increase in the amount of grocery tax rebates the City issues to residents. The other Code changes are not anticipated to have a material financial impact.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

For the Grocery Tax Rebate Program, staff presented the proposed changes to the Council Finance Committee, which recommended changing the qualifying area median income from 50 percent to 60 percent.

PUBLIC OUTREACH

Not applicable.

ATTACHMENTS

1. Ordinance for Consideration
2. Council Finance Committee Minutes, July 7, 2022 (excerpt)

ORDINANCE NO. 111, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS AMENDING CERTAIN
SECTIONS OF CHAPTER 25 OF THE CODE OF THE CITY OF FORT COLLINS
RELATING TO THE IMPOSITION, COLLECTION, AND ENFORCEMENT OF THE
CITY'S SALES AND USE TAXES

WHEREAS, Article XX, Section 6.g. of the Colorado Constitution grants to the City of Fort Collins, as a home rule municipality, all powers necessary to levy and collect taxes for municipal purposes, subject to any limitations in the Colorado Constitution; and

WHEREAS, on November 16, 1967, the City Council, in the exercise of its home rule taxing powers, adopted Ordinance No. 058, 1967, to levy, collect, and enforce beginning on January 1, 1968, a sales and use tax on the purchase of tangible personal property sold at retail in the City and on certain taxable services provided in the City (the "Sales and Use Tax Code"); and

WHEREAS, the Sales and Use Tax Code is currently found in Chapter 25, Article III of the City Code, which has been significantly amended many times since its adoption in 1967; and

WHEREAS, Chapter 25, Article II, Division 3 of the City Code authorizes rebates of City sales tax imposed on food to low-income residents of the City, and the City Council desires to amend the City Code to expand the availability of the program; and

WHEREAS, City staff has committed to returning to the City Council Finance Committee to discuss the effectiveness of the update to the rebate program on program participation after approximately one year; and

WHEREAS, City staff has reviewed the Sales and Use Tax Code and has recommended revisions to add certain exemptions from sales and use tax and other changes that may be characterized as clean-up items; and

WHEREAS, City Council hereby finds that amending the City Code as proposed in this Ordinance is in the best interests of the City and its taxpayers and promotes the health, safety and welfare of the community by providing for the accurate and efficient imposition, collection and enforcement of the City's taxes.

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

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

Section 2. That Section 25-49 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-49. Qualifications.

In order to qualify for the sales tax rebate, all members of the applicant's household must have resided within the City or the City's Growth Management Area, as defined in § 1-2 and as amended, during the entirety of the 12-month period for which the rebate is sought. The applicant's household shall have a total annual income that does not exceed ~~fifty (50)~~ **sixty (60)** percent of the area median income for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, up to a maximum household income of ~~fifty (50)~~ **sixty (60)** percent of the area median income for a household of eight (8), as most recently published by the United States Department of Housing and Urban Development for the 12-month period in which the tax to be rebated was imposed.

Section 3. That the definition of “*Engaged in business in the City*” contained in Section 25-71 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-71. Definitions.

The following words, terms and phrases, as used in this Article, shall have the following meanings:

...

Engaged in business in the City shall mean performing or providing services or selling, leasing, renting, delivering or installing tangible personal property, products, or services for storage, use or consumption within the City. Engaged in business in the City includes, but is not limited to, any one of the following activities by a person or retailer:

...

(5) As a retailer, who has a physical presence in the State of Colorado, making more than one (1) retail sale of tangible personal property, products or services within a twelve (12) month period, where the property or product is delivered by any means ~~other than~~, **including** common carrier, to a location within the City, or the service rendered occurs within the City; or

...

Section 4. That Section 25-73 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-73. Imposition of the sales tax and exemptions.

...

- (c) Transactions and items exempt from the sales tax. The following shall be exempt from the sales tax:

...

(27) The carryout bag fee imposed in C.R.S. § 25-17-505, as such section existed on July 6, 2021.

(28) The retail delivery fee consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805 (5)(g.7), and the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-4-1303(8), as such sections existed on June 17, 2021.

...

Section 5. That Section 25-74(b) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-74. Imposition of the use tax and exemptions.

...

- (b) Transactions and items exempt from the use tax. The use, storage, distribution or consumption in the City of the following are hereby exempted from the use tax:

...

(22) The disposable bag fee established in Article XIII of Chapter 12 of this Code, retroactive to May 1, 2022;

(23) The carryout bag fee imposed in C.R.S. § 25-17-505, as such section existed on July 6, 2021;

(24) The retail delivery fee consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805 (5)(g.7), and the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-4-1303(8), as such sections existed on June 17, 2021; and

(22~~25~~) All other tangible personal property and taxable services that are exempt, as provide in Sections 25-73(c) and 25-73(d), from the sales tax imposed in this Article.

Section 6. That Section 25-94(c) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-94. Exempt organization license; application procedure.

...

(c) Upon receipt of an application, the Financial Officer shall examine the same and shall give written notice to the applicant of his or her decision thereon. An applicant whose application has been denied may, within twenty~~-one~~ (2021) days after such decision is mailed, petition the Financial Officer for a hearing on the claim. The Financial Officer shall notify the applicant in writing of the time and place of the hearing. After such hearing, the Financial Officer shall make such order in the matter as he or she deems just and proper and shall furnish a copy of such final order to the applicant.

...

Section 7. That Section 25-147 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-147. Procedure for refund of disputed tax.

A refund shall be made or credit allowed for the tax paid under dispute by any person who claims that the transaction or item was not taxable, claims an exemption as provided in this Article, or claims that taxes were paid in error or by mistake. Such refund **or credit** shall be made by the Financial Officer after compliance with the following:

(1) *Application.* An application for a refund **or credit** of sales or use tax paid under dispute, paid in error by a purchaser or user who claims an exemption under Subsection 25-73(c) or Subsection 25-74(b), or paid in error or by mistake shall be made within three (3) years after the date of purchase, storage, use or consumption of the goods or services whereon ~~an exemption~~ **a refund or credit** is claimed. Such applications must be accompanied by the original paid invoice or sales receipt and must be made upon such forms as shall be prescribed and furnished by the Financial Officer;

...

(4) *Hearing.* An applicant whose application for a refund has been denied may, within twenty-one (2021) days after such decision is mailed, petition the Financial Officer for a hearing on the claim. The Financial Officer shall notify the applicant in writing of the time and place of the hearing. After such hearing, the Financial Officer shall make such order in the matter as he or she deems just and proper and shall furnish a copy of such final order to the applicant. ~~The time period set forth in this Section may, in the absolute discretion of the Financial Officer, be waived for good cause on written application of the applicant.~~

Section 8. That Section 25-216 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 25-216. Review of decisions of Financial Officer.

The taxpayer may apply for a review of the decision of the Financial Officer in a hearing held pursuant to § 25-169. Such review ~~shall~~ may be in the district court or the City's Municipal Court and the proceedings shall be conducted in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The review must be sought no later than twenty-eight (28) days after the date of the final decision of the Financial Officer. The taxpayer may also seek review as provided in C.R.S § 29-2-106.1.

Introduced, considered favorably on first reading and ordered published this 18th day of October, A.D. 2022, and to be presented for final passage on the 1st day of November, A.D. 2022.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading this 1st day of November, A.D. 2022.

Mayor

ATTEST:

City Clerk



Finance Committee Meeting Minutes
July 7, 2022, 4-6 pm
Zoom

Council Attendees: Kelly Ohlson, Emily Francis (Acting Chair), Susan Gutowsky

Absent: Julie Pignataro

Staff: Kelly DiMartino, Travis Storin, Tyler Marr, Carrie Daggett, John Duval, Teresa Roche, Clay Frickey, Rachel Rogers, Jennifer Poznanovic, Nina Bodenhamer, Terri Runyan, Ginny Sawyer, Victoria Shaw, Gerry Paul, Sheena Freve, Blaine Dunn, Amanda Newton, Jo Cech, Lance Smith, Dave Lenz, Zack Mozer, Erik Martin, Carolyn Koontz

Others: Jacy Marmaduke, Coloradoan
Kevin Jones, Chamber
Rachel Selby
Jeff Byler, Manager, Pacific North Enterprises
Tamara Seaver and Karlie Ogden, from Icenogle Seaver Pogue

Meeting called to order at 4:00 pm

Approval of minutes from the June 2, 2022, Council Finance Committee Meeting. Kelly Ohlson moved for approval of the minutes as presented. Emily Francis seconded the motion. Minutes were approved unanimously via roll call by; Kelly Ohlson and Emily Francis.

A. Rudolph Farms - Metro District

Clay Frickey, Redevelopment Program Manager
John Duval, Deputy City Attorney

SUBJECT FOR DISCUSSION

Inclusion of Paradigm property into Rudolph Farm Metro District

EXECUTIVE SUMMARY

The purpose of this item is to consider the inclusion of the Paradigm property into the Rudolph Farm Metropolitan District (Metro District) located at Prospect and I-25. The developer of the Paradigm property is also seeking through the City's land use process to change the land use mix for the Paradigm property. This inclusion would allow the District to levy on the Paradigm property a Debt Service Mill Levy of 50 mills and an Operations and Maintenance Mill Levy of 20 mills, or a total of 70 mills, which property taxes would be used by the Metro District to fund the construction, operation and maintenance of public improvements. There is already levied on the Paradigm property by the I-25/Prospect Interchange Metro District a 10 mill levy to be

B. Grocery Tax Rebate Program

Nina Bodenhamer, Director, City Give

Jennifer Poznanovic, Sr. Manager, Sales Tax & Revenue

EXECUTIVE SUMMARY

Established in 1972, the Grocery Tax Rebate is intended to provide financially insecure residents relief from City sales tax charged on purchased food. The program was expanded to include residents within the City's Growth Management Area in 2017.

Per a 2020 Performance & Program Evaluation, participation in Grocery Tax Rebate would benefit from:

- City-wide Centralization of Administration
- City-wide Coordination of Program Outreach
- Simplified Document and Income Verification
- Increased Alignment with Other City Benefit Programs

CURRENT STATE

In 2021, 1,800 Residents applied and received the Grocery Rebate Tax. 89% of applicants are repeat participants from the prior year.

- 2022 Annual Benefit: \$69 Per Resident
- Eligibility: 50% Area Media Income

In spite of robust community outreach and investments in marketing, the Grocery Tax Rebate has historically lackluster enrollment.

Outreach and marketing efforts include but are not limited to:

- Spanish-language Translation of Outreach Materials and Application
- Direct mail, Community Promotion and Marketing
 - Community-wide Poster Distribution
 - Two (2) Ads Per Year, Coloradoan, Op-Ed
- 50+ Community Partners: Distribution of Applications & Promotion

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Council input and the findings of the 2020 Performance & Program Evaluation affirm a commitment to:

- Increase Participation in Income-qualified Programs
- Reduce Barriers to Enrollment
- Realize the Potential of the City's Investment in Get FoCo
- Embed Best Practices & Resident Input

Adjusting the income eligibility from 50% AMI to 30% AMI would reduce the overall pool of applicants. However, would the increased ease in income verification result in a higher response rate?

BACKGROUND/DISCUSSION

Over the past years, revisions to the Code language which govern the Grocery Tax Rebate have been made to demonstrate responsiveness to resident input and program design:

- Revision to the Payment Definition to Allow Future Alternatives
- A Shift in Window of Service from Seasonal to Annual
- Adjusted Definition of "Households"
- Removed Federal Income Tax as the Sole Income Verification Source

Yet, the program continues to represent low participation rates. Four (4) options are presented with the rationale, risks and benefits of each:

- Option #1: Maintain Grocery Tax Rebate Income Eligibility at 50% AMI
 - Outstanding Benefit: An estimated resident pool of 18,000
 - Potential Risk: Income Tax Returns serve as the Sole Option for Income Verification: 30% - 50% AMI
- Option #2: Adjust Grocery Tax Rebate Income Eligibility to 30% AMI
 - Outstanding Benefit: Applicants Immediately Eligible for other City Benefits: Recreation, Spin Access, Reduced Cost Internet via Get FoCo
 - Potential Risk: A Reduced Participant Pool: 12,000 Eligible Residents
- Option #3: Adjust Grocery Tax Rebate Income Eligibility at 60% AMI
 - Outstanding Benefit: Income Verification Piggybacks on State Program
 - Potential Risk: Resident Familiarity with Low Energy Assistance Program (LEAP)
- Option #4: Adjust Grocery Tax Rebate Income Eligibility to 80% AMI
 - Via Household Addresses Linked to Affordable Housing Properties
 - Additional Financial, Technological and Operational Exploration Required

DISCUSSION / NEXT STEPS:

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Council input and the findings of the 2020 Performance & Program Evaluation affirm a commitment to:

- Increase Participation in Income-qualified Programs
- Reduce Barriers to Enrollment
- Realize the Potential of the City's Investment in Get FoCo
- Embed Best Practices & Resident Input

Kelly Ohlson; I do prefer a higher number like 60% AMI. I have lived most of my life in that demographic so that is kind of a minimal number for me. I don't think we have put new taxes on food since the 80's. Can you confirm?

Travis Storin; yes, that is correct - Restaurant consumption is on the whole amount 3.85%

Kelly Ohlson; we are trying to balance that out - we get quite a bit of revenue from the base – I am interested in 60%. I don't follow at all how we are going to verify that

Nina Bodenhamer; the success of the Get FoCo app depends on piggybacking – so we are using federal, state, or regional benefit programs. A resident who is participating in SNAP has an EBT card. They log into their account while they are at Get FoCo – take a snapshot of that screen and the verification of that account tied to the resident verification qualifies them at 30% AMI. With the 60% AMI option, that is also the standard for LEAP – so someone who qualifies for LEAP would receive a notice from the Colorado Low-income Energy Assistance Program - they upload the LEAP confirmation letter they received via email and when the text reader sees it and they are established at 60%.

The other option is Income Qualified Assistance Program (IQAP) for Fort Collins Utilities which also uses LEAP as a 3rd party verification/ qualifier. The LEAP letter opens the door to city benefits. If they are enrolled in the reduced utility rate program, it is natural for them to enroll for the Grocery Store Rebate at the same time.

Kelly Ohlson; I am focused at the moment on Option 3. I am curious what staff would recommend.

Nina Bodenhamer; I am excited about the 60% AMI and my reason is for one it was illuminated by your and Emily's hard questions at Council. I love the challenge to come back with another pathway. My operational goal is to make the application process easy for residents and 60% accomplishes that. Increasing the ceiling and making it easy, means we may have many more applicants that the current budget plans for.

Jen Poznanovic; I would say it really depends on what the Council is looking for - the income tax returns are a big barrier, and we aren't seeing as many families participate. Historically, over 80-90% are repeat applicants, over 50% are 65 and older so typically folks who have more time on their hands and are used to the process of giving us their tax return as part of the application process.

Kelly Ohlson; if this is the direction a majority of Council approves then it is up to us to prioritize the budget because we do bring in a lot of money from sales tax on food maybe some of the revenue from food goes back to those who need it the most.

Travis Storin; when I think about the 18,000 residents who are eligible for today's program relative to the 1,800 who participate - we can do a lot better than that (10%). We have really reached our limit on outreach - we have done everything we can in terms of promotion and awareness of this program, yet we still see low participation rates. I support the conclusion that the application verification process itself is creating barriers to participation. The more we can peg our programs to state and regional programs like LEAP then we are making it easier for our resident and expedites the process. 30% AMI is easy street - 31-60% AMI tranches can be tricky but I think Option 3 is viable right out of the shoot and you can keep Option 4 in mind. Once we see the efficacy at 60% AMI the dollars do start to grow. It is a humble \$100K program today and we want to daylight for Council's consideration that it would come at a cost to drive to substantially higher participation. I think we can manage that at 60% and that would be a good place to monitor to see if we could do 80%.

Emily Francis; when we send a rebate it is city funds, correct.

Nina Bodenhamer, yes

Emily Francis; I don't understand why we make people prove to us they are low income. How much does it cost for us to administer this program?

Travis Storin; we have one staff member with a 25-hour part time schedule for 12 months. \$50K range - so relative to the \$100K of benefits going out it is costly.

Nina Bodenhamer; the current benefit is \$69 per resident. So, a single parent with 4 children would receive 5x \$69 (\$345)

Emily Francis; there are not a lot of people who would game the system for \$60.

As a city, we say we want to reduce barriers, yet we are still going to make you prove that you are low income. It is just counter intuitive to me. If we don't have state and federal limitations on how we administer the program, and the funds then why are we putting that on ourselves?

Travis Storin; I assess a different risk around the potential for abuse – they are people who qualify technically because a business can run on a different tax return, etc. A person can qualify on the face of the form but can actually be a person who has means. I would worry that by having no qualification, we would open ourselves up to larger levels of abuse.

Emily Francis; I just doubt that there would be enough abuse that we would need to warrant the staff time to do this. Which will cost us more, the 20 people who abuse it or having full time staff work on it. I don't understand how we say we want to remove barriers and we have complete control of these programs, yet we are still going to make people prove they are low income. I just think it is something for us to think about and consider.

My other question is related to the grocery bag waiver – why can't we just follow the same guidelines at the register and not charge them sales tax on food.

Nina Bodenhamer; this has come up with our Get FoCo partners as well - we aren't there yet with the technology. To address your other question regarding income verification – your philosophical position is that we may not be there yet as a city, yet it is the same direction we were heading with the development of Get FoCo. How do we make it easiest for our residents, non-threatening, warm, responsive, and not a burden in terms of time? So, right now the benefit of the Get FoCo app in its entirety is that when a resident establishes a need – that is a gateway to a host of other programs not just the grocery tax rebate. We have the recreation discount which is a gateway to reduced cost childcare so there is a lot that happens once someone does establish need. The reason we designed this app was to reduce repetitive proving of income, to reduce the uncomfortable cultural barriers that we place on residents. We are moving in a positive direction – we have made this easy – if you were applying for the recreation discount, to apply for the grocery tax rebate program would simply be a click on a box because your income is already verified. We have this whole section to quick apply for a list of programs. If I qualify for one then I qualify for all - so we are moving in this progression. In a future world, how else can that designation be used – for example the grocery tax - how do we create that space where we could eliminate the tax instead of rebating it?

Emily Francis; we spend so much time talking about how we operate to get to our goals – those processes aren't necessarily serving us – how do we get to the same end goal but in a different way. The 4 options are great, but they don't address the larger issue, the larger policy direction. So, with the 60% AMI – SNAP is one way but can be a pain to qualify for in the first place. I think it would be helpful to list all of the ways a person can qualify. During Covid with all the rent assistance, If you were a case manager for someone you could provide a letter saying someone was being paid in cash.

Nina Bodenhamer; right now, in the app, we accept the SNAP EBT card, Women, Infants and Children (WIC) card, American Connectivity Program formerly Emergency Broadband Benefit (EBB), a PSD free or reduced lunch program letter, LINK the income qualified assistance program in our own utilities Medicaid – we are warming up to – cards have no expiration date so that represents a separate issue but is a simple approach, a letter from a provider from county, state, or other benefit programs. And SPIN (bike and scooter share) community access pass and their verification is at 30% AMI. Their verification is through their own platform which was created by Code for America.

Emily Francis; we need to think about other verifications that aren't tied to government.

Nina Bodenhamer; I accept that challenge

Emily Francis; we could do a pilot with the grocery food tax rebate and see how it goes

Kelly Ohlson; that is where I am at -I would be open to what you are suggesting - a pilot using the grocery store tax rebate- I like to have some recourse to go after the cheaters and eliminate them from the system.

Nina Bodenhamer; I do think they are some important gates

I would like to leave today with a recommendation for verification. We have a team in place with rebate. The 60% option still leverages the Get FoCo app. What does the success rate look like when we just make it easy on applicants? What if we relieved the income verification? How does that operationalize? I am looking for direction today on a percentage with our idea of 60% AMI

Kelly Ohlson; let's put this in some type of resolution because players on Council change. Then we have it in writing with our idea at 60% AMI for a certain time period if we need to go through one full cycle to evaluate how the system recommended by staff works. Staff could at the same time work on alternatives for us to consider – that way we don't waste a year of the new system and then take 9 months – that they happen concurrently – so we consider after we see how this works.

Emily Francis; I think that would be fine – so, 60% AMI and the language that Kelly said.

I appreciate your teams work so much and our language around this is going to be easy – making it easier for some people- we are forgetting a lot of people who it is not easier for

Nina Bodenhamer; it will be easy for households who know how to navigate public systems, have internet access. I would like to see us Increase participation in that space.

Susan Gutowsky; reference to the open system - I think with any system there are always folks who will game it – looking at all of the recovery money that was distributed - lots of money with very little oversight and lack of accountability. I don't know how you would spot the people who not playing fairly unless you have some sort of check, some way of verification. It would make me very uncomfortable to have an open system and trust everyone to be honest. Once you verify your income,

it does open doors to other resources – it would benefit the city to have that done and don't think it would be a huge burden for those who want to apply. It is human nature across the board.

Travis Storin; summary

- Support for Option 3
- Fashioning this as a pilot and in parallel develop options that expand beyond the federal and state qualifications up to and including dropping the qualification entirely. We can capture that in the ordinance language that staff is continuing to study this and is not waiting for a year to start developing new programs
- Some reference to a timetable -appropriate amount of time to evaluate

Emily Francis; when this comes to Council, can you provide more information about the Medicaid part and other alternatives?

Kelly Ohlson; are these programs (Medicaid / SNAP for example) permanent? Do federal and state governments ever take people off these programs?

Nina Bodenhamer; the Medicaid card can be inactive - there is no date on the card, so you don't know if the card is active or not. SNAP / EBT – residents can log into their account, and it is an active account. Medicaid doesn't have that option.

Emily Francis; income verification for SNAP is done annually

Nina Bodenhamer; we haven't established what that cadence is yet for Get FoCo Qualified last year - We can adjust when they were last verified and track when they have been active and what they have qualified for. LEAP / IQAP – what does that do to our overall cross pollination of these programs? Get FoCo a gateway to multiple city benefits

C. Capital Projects – Inflationary Impact (All Projects)

Sheena Frève, Senior Analyst, Financial Planning & Analysis

Gerry Paul, Director of Purchasing

EXECUTIVE SUMMARY

Inflation is currently at historically high levels, with the consumer price index (CPI) increasing by 8.6% from May 2021 to May 2022. Inflation in the construction industry is increasing at even faster pace, rising by 10% to 17% over the past year. Adding to the problem, the supply chain is experiencing pressure caused by higher costs and much longer lead times. The impact on the City can be seen in recent requests for supplemental appropriations for capital projects by Community Services, Planning, Development & Transportation, and Utilities.

The City anticipates continued pressure and has identified projects at risk due to inflation. The expectation is that most funding shortfalls will be addressed through the 2023/2024 budget process or through changes in scope, decreased levels of service, or delays impacting implementation and future projects. At the same time, inflation is offset by higher City revenues through increased sales tax receipts and investment income. Over the next five years, the Bipartisan Infrastructure Law will allocate billions of dollars to the state and local governments in Colorado. This may cause increased pressure on construction costs.

October 18, 2022

AGENDA ITEM SUMMARY

City Council



STAFF

Ginny Sawyer, Project and Policy Manager
Brad Buckman, City Engineer
Brad Yatabe, Legal
Aaron Guin, Legal

SUBJECT

First Reading of Ordinance No. 112, 2022, Amending Chapter 23, Article III of the Code of the City of Fort Collins Regarding Obstructions and Encroachments to Allow for the Expansion of Outdoor Dining Areas onto City Property and Adopting by Reference the City of Fort Collins Outdoor Dining Design Manual.

EXECUTIVE SUMMARY

The purpose of this item is to amend City code to allow outdoor dining areas on public property. During the COVID pandemic and declared local emergency, Emergency Orders were put in place to support hospitality businesses by allowing extended outdoor patios on public property. The extended patios have been popular and successful both economically and as a vibrant way to activate streets and sidewalks. Staff is proposing changes to the City Code obstruction and encroachment permit provisions and a framework, including the *City of Fort Collins Outdoor Design Manual* ("Design Manual"), to make these spaces permissible after the expiration of the Emergency Orders.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

In 2020, as occupancy restrictions were put into place due to the COVID pandemic, the City enacted several Emergency Orders to support local businesses. Two Emergency Orders in particular, Temporary Outdoor Dining and Temporary Outdoor Expansion Permits, allowed for patios on sidewalks not connected to a building, patios in designated on-street parking spaces, patios in Right-of-Way space, and patios in private parking lots.

For the most part, these spaces have been well received and are an amenity that many community members would like to see going forward. The goals of the proposed changes to City Code to facilitate the extension of outdoor patio spaces onto public property for the purposes of food and beverage service through the existing obstruction and encroachment permits along with the Design Manual are focused on preserving the intent of street activation and vitalization, while considering safety and potential impacts to parking availability, non-hospitality businesses, neighboring businesses, and aesthetics.

A working group has created the Design Manual, referenced in the proposed changes to City Code, to guide businesses and staff in the implementation of extended patios based on the diverse streetscapes throughout the city.

Recommended code changes include:

- Adopting the Outdoor Dining Design Manual by reference.
- Changes to the encroachment permit language:

(c) The City Engineer may adopt such minor revisions and corrections to the Outdoor Dining Design Manual as may, in their judgment, be necessary to better protect the health, safety, and general welfare of the public, ensure the appropriate usage of City property or any street, avenue, alley, sidewalk highway or public right-of-way for which obstruction and encroachment permits have been issued, and facilitate allowed food and beverage service thereon in consideration of the aforementioned purposes. The City Engineer shall approve only those revisions or corrections that:

- (1) Do not result in significant additional cost to the persons affected by the revisions; and*
- (2) Do not materially alter the standards with which persons must comply.*

Upon adoption of any such revisions pursuant to the authority of this subsection, the City Engineer shall maintain written documentation of any revisions or corrections specifying the date upon which they shall become effective and such documentation shall be provided to the office of the City Clerk with an updated copy of the Outdoor Dining Design Manual reflecting the changes and available for public inspection.

- Creating “Parklets” under the City’s obstruction permit code to allow longer-term use of parking spaces for non-construction/demolition purposes, and establishing limits on Parklet use and duration:

Parklets: use of parking spaces adjacent to a licensed premises for the purpose of serving food and/or beverages for consumption within the Parklet obstruction area as an extension, accessory or complement to the licensed business.

These code changes allow for:

- Traditional patios that are attached to the business building.
- Patios/tables and chairs that are in the public right-of-way, within the associated business building frontage but not attached to the building.
- Patios in designated on-street parking spaces within the business’ building frontage.

These will be revocable permits issued by and through Engineering (encroachment) and Parking Services (Parklets) with potential routing and additional permits required by Building Services, Poudre Fire Authority, Storm Water, City Clerk and Liquor Licensing, and the Streets Department.

As proposed, Parklet patios could be year-round. The estimated cost to a business using a Parklet is \$700 per designated parking space per year.

There currently are fewer than 12 businesses with these types of patios in operation in City right-of-way. Staff anticipates the need to monitor and potentially adjust this program over time based on intensity of use and what we learn from site specific locations.

Unrelated to these Code changes, businesses that utilized the Emergency Order to operate patios in private parking areas and that wish to continue to do so will need to apply for and successfully complete the minor amendment process.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Not applicable.

PUBLIC OUTREACH

City staff conducted two surveys in 2021 to gauge interest in the outdoor extended patios program, with results showing widespread support. Additionally, during the construction of the Linden Street project in 2021 and 2022, City staff engaged extensively with all the businesses in the affected section of Linden Street, and the project results reflect that outreach and design feedback.

ATTACHMENTS

1. Ordinance for Consideration
2. Outdoor Dining Design Manual

ORDINANCE NO. 112, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 23, ARTICLE III, OF THE CODE OF THE CITY OF FORT
COLLINS REGARDING OBSTRUCTIONS AND ENCROACHMENTS TO
ALLOW FOR THE EXPANSION OF OUTDOOR DINING AREAS ONTO
CITY PROPERTY AND ADOPTING BY REFERENCE THE
CITY OF FORT COLLINS OUTDOOR DINING DESIGN MANUAL

WHEREAS, on October 6, 2020, City Council adopted Emergency Ordinance No. 124, 2020, to approve Emergency Rule and Regulation No. 2020-17A (“Regulation 2020-17A”) regarding Temporary Outdoor Expansion Permits; and

WHEREAS, Regulation 2020-17A, and its predecessor Emergency Rule and Regulation No. 2020-17 (“Regulation 2020-17”), were originally adopted in response to the declared local COVID emergency (“COVID Emergency”) to allow local businesses to temporarily expand their business footprint onto City or private property adjacent to or in the immediate vicinity of their fixed location to accommodate greater social distancing at their establishments; and

WHEREAS, Regulation 2020-17A and Regulation 2020-17 provided the City Engineer with the ability to issue Temporary Outdoor Expansion Permits (“Expansion Permits”) to allow businesses during the COVID emergency to expand into specified City or private property provided certain conditions were met; and

WHEREAS, the ability of food and beverage service establishments to expand their dining area footprint onto City property pursuant to the Expansion Permits has contributed to the financial viability of such businesses and the wellbeing of the City; and

WHEREAS, based upon the benefits of allowing such businesses to temporarily expand onto City property, the City Code amendments set forth in this Ordinance to the existing Chapter 23 obstruction and encroachment permit provisions allow food and beverage service establishments to continue to expand their dining area footprint onto City property after the end of the COVID emergency provided certain conditions are met; and

WHEREAS, to assist in the administration of obstruction and encroachment permits issued to allow expansion dining areas onto City property, the *City of Fort Collins Outdoor Dining Design Manual* (“Design Manual”) has been developed and because it is intended to be enforceable as though it were set forth in City Code, it is being adopted as a code by reference; and

WHEREAS, pursuant to City Charter, Article II, Section 7, City Council may enact any ordinance which adopts any code by reference, in this instance the Design Manual, 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; and

WHEREAS, in compliance with City Charter, Article II, Section 7, the City Clerk published in the *Fort Collins Coloradoan* such notice of hearing on October 2, 2022, and October 9, 2022, and

WHEREAS, 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; and

WHEREAS, pursuant to City Code Section 1-14, at least one copy of the Design Manual 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; and

WHEREAS, as required pursuant to City Charter, Article II, Section 7, the penalty clause for the violation of any Design Manual requirement is set forth in full in below Section 2, the text of which is part of City Code Section 23-47 and adopted by this Ordinance; and

WHEREAS, the amendments to the obstruction and encroachment permit provisions set forth in this Ordinance and the adoption of the Design Manual by reference are in the best interests of the City.

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

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

Section 2. That Chapter 23, Article III, Division 1 is hereby amended by the addition of a new section 23-47 which reads in its entirety as follows:

Sec. 23-47. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Director shall mean the Planning, Development and Transportation Director or their designee.

Section 3. That Chapter 23, Article III, Division 1 is hereby amended by the addition of a new section 23-48 which reads in its entirety as follows:

Sec. 23-48. Adoption of the City of Fort Collins Outdoor Dining Design Manual.

(a) There is hereby adopted the City of Fort Collins Outdoor Dining Design Manual which shall have the same force and effect as though set forth herein and shall be referred

to as the Outdoor Dining Design Manual. The Outdoor Dining Design Manual is adopted for the purposes of protecting the health, safety, and general welfare of the public, ensuring the appropriate usage of City property or any street, avenue, alley, sidewalk highway or public right-of-way for which obstruction and encroachment permits have been issued, and facilitating allowed food and beverage service thereon in consideration of the aforementioned purposes.

(b) A copy of the Outdoor Dining Design Manual adopted under this Section 23-47 shall be kept on file in the office of the City Clerk and the City Engineering Department and in the office of the chief enforcement officer thereof.

(c) The City Engineer may adopt such minor revisions and corrections to the Outdoor Dining Design Manual as may, in their judgment, be necessary to better protect the health, safety, and general welfare of the public, ensure the appropriate usage of City property or any street, avenue, alley, sidewalk highway or public right-of-way for which obstruction and encroachment permits have been issued, and facilitate allowed food and beverage service thereon in consideration of the aforementioned purposes. The City Engineer shall approve only those revisions or corrections that:

(1) Do not result in significant additional cost to the persons affected by the revisions; and

(2) Do not materially alter the standards with which persons must comply. Upon adoption of any such revisions pursuant to the authority of this subsection, the City Engineer shall maintain written documentation of any revisions or corrections specifying the date upon which they shall become effective and such documentation shall be provided to the office of the City Clerk with an updated copy of the Outdoor Dining Design Manual reflecting the changes and available for public inspection.

(d) The failure of any permittee to whom an encroachment or obstruction permit has been issued for food or beverage service to comply with the applicable terms of the Outdoor Dining Design Manual shall constitute a violation of the Code and shall be grounds for revocation of a permit and is punishable as a civil infraction in accordance with § 1-15.

Section 4. That Section 23-61 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-61. Permit required; application.

(a) Any person desiring to occupy any designated public parking space on a public street, public parking lot, and/or public right-of-way in the City in connection with the maintenance, erection, construction, remodeling or demolition of any building or improvement on property abutting thereto shall make written application to the ~~Parking Services Manager~~ Director for an obstruction permit on a form(s) prepared and provided by the City.

(1) No private vehicle that is not directly related to the maintenance, erection, construction, remodeling or demolition activities shall be granted an obstruction permit for the intent to park longer than standard time restrictions for the parking space.

(b) Any person desiring to occupy any designated public parking space on a public street in the City for any purpose not specified in Subsection (a) above, or (c) below, shall make written application to the Director for such obstruction permit on form(s) prepared and provided by the City, subject to the following restrictions:

(1) ADA/Accessible Handicapped parking spaces and adjacent loading areas shall not be obstructed.

(2) The permit shall not be valid for more than four (4) consecutive days and shall not be granted for consecutive time periods.

~~(3) An applicant shall not apply for more than two (2) permits in a calendar year.~~

~~(4) No parking space shall be obstructed overnight.~~

(3) No private vehicle that is not directly related to the permit for the obstruction shall be granted an obstruction permit for the intent to park longer than standard time restrictions for the parking space.

~~(5)~~(4) The permit shall apply only to designated public parking spaces that abut property owned by the applicant unless the owner(s) of the abutting property has consented in writing to the issuance of the permit as provided in Paragraph (10) of § 23-62(10) of this Code or unless the City Manager Director determines that it is in the best interests of the health, safety or welfare of the City and its citizens residents that the permit be issued for parking spaces adjacent to property not owned by the applicant.

~~(6)~~(5) The provisions of this Subsection (b) shall not apply to special events for which a permit is required under § 23.5-3 of this Code.

(c) Parklets: use of parking spaces adjacent to a licensed premises for the purpose of serving food and/or beverages for consumption within the Parklet obstruction area as an extension, accessory or complement to the licensed business ("Parklet") may be issued an obstruction permit for more than four (4) consecutive days, if in alignment with and permitted by other affected City Departments.

(1) ADA/Accessible parking spaces and adjacent loading areas shall not be obstructed.

(2) Business use of a permitted Parklet shall apply only to parking spaces and/or curb front that abut property owned by the applicant unless the owner(s) of the abutting property has consented to the issuance of the permit as provided in paragraph (11) of § 23-62 of this Code.

(3) No private vehicle that is not directly related to the reasons for the parking space closure shall be granted an obstruction permit for the intent to park longer than the standard time restrictions for the parking space.

(d) Obstruction permits may be revoked at any time as determined by the Director, depending on the needs of the City.

~~(e)~~(e) Application for, and approval of, the modification of a permit shall be required before any change is made in the size or configuration of the area that is the subject of a permit issued under this Section and/or any change is made in the nature, purpose or duration of the obstruction that was authorized by the permit.

Section 5. That Section 23-62 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-62. Contents of application.

The application shall contain the following information:

- (1) the applicant's name, address, email address ~~(if available)~~ and telephone number;
- (2) statement identifying the parking spaces that are the subject of the permit;
- (3) the location of the proposed obstruction, including the address of the property~~(ies)~~ abutting the area or space which is the subject of the permit;
- (4) the type of obstruction and the purpose of the obstruction;
- (5) the period of time requested that the obstruction will be in place, including date and time;
- (6) a statement that the applicant agrees to abide by the provisions of this Division;
- (7) a description of the proposed obstruction sufficient to fully inform the ~~City Manager~~ Director of the character and physical attributes of the obstruction and ~~for the Parking Services Manager~~ Director to perform a complete and competent examination of the application under the criteria contained in Subsection 23-8363(a);

(8) evidence of the applicant's ability and willingness to provide liability insurance insuring the City in a sum not less than one million dollars (\$1,000,000.), proof of which ~~insurance~~ shall be provided to the City prior to issuance of the permit, unless the requirement to provide such insurance is waived by the **Director** ~~Parking Services Manager~~;

(9) a statement that the applicant agrees to be responsible for barricading the parking spaces in a manner acceptable to the ~~Parking Services Manager~~ **Director**;

(10) **for permit applications pursuant to Section 23-61 (a) and (b) only,** a statement that the applicant is the fee owner of the real property abutting the parking space(s) for which the obstruction permit is sought, or, if the applicant is not the fee owner of such real property, then the abutting property owner's written consent to the obstruction; ~~and~~

(11) for Parklet obstruction permits sought pursuant to Section 23-61(c) only for the purpose of serving food and/or beverages for consumption within the Parklet obstruction area as an extension, accessory or complement to a business, a statement that the applicant is the fee owner of the real property that includes the business to which the Parklet obstruction area will be an extension, accessory or complement or is authorized by the fee owner to obtain a Parklet obstruction permit; and

~~(11)~~ **(12)** a statement that the applicant agrees to be bound by all of the provisions of this Article and the rules and regulations established by the City, including, without limitation, payments of fees, satisfying additional permit conditions, and obtaining any additional permits from other departments or agencies, as necessary.

Section 6. That Section 23-63 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-63. Investigation of application information; Fees and conditions.

(a) The application shall be made to the Director who 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 Director may consult with such City departments as they deem necessary to determine whether the application should be approved. The Director may issue the permit for such duration and upon such other terms and conditions as the Director determines are necessary to protect the public welfare if the following criteria are met:

(1) All submittal requirements of the application are complete;

(2) The proposed obstruction or other structure shall not, in the judgment of the Director, constitute a nuisance or destroy or impair the use of the property by the public or constitute a traffic hazard; and

(3) The property proposed for the obstruction permit is not needed for use by the public.

(4) In addition to satisfying the above three criteria, the following requirements apply to the following proposed encroachments:

a. If an application is for a Parklet obstruction for the purpose of serving food and/or beverages as referenced in Subsection 23-62(11), and the Parklet obstruction area includes City-owned property or any street, avenue, highway or public right-of-way that is partially or entirely located within the adjacent frontage of any real property other than that owned or occupied by the applicant, the Director shall mail written notice of the obstruction permit application to the owner(s) of record and any occupant of such real property informing them of the date by which any input on the proposed obstruction must be received for the Director's consideration in deciding whether the proposed Parklet obstruction meets above criteria (2) and (3).

b. As a condition of the issuance of any permit for the purpose of serving food and/or beverages in a Parklet obstruction as referenced in Subsection 23-62(11), the permittee shall:

1. Provide annually to the Director proof of uninterrupted liability insurance coverage in the amount required in Subsection 23-62(11), naming the City as an insured party;

2. Obtain and comply with any other required permits, licenses, or permission required under law and associated with conducting activities within a Parklet obstruction area including a liquor license, floodplain use permit, building permit, or Poudre Fire Authority permit; and

3. Comply with all applicable requirements of the Outdoor Dining Design Manual adopted pursuant to Section 23-47.

(a)(b) At the time of issuance of a permit hereunder, and at the time of any renewal or modification of such permit, the applicant shall pay an application fee and an additional fee per parking space per day to help defray the costs incurred by the City in processing and administering the permit program, including, without limitation, the cost of enforcement and the cost of inspection of the spaces that are the subject of the application; provided, however, that the ~~Parking Services Manager~~ Director may waive part or all of

the fees for governmental agencies. The amount of said fees shall be determined and established by the City Manager, pursuant to the provisions of Article I of Chapter 7.5.

(b)(c) The ~~Parking Services Manager~~ Director may condition the issuance and use of an obstruction permit on such requirements as are reasonably necessary to protect the safety of persons and property and the use and control of vehicular and pedestrian traffic, including limitations on time, place and allowed activities; payment of fees; obtaining any additional permits from other departments or agencies as necessary; and providing any fencing or barriers that the ~~Parking Services Manager~~ Director requires in order to protect pedestrian and vehicular traffic from the obstruction and associated dangers. If required, the permit holder shall build and maintain a good and substantial, protected walkway around the obstruction. The permit holder shall adequately light and mark the obstruction to protect pedestrian and vehicular traffic.

Section 7. That Section 23-64 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-64. Term of permit; renewal and revocation.

(a) A permit may be issued only for the period of time necessary to complete the purpose for which the permit was issued. No permit issued under Subsection 23-61(a) shall be issued for more than ninety (90) days; provided, however, that the ~~Parking Services Manager~~ Director may renew any such permit for one (1) or more additional ninety-day periods upon written application and payment of the applicable renewal fee. The term of a permit issued under Subsection 23-61(b) shall be limited in accordance with Paragraphs (2) and (3) thereof.

(b) Any application under this Article may be denied and any permit issued under this Article may be ~~denied~~ suspended or revoked by the ~~Parking Services Manager~~ Director if the holder fails to obtain any other necessary permits, fails to conduct the activity in compliance with the terms and conditions of the permit, violates any of the provisions of this Article, state law, local ordinances or the applicable rules and regulations of the City, or if the work or services allowed or offered by the permit unduly interferes with pedestrian or vehicular traffic or otherwise poses a threat to the health and safety of the public.

(c) The failure of any permit holder to comply with the terms and conditions of the permit, failure to pay the application fee and an additional fee per parking space per day, or to vacate the permitted premises upon revocation or expiration of the permit, whether for cause or without cause, shall constitute a violation of the Code and shall be punishable as a civil infraction in accordance with § 1-15. Each day that a violation continues shall be a separate offense.

Section 8. That Section 23-67 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-67. Permit holder liable in case of nonconformance.

If any permit holder fails to comply with the requirements of §§ 23-65 or 23-66 of this Article, or fails to perform any work ~~under~~ required for issuance and use of the permit, the Director may cause the work to be done and compliance accomplished, and the cost shall be charged to the holder of the permit and the holder of the permit shall be liable for such costs. The failure of any permit holder to comply with the terms and conditions of the permit or to vacate the permitted premises upon revocation or expiration of the permit, whether for cause or without cause, shall ~~be deemed to~~ constitute a violation of the Code and shall be punishable as a civil infraction in accordance with § 1-15. Each day that a violation continues shall be deemed a separate offense.

Section 9. That Section 23-82 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-82. Contents of application.

...

(b) If the proposed encroachment is for the purpose of serving food and/or beverages for consumption within the encroachment area as an extension, accessory or complement to an ~~adjoining~~ business, the encroachment area does not need to be contiguous with the real property upon which such business is located, and the application shall also contain:

...

(2) A statement that the applicant is the fee owner of the real property that includes the business to which the encroachment area will be an extension, accessory or complement or is authorized by the fee owner to obtain an encroachment permit ~~directly adjoining the property upon which the encroachment is sought, or, if the applicant is not the fee owner of such real property, then the adjoining property owner's written consent to the encroachment.~~

Section 10. That 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:

- (1) All submittal requirements of the application are complete;
- (2) The proposed encroachment, obstruction or other structure shall not, in the judgment of the City Manager, constitute a nuisance or destroy or impair the use of the property by the public or constitute a traffic hazard; and
- (3) The property proposed for the encroachment permit is not needed for use by the public.
- (4) In addition to satisfying the above three criteria, the following requirements apply to the following proposed encroachments:
 - a. ~~In order for~~ If an application is for an encroachment area for the purpose of serving food and/or beverages as referenced in Subsection 23-82(b), and the encroachment area includes City-owned property or any street, avenue, alley, sidewalk, highway or public right-of-way that is partially or entirely located within the adjacent frontage of any real property other than that owned or occupied by the applicant, the City Manager shall mail written notice of the encroachment permit application to the owner of record and any occupant of such real property informing them of the date by which any input on the proposed encroachment must be received for the City Manager's consideration in deciding whether the proposed encroachment meets above criteria (2) and (3). ~~to be approved, the applicant for the proposed encroachment, obstruction or other structure must be the fee owner of the real property directly adjoining the property upon which the encroachment is sought, or must have obtained and submitted with the application the written consent of such fee owner.~~
 - 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:
 1. Annually provide to the City Manager proof of uninterrupted liability insurance coverage in the amount required in Subsection 23-82(b), naming the City as an insured party;
 2. Obtain and comply with any other required permits, licenses, or permission required under law and associated with conducting activities within an encroachment area including a liquor license, floodplain use permit, building permit, or Poudre Fire Authority permit; and
 3. Comply with all applicable requirements of the outdoor dining design manual adopted pursuant to Section 23-47.

4. In order for an application for an encroachment for wireless telecommunication equipment or facilities (as those terms are defined in Article 5 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 of the Land Use Code have been met.

~~Additionally, the proposed encroachment, obstruction or other structure shall not, in the judgment of the City Manager, constitute a nuisance or destroy or impair the use of the property by the public or constitute a traffic hazard. No permit shall be issued unless the City Manager determines that the foregoing criteria have been met. In investigating the application, the City Manager may consult with such City departments as he or she deems necessary to determine whether the application should be approved. If the City Manager determines that the property proposed for the encroachment permit is not needed for use by the public and that all submittal requirements of the application are complete, 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. 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 annually provide to the City Manager proof of uninterrupted liability insurance coverage in the amount required in said Subsection, naming the City as an insured party.~~

...

Section 11. That 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:

...

(6) Signs allowed pursuant to an encroachment or obstruction permit issued pursuant to Chapter 23, Article III, provided any required sign permit is also issued.

Introduced, considered favorably on first reading and ordered published this 18th day of October, A.D. 2022, and to be presented for final passage on the 1st day of November, A.D. 2022.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading this 1st day of November, A.D. 2022.

Mayor

ATTEST:

City Clerk

NOTICE OF PUBLIC HEARING

NOTICE is hereby given of a public hearing to be held before the Council of the City of Fort Collins, Colorado, on the 18th day of October, A.D., 2022 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 adopts by reference the *City of Fort Collins Outdoor Dining Design Manual*.

Not less than one (1) copy of said Code has been, and now is on file in the Office of the City Clerk of the City of Fort Collins and is available for public inspection.

The purpose of adopting the *City of Fort Collins Outdoor Dining Design Manual* by said ordinance is to provide for the protection of public health, safety and welfare of the City and its residents and City property.

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.

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.

Dated this 2nd day of October, A.D. 2022.

Anissa Hollingshead
City Clerk

Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 970.221.6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide 48 hours advance notice when possible.

A solicitud, 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.

City of Fort Collins

Outdoor Dining Design Manual

2022

DRAFT



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INTRODUCTION

Sidewalk patios, on-street patios, and other creative use of public space creates a dynamic environment and enhances the “sense of place” experience Fort Collins strives to encourage. The City of Fort Collins is looking for flexible ways to enable this more active streetscape for all businesses.

Innovative and creative use of public outdoor space benefits businesses and residents alike and is consistent with the vision of the Downtown Plan to emphasize pedestrian friendliness, high quality urban design, active streetscapes, and visual distinctiveness. The City is looking to allow this use in an ongoing manner while ensuring health and safety of the community and balancing various needs and desires through a permitting process and these design guidelines.

In an effort to maintain flexibility and adaptable practices in the near-term, these guidelines will be utilized to ensure that outdoor uses will fit within neighboring context, encourage a diversity of uses, meet the needs and desires of businesses and residents while contributing to the vision for the City described in City Plan and the Downtown Plan.

Permit applications will be reviewed and expected to meet the overall intent of the guidelines. Each permit site will have unique features and may or not be able to meet all guidelines. There may also be situations where permits will not be approved based on a lack of ability to substantially meet the guidelines.

The City anticipates updates and changes to the guidelines and codes over time as we learn from community experiences in public spaces. We encourage questions and ideas as these efforts continue to mature.


































Process

In this document you'll find information, examples, and guidelines for various types of outdoor dining that may be permitted by the City.

- **Step 1** – Determine the type of outdoor dining area that you would like to create for your business.
- **Step 2** – Read and understand the permit requirements and application process you will need.
- **Step 3** – Read and understand the Outdoor Dining Area Design Guidelines included in this document that provide information about dining area barriers, furniture, lighting, signage, and other elements that may be placed in your outdoor dining area.
- **Step 4** – Read and understand the requirements for dining area usage, safety, accessibility, maintenance, and other criteria that your outdoor dining area may be subject to.
- **Step 5** – Prepare your required permit application(s) and accompanying submittal items.
- **Step 6** – Submit your permit application, application fees, and accompanying submittal items to the City for review.
- **Step 7** – If your application is approved, pay required permit fees to the City and/or other licensing authority.
- **Step 8** – After receiving the permit, construct your outdoor dining area in compliance with the approved plans.
- **Step 9** – Prior to occupying the outdoor dining area, request required City inspection(s) and obtain Certificate of Occupancy.



QUICK GUIDE TO PATIO TYPES

Location, Service, & Amenities	PATIO TYPES		
	Attached Patios	Extended Patios	Parklets
Patio is Located on Public Sidewalk			N/A
Patio is Located in Designated Public On-Street Parking Spaces	N/A	N/A	
Patio Abutts Building		N/A	N/A
Patio is Detached/Offset from Building with Sidewalk Located between Patio and Building	N/A		
7' min Pedestrian Clear Zone around Patio on Public Sidewalk			
Liquor Service			
Food Service			
Dining Barriers	required for liquor service	required for liquor service	required
Umbrellas			
Tents/Shelters			
Building Mounted Awnings		N/A	N/A
Patio Lighting			
Heating Devices			
Structures Requiring Footings			

TYPES OF OUTDOOR DINING AREAS

Attached Patios

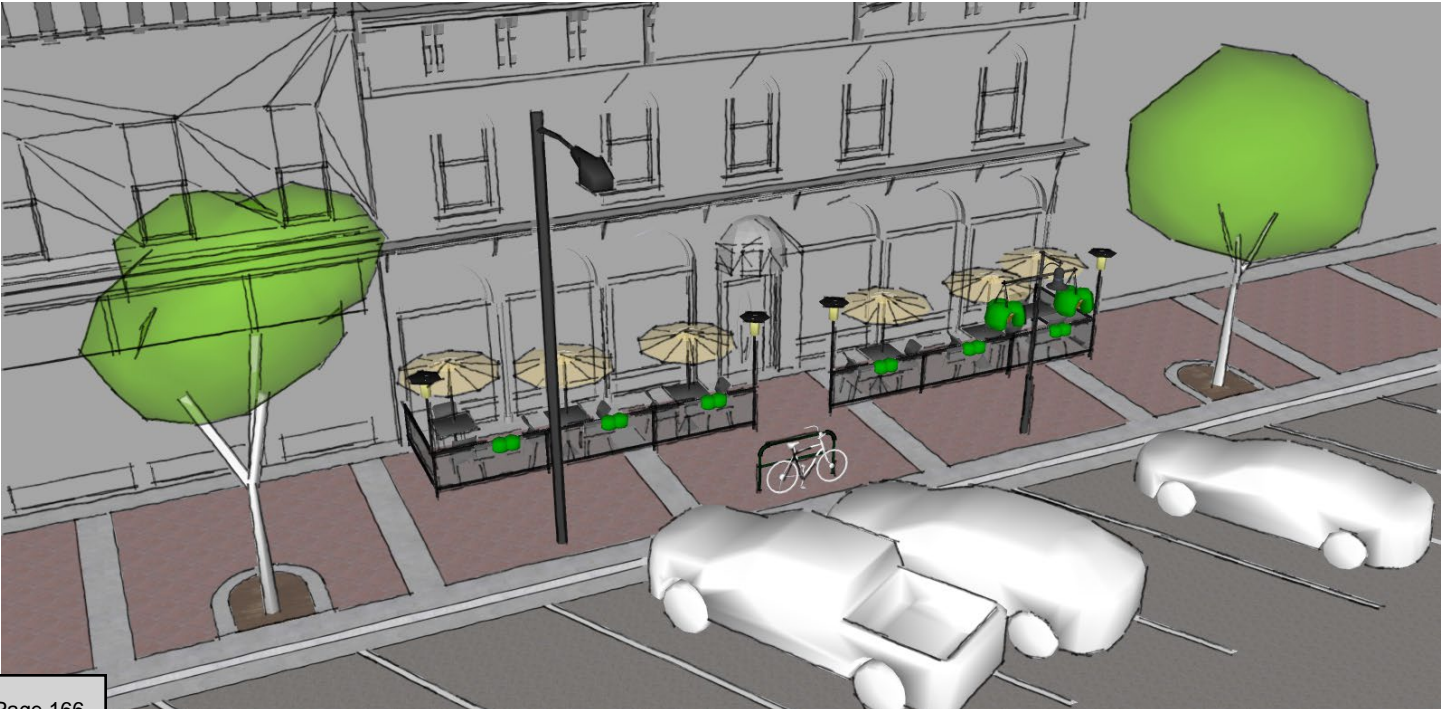
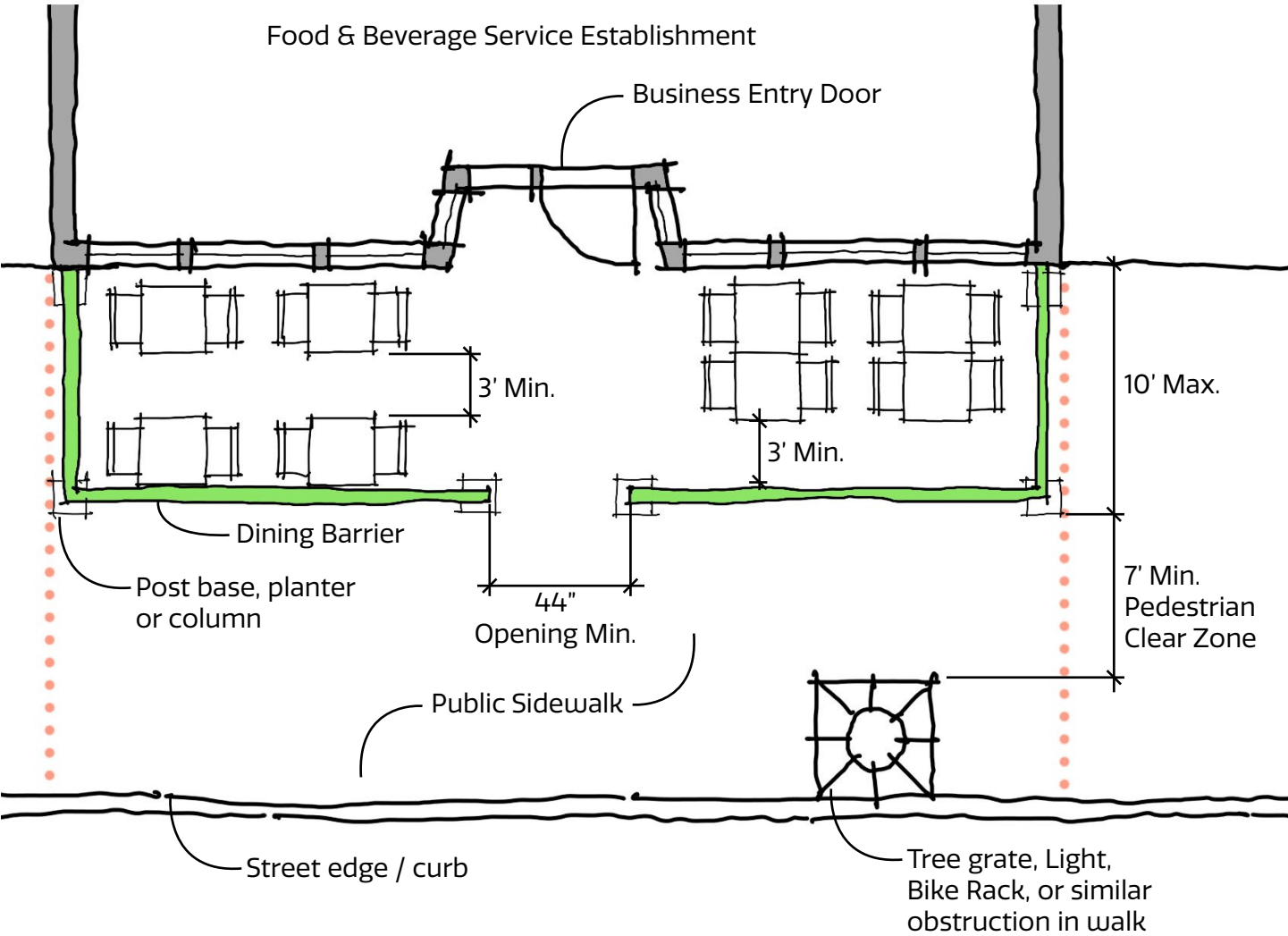
DEFINITION

"Attached Patios" – means an outdoor dining area that is located on a public sidewalk within the public right-of-way, immediately abutting a business's building frontage.

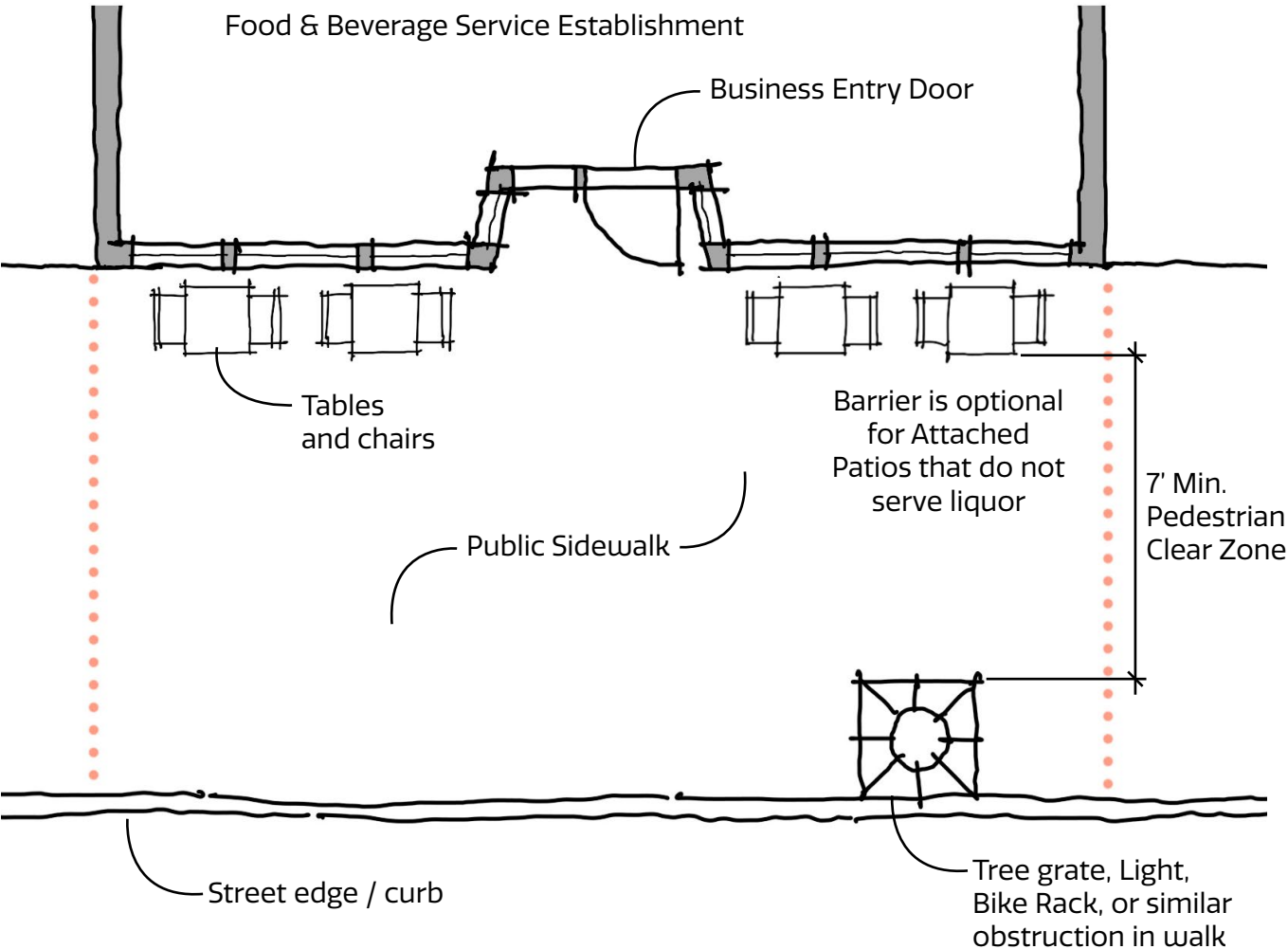
DESIGN CRITERIA

- Patios can extend a maximum of 10 feet away from building face (including barrier bases).
- A 7 foot pedestrian walkway is desired (therefore patio may not be able to extend to 10 feet).
- Table umbrellas and building mounted awnings and are allowable in Attached Patios.
- Dining areas may extend the full length of the permittee's business frontage but they cannot extend in front of neighboring businesses or shared lobby spaces without permission





ATTACHED PATIOS NOT SERVING LIQUOR



Extended Patios

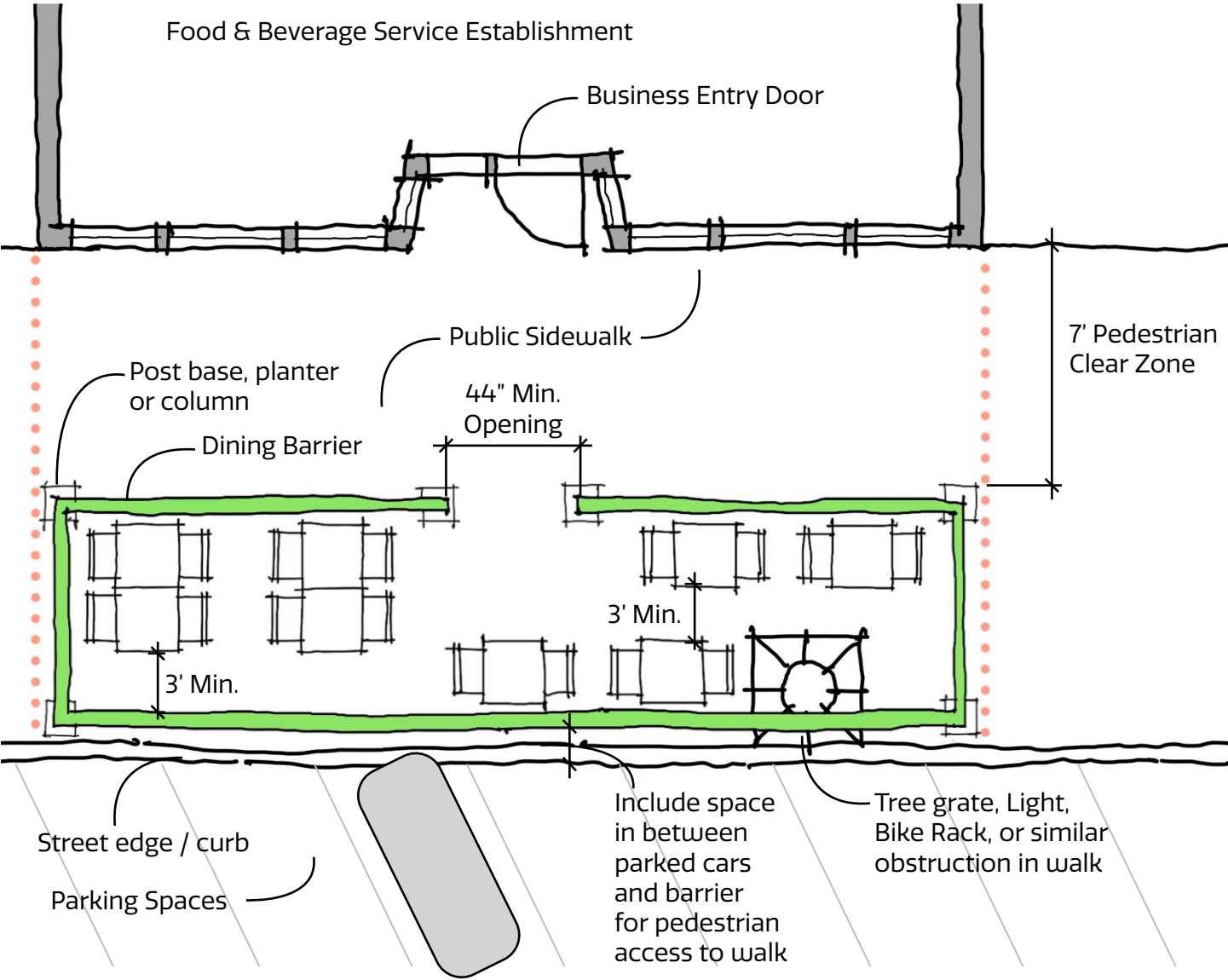
DEFINITION

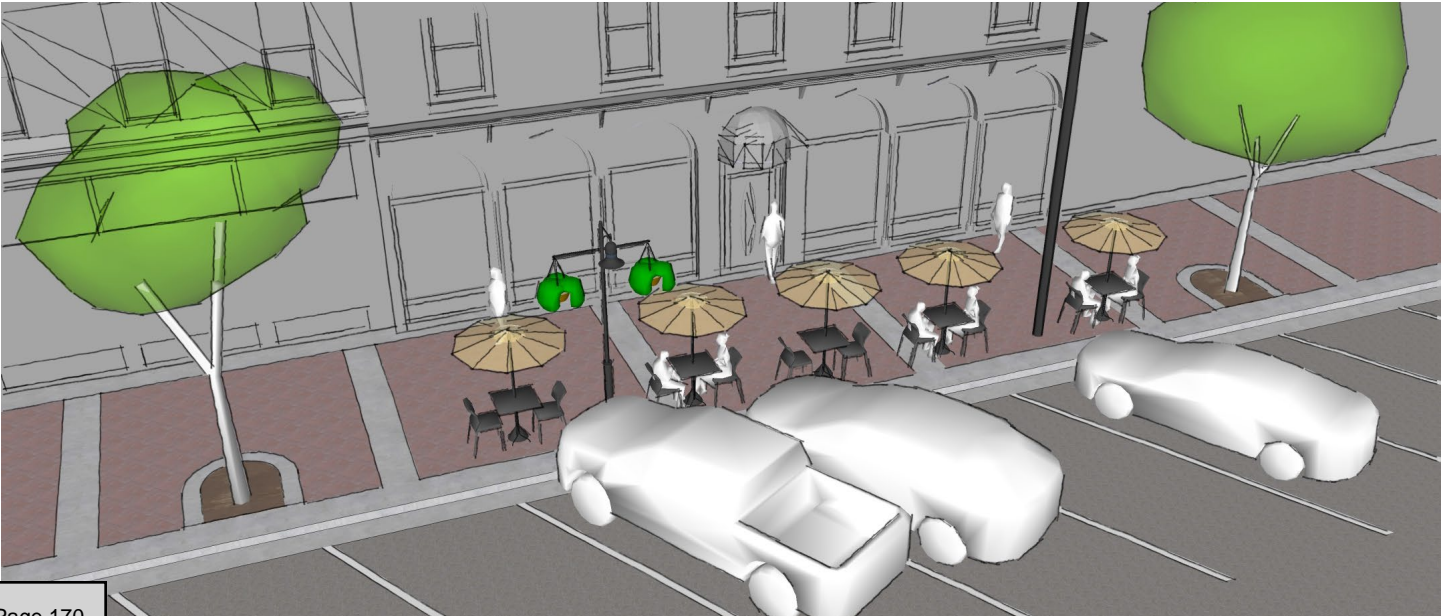
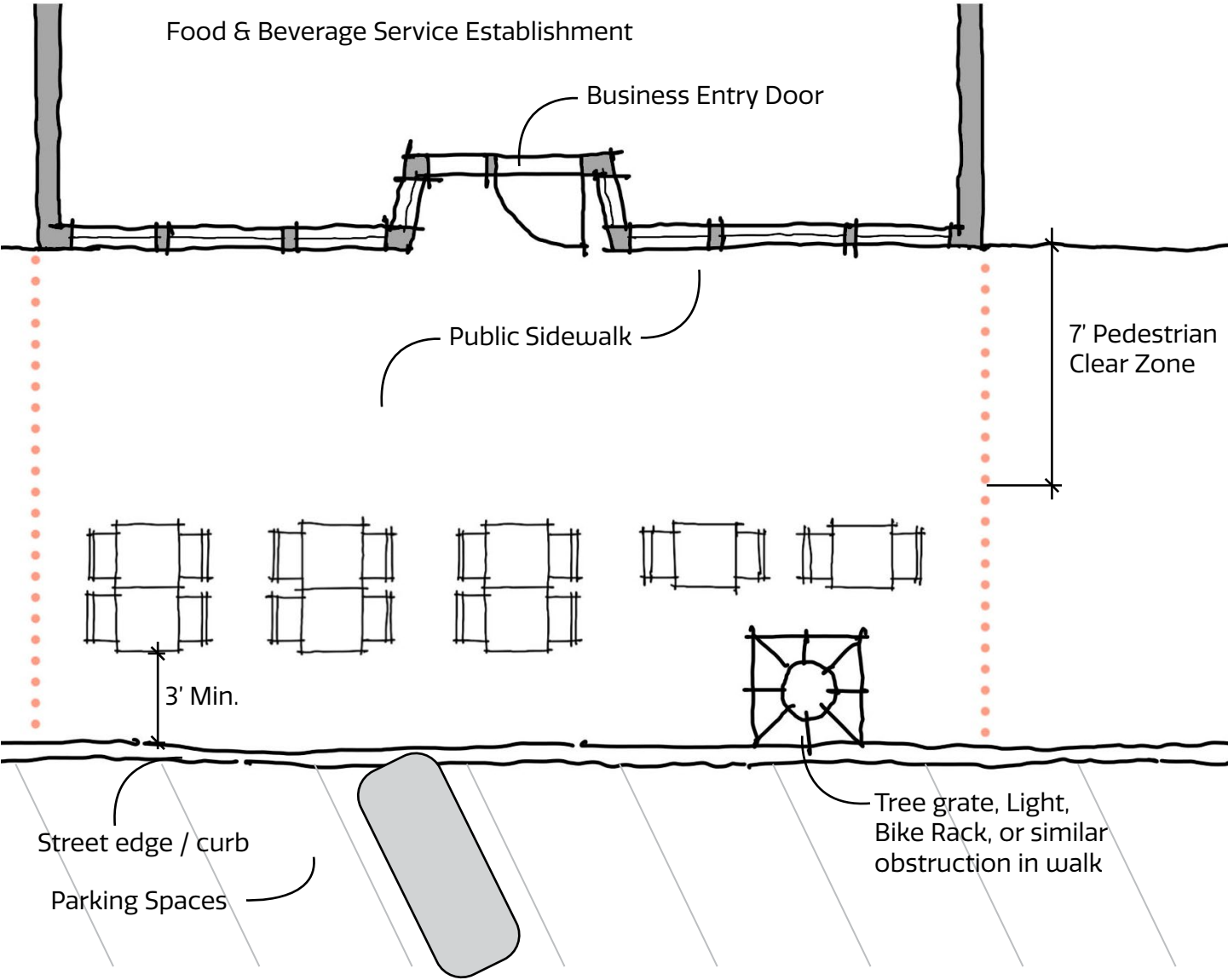
"Extended Patios" means an outdoor dining area that is located on a public sidewalk within the public right-of-way that is detached/offset from the building; the pedestrian clear zone is located between the dining area and building.

DESIGN CRITERIA

- Dining areas may extend the full length of the permittee's business frontage, but they cannot extend in front of neighboring businesses or shared lobby spaces without permission.
- Pedestrian access to and from on-street parking areas shall be provided between dining areas.
- Outdoor dining areas barrier shall be offset from edge of face of curb/parking spaces to provide clear access from parking to pedestrian walkways.
- Table umbrellas are allowed and encouraged in unattached outdoor dining areas.
- Freestanding and/or ground mounted shelters, tents, and arbors shall not be installed in Extended Patios.







Parklets

DEFINITION

"Parklets" are outdoor dining areas located in designated public on-street parking spaces where the public sidewalk is located between the dining area and the building.

TIME-BASED PERMITS

Parklet permits may be issued, subject to City review of compliance and availability. Parklets may be permitted on a short- or long-term basis. At a minimum, Parklet permits must be renewed annually.

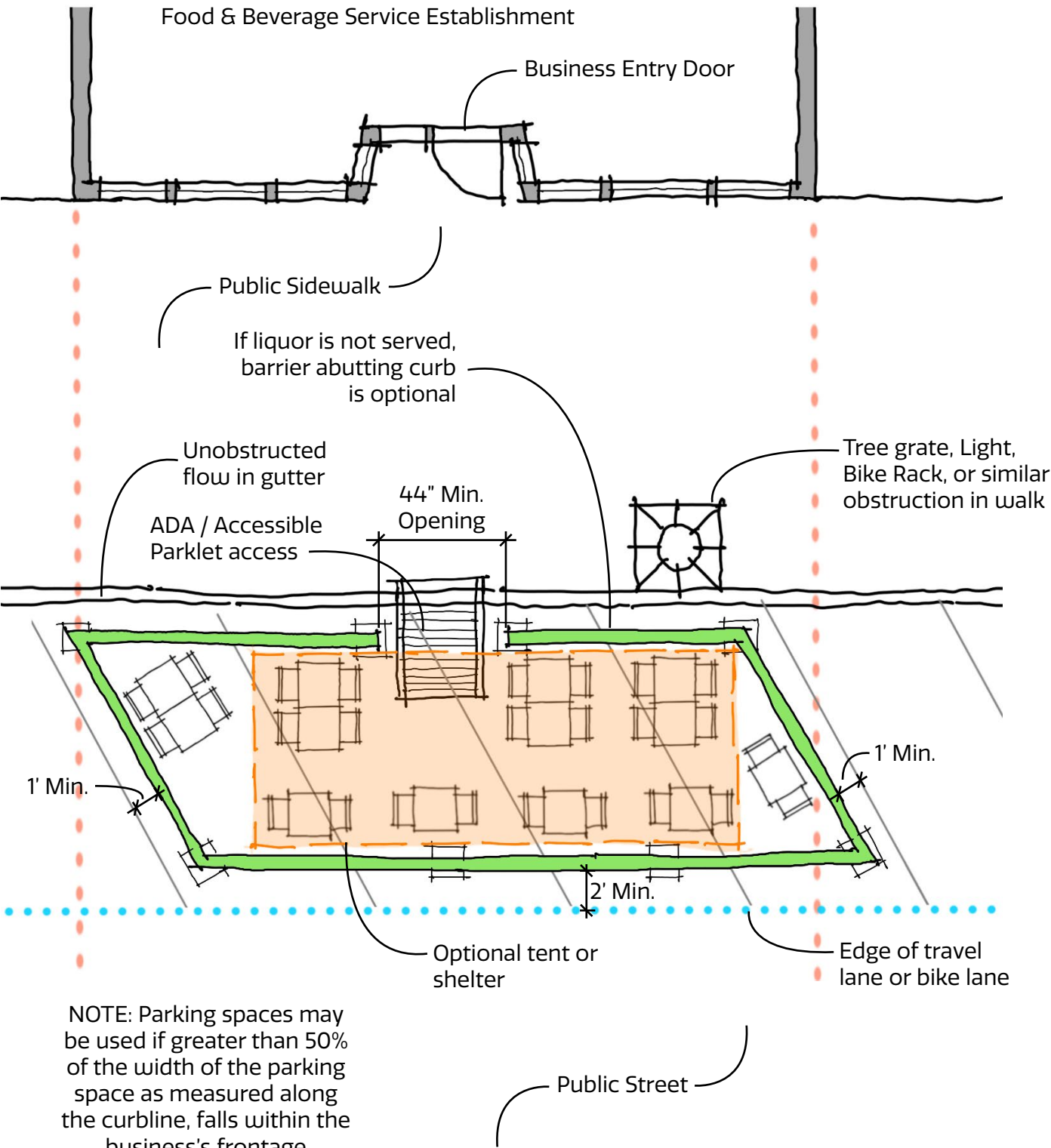
NOTIFICATION OF NEIGHBORING BUSINESSES

During the review and permitting process, neighboring businesses will be notified to seek input on the application.

DESIGN CRITERIA

- Applications for Parklets areas will be reviewed on a "first-come, first-served" basis.
- Parklets cannot be placed in ADA/Accessible parking spaces.
- Dining areas may extend the full length of the permittee's business frontage, but they cannot extend in front of neighboring businesses or shared lobby spaces without authorization by the City.
- Parklet infrastructure must not block flowlines, curb & gutter, drainage inlets and other drainage features.
- Edges of dining area shall be set back 1 foot minimum from center of adjacent parking stripe.
- Safety barriers must be set back from travel and/or bicycle lanes a minimum of 2 feet.
- If liquor is served in your Parklet, barriers are required on all 4 sides.
- If liquor is not served in your Parklet, the barrier abutting the curb is optional, but barriers are required along the other 3 edges.





Dining Areas on Private Property Definition

"Dining Areas on Private Property" means an outdoor dining area that is located on private property, in its entirety.

DESIGN CRITERIA

- Refer to the Fort Collins Land Use Code and the Minor Amendment Process.



PERMITS THAT MAY BE REQUIRED

THE ENGINEERING DEPARTMENT CAN HELP YOU DETERMINE THE PERMIT REQUIREMENTS FOR YOUR PATIO AND GUIDE YOU THROUGH THE PERMITTING PROCESS. 970-221-6605

- **Outdoor Dining Areas on a Public Sidewalk:**

If your dining area will be located on a public sidewalk within the public right-of way you will need to apply for an [Encroachment Permit](#) and pay the associated permit and inspection fees.

- **Outdoor Dining Areas in Designated Public On-Street Parking Space(s):**

If your dining area will be located in designated public on-street parking space(s), you will need to apply and qualify for an [Obstruction Permit](#) and pay the associated permit and inspection fees.

- **Establishments Serving Liquor:**

If you would like to serve liquor in an outdoor dining area, you will need to apply for a [Liquor License](#).

- **Building Permit:**

If your dining area includes any of the following improvements, a [Building Permit](#) may be required:

1. Change in occupancy
2. Tents
3. Shelters
4. Building Mounted and/or Permanent Heat Source Devices
5. Permanent Electrical Improvements (not just plugged into existing outlet)
6. Permanent Plumbing improvements
7. Parklet Platform
8. Awnings that project more than 54 inches from the exterior wall

- **Dining Areas located in a Floodplain:** If your outdoor dining area will be located in a regulated floodplain you will need to apply for a [Floodplain Use Permit](#) and pay associated application and review fees.
- **Fuel Fired Heating Devices:** If you would like to use fuel fired heating devices in your outdoor dining area, you will need to apply for an [Operational Permit](#) from the Poudre Fire Authority (PFA)
- **Temporary / Seasonal Tents:** If you would like to place temporary/seasonal tents in your outdoor dining area you may need to obtain a [Poudre Fire Authority Tent Permit](#) and pay associated permit and inspection fees.



ALLOWED USES IN OUTDOOR DINING AREAS

- Outdoor dining areas must be used by the permittee's business for food and beverage service. Permits are non-transferrable.
- Outdoor dining areas are not intended to be used as an open bar, a waiting area, or for queuing lines.
- Smoking is prohibited in outdoor dining areas.
- Public right-of-way is a valuable resource for the entire community and outdoor dining areas that are not being used regularly may be subject to a 30-day notice from the City and the encroachment permit may be revoked.



OCCUPANT LOAD AND RESTROOM FIXTURE COUNTS

Seating for indoor and outdoor dining is counted towards a business's occupant load, and restroom fixture quantities must be sufficient to serve both indoor and outdoor occupants.

Building Services can review your occupant load and determine if the existing restroom fixtures can accommodate increased occupancy.

If additional restroom fixtures are needed to accommodate increased occupancy, a building permit is required to show how restroom fixtures will be added for compliance.

Exception: If added outdoor seating capacity is 20% or less of indoor seating capacity, additional restroom fixtures will not be required. Example: establishment has an indoor seating capacity of 100, and applicant wishes to add an outdoor patio with an occupancy of 20. In this scenario additional restroom fixtures would not be required.



DESIGN GUIDELINES

Barriers

Barriers are meant to demarcate the outdoor dining area provided for tables, chairs, and umbrellas, for both temporary and permanent use, and are required for liquor licensing. Barriers may include surface mounted removable fences, freestanding fences, planters, removable columns, and other similar features that are not permanently attached to street or sidewalk.

Establishments with patios on public sidewalks that do not serve liquor are not required to install barriers demarcating the outdoor dining space.

MATERIALS & CONSTRUCTION

- Consider materials that feel more permanent. Barriers shall be sturdy and stable. They must have sufficient weight so that they cannot be tipped over easily or be blown over.
- Post bases must be flat and have tapered edges.
- Fence framing shall be composed of metal or wood and must be painted or finished. Raw wood and metal finishes are discouraged, unless wood that has natural weather resistance.
- Fence panels may be composed of aircraft cable, fabric, and metal elements.
- Rigid fence segments may be placed end-to-end to create the appearance of a single fence.
- Chain link fencing, plastic, vinyl, chicken wire and snow fencing shall not be used.
- Concrete 'Jersey Barriers' shall only be installed where required or deemed appropriate by the City Engineering Department.

BARRIER HEIGHT

- Height of barriers shall be a minimum of 36 inches and a maximum of 42 inches (including posts).
- The lower rail/edge of the barrier shall be no more than 27 inches above the sidewalk surface or walking surface.



BARRIERS FOR ESTABLISHMENTS SERVING LIQUOR

- Owner must follow all laws, rules, and regulations related to State of Colorado and City of Fort Collins Liquor enforcement.

BARRIERS LOCATED ON A PUBLIC SIDEWALK

- Where barriers are required, the barrier may be freestanding, or surface mounted to the sidewalk.
- Barriers shall not be permanently attached to existing structures, sidewalk, or other City-owned right of way elements.

BARRIERS LOCATED IN A PUBLIC STREET

- Barriers shall not block access to fire hydrants, ADA/Accessible parking spaces, and ADA/Accessible curb, ramps, or loading zones.

BARRIER ACCESS OPENINGS

- Access and egress requirements to outdoor dining areas will be based on occupancy, the occupant load, and proposed use(s). The Building Department can assist you in determining the occupancy of your patio.
- The access opening shall be located along the front or parallel edge of the dining area barrier. The access opening shall be kept clear of other materials.
- Minimum Access Width. Access openings shall measure no less than 44 inches in width.

PLANTERS AS PART OF THE BARRIER

- Outdoor planters are encouraged as a barrier component.
- Planters shall be kept in clean condition.
- In the case of planters, the planter itself shall not exceed 36 inches in height (measured from the sidewalk/walking surface;
- Plant (live or artificial) height shall not exceed 6 feet in height.
- Live plants must be maintained in a healthy manner and arranged for the best visual impact.



Sidewalk Coverings

Unless approved otherwise, alterations shall not be made to sidewalks, and coverings shall not be placed over a sidewalk dining area.

Pedestrian Circulation

OUTSIDE OF THE DINING AREA

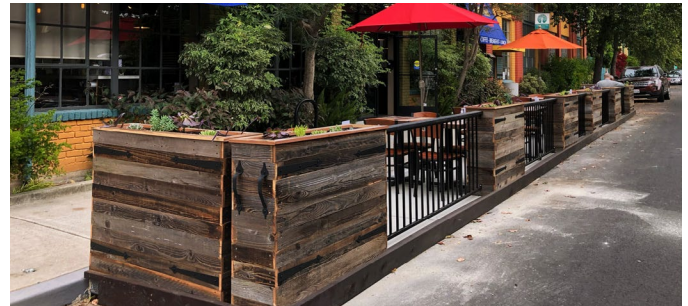
- Outdoor dining areas shall allow a minimum 7-foot wide unobstructed, accessible pedestrian passageway on the sidewalk. The pedestrian passageway allowance may vary to a greater or lesser degree based on site location and a determination of the City. Patio features shall not obstruct the pedestrian passageway.
- Entry/egress requirements will be based on occupancy load and alcohol service
- Business owners are responsible for providing queuing areas outside of pedestrian clear zones for people waiting in line.

INSIDE THE DINING AREA

- If barriers are utilized at dining area perimeters, a minimum of 3 feet shall be allowed for patron and waitstaff circulation inside the dining area. Waitstaff shall not serve patrons from outside of the barrier.

Accessibility

- Outdoor dining areas (including seasonal dining areas) shall comply with Americans with Disabilities Act Guidelines (access, seating, etc.).
- Dining areas shall not obstruct existing ADA/ Accessible curb ramps, routes to businesses, parking spaces, or loading zones.



Shelters and Tents

If you would like to install one or more tents or shelters in your Parklets, please contact the Engineering Department to discuss related code requirements.

- Tents and shelters are allowed and encouraged in Parklets
- Tents and shelters shall not be installed on public sidewalks
- Tents and shelters shall be weighted, anchored or secured to the ground, and shall be anchored in a way that is removable without damaging public improvements. Repairs/patching are the permittee's responsibility.
- Consider products and materials that feel more permanent. Pop up tents and similar features are discouraged.



Awnings

- Awnings can be used over Attached Patios. Awning shall be connected to the permittee's building façade or cantilevered from private property.
- Building permits are required for awnings that project more than 54 inches from the exterior wall.



Furniture

FURNITURE MATERIALS AND FINISHES

- Consider materials that feel more permanent. Furniture shall be constructed from durable materials such as steel, aluminum, wood.
- Raw wood and metal finishes are discouraged. Exceptions may be considered for teak and other woods having natural resistance to weathering.
- Avoid low quality materials, such as plastic.

SECURING/FASTENING

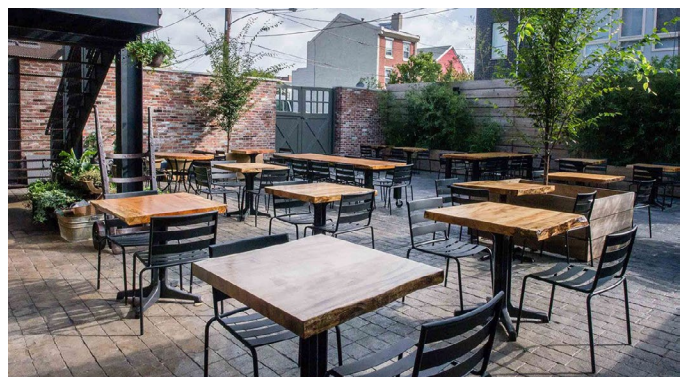
- Furniture shall not be permanently fastened to a public sidewalk or street.
- During off business hours, furniture may be secured to the outdoor dining barrier.
- If your site is located in a regulated floodplain additional requirements may apply.

TABLES

- Table tops shapes and heights may vary.

UMBRELLAS

- Commercial-grade market style umbrellas, designed specifically for patio or outdoor restaurant use, are preferred.
- Umbrellas must be collapsible
- Umbrellas are to maintain a minimum height clearance of 7 feet and a maximum of 10 feet.
- Umbrellas must not extend over the pedestrian clear zones adjacent to the dining area.
- Umbrellas must be free of advertisements. Advertisements are allowed only if it is to advertise the name of the permittee's business.
- Umbrellas must not include fluorescent or strikingly bright or vivid colors.
- Umbrellas must be anchored and secured against wind.



TRASH AND RECYCLING RECEPTACLES

- Waste receptacles are required only in outdoor dining areas that do not provide wait service; otherwise, waste receptacles are not permitted.

PLANTER POTS AND HANGING BASKETS

- Planter pots and hanging baskets are permitted and shall be maintained by the permittee.

ITEMS THAT SHALL NOT BE PLACED IN THE PUBLIC RIGHT-OF-WAY

- Shelves and storage bins
- Serving stations
- Appliances
- Loud speakers
- Televisions
- Barbeques
- Sofas
- Yard games and activities with flying objects (i.e., corn hole)



Heating Devices

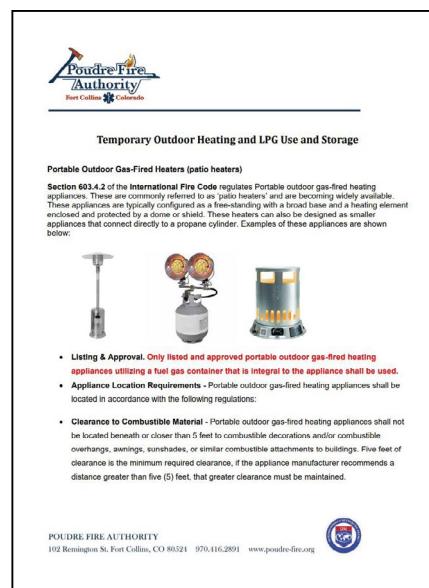
Heating Devices are allowed in outdoor dining areas, but they shall meet the following operational regulations:

PERMANENT HEATING DEVICES

- If you are planning to install permanent outdoor heating devices, a building permit is required.

TEMPORARY/SEASONAL HEATING DEVICES

- The Poudre Fire Authority [Temporary Outdoor Heating and Liquid Propane Gas Use and Storage document](#) provides in-depth explanations of the items required for temporary heating devices. Please review this document as needed to ensure compliance with codes and standards
- Trees are to be protected and heating equipment shall be located a minimum of 3' away from tree trunks and branches.
- Businesses must have sufficient fire extinguishers to cover indoor and outdoor spaces.



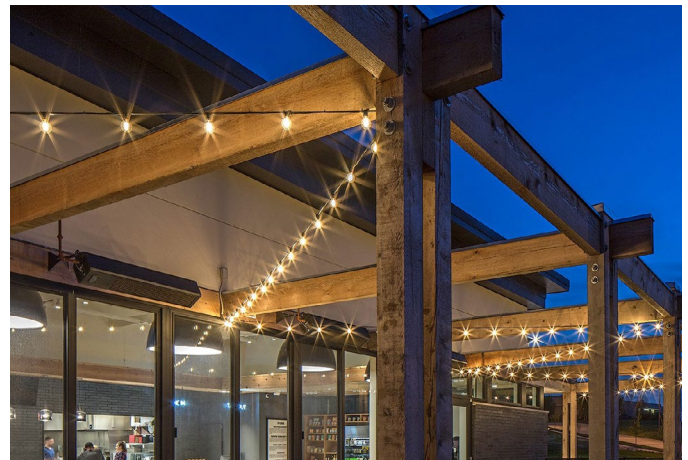
Signage

- A [sign permit](#) is required for proposed signage.
- Signage must comply within business' allotted sign allowance.
- Signage and menu displays must be located within the enclosed dining area or on the business's dining area barrier.
- A maximum of four square feet (4 SF) of signage is allowed on a business's outdoor dining area barrier.
- A maximum of four square feet (4SF) of signage is allowed on a single face of a shelter/tent, and a maximum of two sides of a shelter can include signage.
- Menu boards shall be 2 square feet maximum.
- Sandwich Board Signs must comply with City sign code.
- Advertisements unrelated to the business are prohibited.
- Refer to Fort Collins Land Use Code Section 24-1 for additional requirements for Signage.



Lighting

- If new lighting requires electrical work (not just plugged into existing outlet), a [building permit](#) is required.
- Lighting, if proposed, will be reviewed by the City on a case-by-case basis.
- Light levels shall comply with City lighting standards. Refer to Larimer County Urban Area Street Standards for additional lighting criteria within the public right of way.
- Light fixtures shall be Dark Skies compliant.
- Light poles shall not include footings.
- For Extended Patios and Parklets, battery or solar power for lighting is preferred; accessible sidewalk cord covers may be used as an alternative and will be reviewed on a case by case basis.
- Electrical conduit shall not be buried below ground surface or suspended above the sidewalk.
- Wiring for light poles and fixtures must be concealed.
- Electrical conduit for lighting may be run through or on fencing/barriers but the conduit shall be concealed to the greatest extent possible.
- Seasonal Holiday lights are allowed in outdoor dining areas from November 1st to February 14th.
- Disruptive or flashing light that is distracting to drivers shall not be used in outdoor dining areas.
- For state-owned street facilities, lighting must comply with CDOT requirements.



Footings

- Structures requiring footings are not allowed in public right of way.

Publicly Owned Features

ALTERATIONS AND DAMAGE

- Unless approved otherwise, no alternations or damage shall be made to existing sidewalks, roadway concrete or asphalt, curb & gutter, walls, trees, furniture, utilities, and other City-owned right of way elements.
- Damage caused to publicly owned features caused by use of outdoor dining areas shall be repaired by the permittee.

PUBLIC FURNITURE

- Proposals for the relocation of existing public street furniture will be reviewed by City on a case-by-case basis.
- Unless approved otherwise, publicly owned light poles, non-accessible tree wells/grates, fire hydrants, and other items shall not fall within the pedestrian path allowed between the curb and the leading edge of the outdoor dining area.

PUBLIC BIKE PARKING

- Existing public bike parking cannot be displaced without identifying an appropriate location (as deemed by the City) for relocation.

STREET TREES

- Trees located within the public right-of-way are commonly owned by the City.
- Nothing is to be attached or hung from City-owned trees.
- If pruning is desired, please contact the City Forestry Department.
- If approved by the City, pruning shall be performed by the City.



Safety

If your dining area will be located in the public right-of-way, you will be required to meet minimum safety requirements administered by the City, Poudre Fire Authority, Stormwater, and in some cases the Colorado Department of Transportation. These requirements are intended to ensure the right-of-way is safely shared by your customers, drivers, pedestrians, cyclists, and others.

Depending on the characteristics of the public street and the location of your space within the right-of-way, you may need to incorporate minimum safety features to protect users from nearby traffic.

- For two lane, local, or collector streets with average daily traffic volumes under 4000 trips and posted speeds of 25 mph or less, no crash protection or design will be required.
- For streets that do not meet the above criteria, Parklets may be allowed based on approval from the City Engineer and crash protection may be required.

There are inherent risks associated with placing outdoor dining areas within a public street and a public right-of-way. By applying for and obtaining the required permits, the business owner acknowledges and accepts responsibility the associated risks.

Sight Distance Considerations

- If your dining area is located near an intersection or a driveway it will need to comply with the sight distance requirements as described in [Figure 7-16 of Larimer County Urban Area Street Standards](#).
- For Parklets, consider sight distance for drivers exiting adjacent parking spaces.

Sites in Regulated Floodplain

If your outdoor dining area is located in a regulated floodplain the proposed improvements will need to meet the flood protection standards in Chapter 10 of City Code. An approved Floodplain Use Permit is required Prior to construction. Depending on the location additional requirements may also apply.

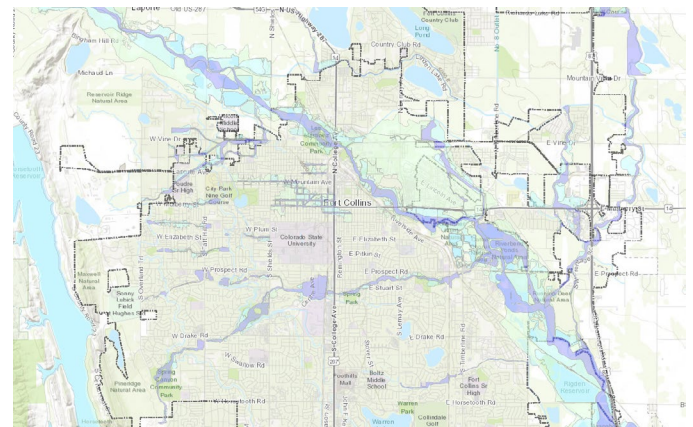
HOW CAN I FIND OUT IF MY SITE IS IN THE FLOODPLAIN?

Check the online map at: fcgov.com/floodplain-maps

- Click on the dark blue "View Map" button

FLOODPLAIN STAFF CONTACT INFORMATION:

- Contact us at 970-416-2632 or FloodplainAdministration@fcgov.com.



VARIANCES

The City may grant variances to these design guidelines where it finds that the proposed improvements would not be detrimental to the public good. Variance requests may be justified for the following reasons:

- Exceptional site specific constraints;
- The proposal will promote the general purpose of the standard for which the variance is requested;
- The proposal will not diverge from the guidelines except in a nominal, inconsequential way when considered in the context of the surroundings.

MAINTENANCE

Repairs, Upkeep, Replacement, Storage, Removals

- Maintain a tidy appearance. Your outdoor dining area and adjacent sidewalks shall be clean and free of obstructions and refuse at all times.
- Barriers and other furniture are the responsibility of the permittee including ownership, fabrication, storage, maintenance, upkeep, replacement, removal, etc.

Snow Removal

- Snow and ice removal inside barriers is the permittee's responsibility.
- Snow may not be stored on the sidewalks

Leaf Removal

- Leaf removal inside the barrier is the permittee's responsibility.

Landscaping

- If you integrate plants, create a plan to ensure landscaping is maintained. High quality artificial plants can be used to reduce maintenance.

Graffiti Removal

- If your space has large blank surfaces, it may be vulnerable to tagging. Be prepared to remove graffiti promptly.

City / CDOT Maintenance Access

- Be aware that you may need to disassemble your patio space if the City or CDOT needs to access the area for construction, maintenance, and other necessary operations.



Acknowledgments

Fort Collins Engineering Department
Fort Collins Zoning Department
Fort Collins Building Department
Fort Collins Stormwater Department
Fort Collins Traffic Operations
Fort Collins City Manager's Office
Poudre Fire Authority
BHA Design, Inc.



October 18, 2022

AGENDA ITEM SUMMARY

City Council



STAFF

Brittany Depew, Homelessness Lead Specialist
Ingrid Decker, Legal

SUBJECT

First Reading of Ordinance No. 113, 2022, Suspending Certain Provisions of the City's Land Use Code and Building Code to Permit Temporary Use of City Property at 212 West Mountain Avenue as a Homeless Shelter.

EXECUTIVE SUMMARY

This purpose of this item is to suspend certain provisions of the City's Land Use Code to allow the temporary use of 212 West Mountain Avenue as a men's overflow shelter site from November 2022 – April 2023.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The Seasonal Overflow Shelter (SOS) program creates additional overnight shelter capacity to eliminate people being turned away from shelter due to space constraints. Last year, the overflow location identified was the City-owned building at 212 West Mountain Avenue. This year, City staff and shelter providers looked for other possible locations for an overflow shelter but were unable to find another suitable property that could be ready for use this fall, so this location has again been identified as the most viable option due to size, location, and availability.

The City is intending to enter into a lease with Fort Collins Rescue Mission for the use of the 212 West Mountain Avenue property as a shelter. The building will be used as a secondary overflow site when the Rescue Mission's primary location (316 Jefferson Street) is over capacity.

The parameters for use of the property will be the same as last year, including the shelter being operated by Fort Collins Rescue Mission with staff present during all open hours, serving men experiencing homelessness overnight-only, having additional support from a third-party security firm, having space for up to 44 men, and operating from November 2022 – April 2023.

While a homeless shelter is a permitted use under the current zoning for the property (Downtown – Civic), the City's Land Use Code (LUC) requires review by the Planning & Zoning Board and requires development standards that would also be applied to the property as part of the review process. The temporary nature of the proposed use of 212 West Mountain Avenue for this season's overflow shelter, combined with the

urgent need to finalize operational plans for the SOS season, are the reasons staff is seeking approval to expedite the process of securing an overflow shelter site.

This item would waive LUC requirements so that additional shelter for people experiencing homelessness can be provided as close to the start of the SOS season, November 1, as possible. Building code requirements essential to protect life and safety for the guests staying in the shelter will *not* be waived.

The projected opening date is November 11, ten days after second reading of this Ordinance.

CITY FINANCIAL IMPACTS

The City will donate use of the building to Fort Collins Rescue Mission to operate a temporary overnight homeless shelter from November 2022 – April 2023, with a one-time upfront payment requested to cover the cost of carpet replacement.

The City may also utilize a portion of its Seasonal Overflow Shelter budget (ARPA funds) to help cover costs related to shelter operations, inclement weather sheltering, and security services.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Not applicable.

PUBLIC OUTREACH

The following communications have occurred or will occur:

- Virtual neighborhood meeting on October 19.
- Direct outreach to businesses in nearest proximity to this location, to be conducted by City staff and/or collaborative partners (between October and early November).
- Mid-season check in with businesses in nearest proximity, to be conducted by City staff and/or collaborative partners.
- Post-season debrief with nearest businesses and neighbors.

ATTACHMENTS

1. Ordinance for Consideration
2. Services Agreement and Memorandum of Understanding, December 2021

ORDINANCE NO. 113, 2022
 OF THE COUNCIL OF THE CITY OF FORT COLLINS
 SUSPENDING CERTAIN PROVISIONS OF THE CITY'S LAND USE CODE AND
 BUILDING CODE TO PERMIT TEMPORARY USE OF CITY PROPERTY AT
 212 WEST MOUNTAIN AVENUE AS A HOMELESS SHELTER

WHEREAS, because of limited capacity there are many nights when local shelter providers do not have enough space to house all people experiencing homelessness who may be seeking shelter; and

WHEREAS, adequate shelter space will become increasingly important as fall and winter weather sets in and individuals are at risk from cold, flu and COVID viruses as well as severe cold; and

WHEREAS, the State of Colorado declared its first Emergency Disaster Declaration related to COVID-19 on March 11, 2020, and as part of its Seventh Amended Public Health Order 20-38 dated September 30, 2021, the Colorado Department of Public Health and Environment (CDPHE) strongly urged governments to make shelter available to people experiencing homelessness as soon as possible and to the maximum extent practicable; and

WHEREAS, the City's Land Use Code provides a process for operation of seasonal overflow shelters from November through April, and for many years shelter operators, with financial support from the City, were able to operate a seasonal overflow shelter on privately-owned properties; and

WHEREAS, for the winter of 2020-2021 shelter providers partnered with the City to operate a seasonal shelter in space leased from the Food Bank for Larimer County, but for the winter of 2021-2022 the only suitable space that could be located was in a City-owned building at 212 West Mountain Avenue (the "City Property"); and

WHEREAS, City staff and shelter providers have been unable to locate another appropriate space to host a seasonal overflow shelter for the upcoming winter despite best efforts, so the City intends to again lease the City Property to the Fort Collins Rescue Mission to operate as an overnight shelter for persons experiencing homelessness from November 2022 through April 2023; and

WHEREAS, while a homeless shelter is a permitted use under the current zoning for the property (Downtown Zone – Civic Subdistrict), the City's Land Use Code ("LUC") requires review by the Planning and Zoning Board to permit the use of the Property as a homeless shelter, as such a change in use of the building is considered "development" under LUC Division 5.1.2; and

WHEREAS, LUC Article 3 and LUC Article 4, Division 4.16 set forth development standards that would also be applied to the Property as part of such a review process; and

WHEREAS, in order to provide additional shelter for persons experiencing homelessness as quickly as possible, the City Council finds it is necessary for public health, safety and welfare, and in the best interests of the City and its residents, to suspend the application of certain requirements of the LUC with respect to the Property for so long as the City is using it as a shelter for persons experiencing homelessness.

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

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

Section 2. That, with respect only to the Property and its use as a homeless shelter through April 30, 2023, the City Council hereby suspends the requirements of:

- LUC Article 3 regarding general development standards;
- LUC Division 4.16 regarding development standards and the development review process for use of the property as a homeless shelter;
- LUC Division 2.2 regarding the common development review procedures for development applications; and
- LUC Division 2.4 and 2.5 requiring a project development plan (PDP) and final plan for a proposed homeless shelter on the Property.

Section 3. That all other applicable provisions of the City Code, rules and regulations, including but not limited to health and safety requirements, will continue to apply to the Property.

Introduced, considered favorably on first reading, and ordered published this 18th day of October, A.D. 2022, and to be presented for final passage on the 1st day of November, A. D. 2022.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading on the 1st day of November, A.D. 2022.

Mayor

ATTEST:

City Clerk

SERVICES AGREEMENT

THIS AGREEMENT made and entered into the day and year set forth below by and between THE CITY OF FORT COLLINS, COLORADO, a Municipal Corporation ("City"), UNITED WAY OF LARIMER COUNTY ("Fiscal Agent" and/or "UWLC"), CATHOLIC CHARITIES AND COMMUNITY SERVICES OF THE ARCHDIOCESE OF DENVER, INC., a Colorado nonprofit corporation and FORT COLLINS RESCUE MISSION ("Service Providers").

WITNESSETH:

In consideration of the mutual covenants and obligations herein expressed, it is agreed by and between the parties hereto as follows:

1. Contract Period. This Agreement shall commence November 1, 2021 and shall continue in full force and effect until April 30, 2022, unless sooner terminated as herein provided (the "Contract Period").
2. Scope of Services.
 - (a) Catholic Charities agrees to provide additional onsite emergency shelter space at Service Provider's facility located at 460 Linden Center Dr., Fort Collins, CO 80524 for a maximum of 44 homeless single women and up to 9 families on a nightly basis during the Contract Period.
 - (b) Fort Collins Rescue Mission (FCRM) agrees to (a) provide space in the Fort Collins Rescue Mission facility located at 316 Jefferson Street, Fort Collins, Colorado 80524 for up to 22 additional men during the Contract Period, and direct qualifying clients to any appropriate shelter spaces, and (b) operate an overflow shelter at 212 W. Mountain pursuant to that lease agreement (Attachment 1).
 - (c) The Fiscal Agent shall:
 - 1) Act as fiscal agent for this project;
 - 2) Pay Service Providers upon proper invoicing for the costs of operating the shelters

including staff wages and benefits for training and running the shelters; necessary supplies; and shelter operations not to exceed shelter funding received by the City and funds raised by UWLC staff on behalf of the shelters and subject to UWLC's administrative fee.

- 3) Delay. If any party is prevented in whole or in part from performing its obligations by unforeseeable causes beyond its reasonable control and without its fault or negligence, then the party so prevented shall be excused from whatever performance is prevented by such cause. To the extent that the performance is actually prevented, such party must provide written notice to the other parties of such condition within fifteen (15) days from the onset of such condition.

3. Early Termination by City/Notice. Notwithstanding the time periods contained herein, the City may terminate this Agreement at any time without cause by providing written notice of termination to the Fiscal Agent, FCRM and Catholic Charities (Service Providers). Such notice shall be delivered at least fifteen (15) days prior to the termination date contained in said notice unless otherwise agreed in writing by the parties. All notices provided under this Agreement shall be effective when mailed, postage prepaid and sent to the following addresses:

Service Provider:
Catholic Charities Archdiocese of Denver
Attn: Joseph Domko
460 Linden Center Dr.
Fort Collins, CO 80524

City:
City of Fort Collins
Attn: Beth Yonce
PO Box 580
Fort Collins, CO 80522

Fiscal Agent:

United Way of Larimer County
Attn: Deirdre Sullivan
525 West Oak Street Suite 101
Fort Collins, CO 80521

FCRM:

Fort Collins Rescue Mission
Attn: Seth Forwood
316 Jefferson St.
Fort Collins, CO 80524

4. In the event of early termination by the City, the Service Provider shall be paid for services rendered to the date of termination, subject only to the satisfactory performance of the Service

Provider's obligations under this Agreement and funds secured. Such payment shall be the Service Provider's sole right and remedy for such termination.

If the Winter Shelter Memorandum of Understanding 2021-2022 is terminated this Agreement will automatically terminate as of the same date, except that the Fiscal Agent shall reimburse the parties for services rendered, as provided in paragraph 5(b) below, to the date of termination.

5. Contract Sum.

(a) The Service Provider's total budget for services under this Agreement is \$285,382.40, intended to cover up to 182 nights of shelter services and up to 5 nights of staff training during the Contract Period. The City will provide \$170,000 of this funding from the sources listed below (the "City Funds"), the funds remaining from last year with the Fiscal Agent will also be utilized. Fiscal Agent will fundraise and research grant opportunities but is obligated to raise only \$20,000; any additional funds raised will be restricted for winter overflow shelter purposes.

- 1) The Fiscal Agent is holding \$500 in City Funds from the 2019-2020 program, which will be applied to this year's winter shelter program.
- 2) The City will provide the Fiscal Agent additional City Funds of \$170,000 for 2021-2022. The City does not guarantee additional compensation beyond this amount but may provide additional City Funds during the term of this Agreement, if needed. Additional funds identified through the American Rescue Plan Act (ARPA), if applicable, will be directly contracted between the City and Service Providers.

(b) The Fiscal Agent will disburse the City Funds as follows:

- 1) The Fiscal Agent shall pay the Service Providers for the reasonable costs of the shelter operations as described in this Agreement. The Service Providers will invoice the Fiscal Agent monthly for the preceding month.
- 2) The Fiscal Agent is authorized to retain an amount equal to 6% of the City Funds as an

administrative fee for its services.

6. City Representative. The City will designate, prior to commencement of the work, its representative who shall make, within the scope of his or her authority, all necessary and proper decisions with reference to the services provided under this agreement. All requests concerning this agreement shall be directed to the City Representative.
7. Independent Service Provider. The services to be performed by Service Providers (Catholic Charities and FCRM) and Fiscal Agent are those of an independent service provider and not of an employee of the City of Fort Collins. The City shall not be responsible for withholding any portion of Service Provider's compensation hereunder for the payment of FICA, Workmen's Compensation or other taxes or benefits or for any other purpose.
8. Subcontractors. Service Providers and Fiscal Agent may not subcontract any of the Work to be provided pursuant to this Agreement without the prior written consent of the City, which shall not be unreasonably withheld. If any of the Work is subcontracted hereunder (with the consent of the City), then the following provisions shall apply: (a) the subcontractor must be a reputable, qualified firm with an established record of successful performance in its respective trade performing identical or substantially similar work, (b) the subcontractor will be required to comply with all applicable terms of this Agreement, (c) the subcontract will not create any contractual relationship between any such subcontractor and the City, nor will it obligate the City to pay or see to the payment of any subcontractor, and (d) the work of the subcontractor will be subject to inspection by the City to the same extent as the work of the Service Provider.
9. Personal Services. It is understood that the City enters into the Agreement based on the special abilities of the Service Providers and Fiscal Agent and that this Agreement shall be considered as an agreement for personal services. Accordingly, the Service Providers and Fiscal Agent shall neither assign any responsibilities nor delegate any duties arising under the Agreement without the prior written consent of the City.

10. Acceptance Not Waiver. The City's approval or acceptance of, or payment for any of the services shall not be construed to operate as a waiver of any rights or benefits provided to the City under this Agreement or cause of action arising out of performance of this Agreement.

11. Non-discrimination.

All programs assisted with funding through the City must be made available without discrimination based on race, color, national origin, age, sex, sexual orientation, religion, familial status or disability. **Funds provided under this Agreement must not be used for religious activities, to promote religious interests, or for the benefit of a religious organization, except incidentally to the public purpose provided by the activities coordinated under this Agreement. The services provided hereunder will serve all eligible beneficiaries without regard to religion and may not be restricted to people of a particular religion or by reason of their participation (or lack thereof) in religious activities.**

12. Default. Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default thereof.

13. Remedies. In the event a party has been declared in default, such defaulting party shall be allowed a period of ten (10) days within which to cure said default. In the event the default remains uncorrected, the party declaring default may elect to (a) terminate the Agreement and seek damages; (b) treat the Agreement as continuing and require specific performance; or (c) avail himself of any other remedy at law or equity. If the non-defaulting party commences legal or equitable actions against the defaulting party, the defaulting party shall be liable to the non-defaulting party for the non-defaulting party's reasonable attorney fees and costs incurred because of the default.

14. Binding Effect. This Agreement shall be binding upon said parties, their officers, employees, agents

and assigns and shall inure to the benefit of the respective successors and assigns of said parties.

15. Indemnity.

(a) The Service Providers and Fiscal Agent agree to indemnify and save harmless the City and their respective officers, agents and employees against and from any and all actions, suits, claims, demands or liability of any character whatsoever brought or asserted for injuries to or death of any person or persons, or damages to property arising out of, result from or occurring in connection with the performance of any service hereunder.

(b) All parties shall take all necessary precautions in performing the work hereunder to prevent injury to persons and property.

16. Insurance.

During the term of the Agreement, the Service Providers and Fiscal Agent shall maintain general liability insurance to provide coverage for damage claims of personal injury, including accidental death, as well as for claims for property damage, which may arise directly or indirectly from the performance of work under this Agreement. Coverage for property damage shall be on a "broad form" basis. The amount of insurance for general liability, shall not be less than \$1,000,000 combined single limits for bodily injury and property damage. The City, its officers, agents and employees shall be named an additional insured on such general liability insurance policies.

During the term of the Agreement, the Service Providers and Fiscal Agent shall maintain Workers' Compensation & Employer's Liability insurance for all employees engaged in work performed under this Agreement as required by Colorado law.

17. Entire Agreement. This Agreement, along with all Exhibits and other documents incorporated herein, shall constitute the entire Agreement of the parties with respect to the matters described herein. Covenants or representations not contained in this Agreement shall not be binding on the parties.

18. Law/Severability. The parties, in performance of this Agreement, agree to comply with all applicable Federal, State and Local laws, regulations and ordinances, and other policies and guidelines established for the City of Fort Collins including, but not limited to, the Americans with Disabilities Act and all regulations interpreting or enforcing such act. The laws of the State of Colorado shall govern the construction, interpretation, execution and enforcement of this Agreement. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.
19. Prohibition Against Employing Workers Without Authorization. Pursuant to Section 8-17.5-101, C.R.S., et. seq., Service Providers and Fiscal Agent represent and agree that:
- a. As of the date of this Agreement:
 1. They do not knowingly employ or contract with a worker without authorization who will perform work under this Agreement; and
 2. They will participate in either the e-Verify program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the United States Department of Homeland Security (the "e-Verify Program") or the Department Program (the "Department Program"), an employment verification program established pursuant to Section 8-17.5-102(5)(c) C.R.S. in order to confirm the employment eligibility of all newly hired employees to perform work under this Agreement.
 - b. They shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement or knowingly enter into a contract with a subcontractor that knowingly employs or contracts with a worker without authorization to perform work under this Agreement.
 - c. They are prohibited from using the e-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

d. If Service Providers or Fiscal Agent obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization, such party shall:

1. Notify such subcontractor and the City within three days that such party has actual knowledge that the subcontractor is employing or contracting with a worker without authorization; and
2. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this section the subcontractor does not cease employing or contracting with the worker without authorization; except that such party shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization.

e. They shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation that the Department undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.

f. If Service Providers or Fiscal Agent violates any provision of this Agreement pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. the City may terminate this Agreement. If this Agreement is so terminated, such party shall be liable for actual and consequential damages to the City arising out of such party's violation of Subsection 8-17.5-102, C.R.S.

g. The City will notify the Office of the Secretary of State if Service Provider or Fiscal Agent violates this provision of this Agreement and the City terminates the Agreement for such breach.

20. Authority. Each person executing this Agreement represents that he or she is duly authorized to execute this Agreement in his or her representative capacity as indicated.

21. Counterpart and Facsimile 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. Facsimile signatures are binding on the parties as if they were originals.

CITY OF FORT COLLINS, COLORADO
a municipal corporation

DocuSigned by:
By: Kelly DiMartino
0B80D5671D89400
Kelly DiMartino, Interim City Manager
Date: 12/17/2021

ATTEST:

DocuSigned by:
Tammi Pusheck
385012EB054747D
Interim City Clerk
(Print name) Tammi Pusheck

APPROVED AS TO FORM:

DocuSigned by:
Adam Stephens
8B84B47A8F6A440
Assistant City Attorney
(Print name) Adam Stephens

CATHOLIC CHARITIES AND COMMUNITY SERVICES OF THE
ARCHDIOCESE OF DENVER, INC.,
a Colorado nonprofit corporation

DocuSigned by:
By: Darren Walsh
3E54A97573204F1...
Darren Walsh
PRESIDENT & CEO
Date: 12/7/2021

ATTEST:

DocuSigned by:
Philip F Vottiero
7C856F63EF124BE
Philip Vottiero, CFO

UNITED WAY OF LARIMER COUNTY

DocuSigned by:
By: Deirdre Sullivan
FA67444E67A94A0...

Deirdre Sullivan

PRESIDENT/CEO

Date: 12/7/2021

ATTEST:

DocuSigned by:
Diane Hathaway
974E471E0F124CB

Diane Hathaway, CFO

FORT COLLINS RESCUE MISSION,
a Colorado nonprofit corporation

DocuSigned by:
By: Seth Forwood
AD28F74D48D441B...

Seth Forwood

SENIOR DIRECTOR

Date: 12/7/2021

ATTEST:

DocuSigned by:
Kevin Mann
F43797C772584F6

Kevin Mann, CFO

MEMORANDUM OF UNDERSTANDING

FORT COLLINS WINTER EMERGENCY OVERNIGHT SHELTER 2021-2022

This memorandum of understanding (“MOU”) is entered into on the date last signed below, and is effective as of November 1, 2021, by and between United Way of Larimer County, a Colorado nonprofit corporation (“United Way”), Catholic Charities and Community Services of the Archdiocese of Denver, Inc., a Colorado nonprofit corporation (“Catholic Charities”), Fort Collins Rescue Mission, a Colorado nonprofit corporation (“FCRM”), and the City of Fort Collins, a Colorado municipal corporation (“City”).

RECITALS:

- A. There is a need for cold weather temporary shelter for the homeless in the Fort Collins area during the upcoming winter season in the event that the demand for shelter at the City’s permanent shelters exceeds existing capacity.
- B. Fort Collins Rescue Mission proposes to operate additional cold weather shelter spaces to accommodate a maximum of 22 additional single men nightly utilizing the cafeteria at Fort Collins Rescue Mission plus additional 42.
- C. Catholic Charities proposes to shelter families experiencing homelessness for families when the onsite Catholic Charities family rooms are full.
- D. The proposed budgets for providing these additional shelter spaces are attached as **Attachment 1**.
- E. Additional Emergency Shelter space will be provided at Catholic Charities for a maximum of 44 homeless single women and up to 9 families on a nightly basis from November 1, 2021 to April 30, 2022.
- F. The parties wish to cooperate to provide overflow and emergency shelter capacity, which will serve a public purpose of benefit to the citizens of Fort Collins.

NOW, THEREFORE, the parties hereto agree as follows:

1. Fort Collins Rescue Mission will:

- Provide space for and operate the Temporary Cold Weather Overflow Shelter in the Fort Collins Rescue Mission facility located at 316 Jefferson Street, Fort Collins, Colorado 80524 for up to 22 additional men from November 1, 2021 through April 30, 2022.
- Be the operator of the Seasonal Overflow Shelter (SOS) at 212 W. Mountain pursuant to a separate lease agreement.
- Direct qualifying clients to the appropriate shelter spaces.

2. Catholic Charities will:

- Provide onsite shelter and support of overflow shelter operations to homeless women and families.

MEMORANDUM OF UNDERSTANDING

FORT COLLINS WINTER EMERGENCY OVERNIGHT SHELTER 2021-2022

3. United Way will:

- Act as fiscal agent for this project.
- Solicit funds to support costs associated with the operation of the shelters through grant research, writing and reporting as well as through direct fundraising solicitations of current United Way donors and constituents. United Way fundraise and research grant opportunities but is obligated to raise only \$20,000; any additional funds raised will be restricted for winter overflow shelter purposes.
- Pay Catholic Charities and Fort Collins Rescue Mission for operating seasonal overflow shelters upon proper invoicing.

4. City will:

- Provide \$170,000 in funding to United Way to be used for the purposes outlined above.
- Authorize United Way to utilize any available funds remaining from the 2019-2020 agreement to be used for the purposes outlined above.
- Use of the City's funds is subject to the conditions in **Attachment 2**, and all parties agree to comply with such conditions.

5. Indemnity.

- a. The United Way, Catholic Charities, and FCRM each agree to indemnify the City and their respective officers, agents and employees against and from any and all actions, suits, claims, demands or liability of any character whatsoever brought or asserted for injuries to or death of any person or persons, or damages to property arising out of, resulting from or occurring in connection with the performance of any service hereunder.
- b. All parties shall take all necessary precautions in performing the work hereunder to prevent injury to persons and property.
- c. Nothing herein shall imply any partnership, joint venture, or other association between the parties.

6. Term and Termination. The term of this MOU is from November 1, 2021 to April 30, 2022. Any party may terminate this MOU for any reason upon 30 days written notice to the others. If one party defaults in the performance of its responsibilities under this MOU any other party may send the defaulting party notice of the default. If the default is not cured within ten days, any non-defaulting party may immediately terminate this MOU. In the event of any termination, Catholic Charities and FCRM shall be paid for overflow shelter operating expenses incurred but not yet reimbursed up to the termination date. Any remaining funds will be returned to the funding sources upon termination of this MOU, unless otherwise held over for the following winter's shelter program.

MEMORANDUM OF UNDERSTANDING
FORT COLLINS WINTER EMERGENCY OVERNIGHT SHELTER 2021-2022

7. Entire Agreement, Modification. This MOU constitutes the entire agreement among the parties related to this matter. No subsequent changes to the terms of this MOU will be valid unless made in writing and signed by all parties.
8. Authority. Each person executing this MOU represents that he or she is duly authorized to execute this MOU in his or her representative capacity as indicated.
9. Counterpart and Facsimile Signatures. This MOU 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. Facsimile signatures are binding on the parties as if they were originals.

MEMORANDUM OF UNDERSTANDING

FORT COLLINS WINTER EMERGENCY OVERNIGHT SHELTER 2021-2022

In witness thereof, the parties hereto have caused this Memorandum of Understanding to be executed as of the day and year listed at the beginning of this document.

Fort Collins Rescue Mission
a Colorado non-profit corporation

By:

DocuSigned by:
Seth Forwood
AD28F74D48D441B...

Signature

Seth Forwood, Senior Director

12/7/2021

Date

United Way of Larimer County:
a Colorado nonprofit corporation

By:

DocuSigned by:
Deirdre Sullivan
FA57444E07A94A9...

Signature

Deirdre Sullivan, President and CEO

12/7/2021

Date

Catholic Charities and Community Services
of the Archdiocese of Denver, Inc.
a Colorado nonprofit corporation

By:

DocuSigned by:
Darren Walsh
3E54A07573204F4...

Signature

Darren Walsh, President and CEO

12/7/2021

Date

City of Fort Collins, Colorado
a municipal corporation

By:

DocuSigned by:
Kelly DiMartino
10B8895571D89400

Kelly DiMartino, Interim City Manager

Date: 12/17/2021

Approved as to Form:

DocuSigned by:
Adam Stephens
18984B4746F5A449A

Assistant City Attorney

MEMORANDUM OF UNDERSTANDING
FORT COLLINS WINTER EMERGENCY OVERNIGHT SHELTER 2021-2022

ATTACHMENT 1

Proposed budget

The cost associated with operating the temporary cold weather shelters are as follows:

Fort Collins Rescue Mission	November 1, 2021 – April 30, 2022
316 Jefferson St.	
24/7 Operation	\$72,000
Expansion to 100	\$37,608
212 W. Mountain Ave	
Precision Security (\$32/hour) (56 hours/week) (14 patrolled stops)	\$46,376
3 full-time staff, 1 part-time staff, 1 part-time temporary chef (\$16-18/hr)	\$76,800
Total	\$ 232,784

Catholic Charities	Monthly	Total (November 1, 2021- April 30, 2022)
Shelter Salary (4 PT 7 days/week) (4.5 hour shift)	\$4,536.00	\$27,216.00
Benefits/Fringe	\$793.80	\$4,762.80
New Hire Onboarding / Training (25 hr / month)	\$450.00	\$2,700.00
Case Management support (25 hr / month)	\$450.00	\$2,700.00
Heater Rental	\$852.50	\$5,115.00
Propane	\$1,384.10	\$8,304.60
Misc	\$300.00	\$1,800.00
Total	\$8,766.40	\$52,598.40

MEMORANDUM OF UNDERSTANDING FORT COLLINS WINTER EMERGENCY OVERNIGHT SHELTER 2021-2022

ATTACHMENT 2

City Funding Conditions

1. **Compliance with Laws.** The parties, in performance of this Agreement, agree to comply with all applicable Federal, State and Local laws, regulations and ordinances, and other policies and guidelines established for the City of Fort Collins including, but not limited to, the Americans with Disabilities Act and all regulations interpreting or enforcing such act.

2. **Non-discrimination.** All programs assisted with funding through the City must be made available without discrimination based on race, color, national origin, age, sex, sexual orientation, religion, familial status or disability. **Funds provided under this MOU must not be used for religious activities, to promote religious interests, or for the benefit of a religious organization, except incidentally to the public purpose provided by the activities funded under this MOU. The services provided hereunder will serve all eligible beneficiaries without regard to religion and may not be restricted restrict to people of a particular religion or by reason of their participation (or lack thereof) in religious activities.**

3. **Prohibition Against Employing Workers Without Authorization.** This paragraph applies to all parties whose performance of work under this MOU does not involve the delivery of a specific end product other than reports that are merely incidental to the performance of said work. In compliance with C.R.S. § 8-17.5-101, each such party represents and agrees that:
 - (a) As of the date of this MOU, the party does not knowingly employ or contract with a worker without authorization who will perform work under this MOU; and each party will participate in the electronic employment verification program created in Public Law 104-208, as amended, and expanded in Public Law 108-156, as amended, and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program (the "E-verify Program") in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this MOU.

 - (b) No party shall knowingly employ or contract with a worker without authorization to perform work under this MOU or enter into a contract with a subcontractor that fails to certify to such party that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work under this MOU.

 - (c) Each party has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this MOU through either the E-verify Program or the employment verification program established by the State of Colorado, pursuant to Section 8-17.5-102(5)(c), C.R.S. (the "Department Program").

 - (d) The parties are prohibited from using the E-verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this MOU is being performed.

 - (e) If any party obtains actual knowledge that a subcontractor performing work under this MOU knowingly employs or contracts with a worker without authorization, such party shall:

**MEMORANDUM OF UNDERSTANDING
FORT COLLINS WINTER EMERGENCY OVERNIGHT SHELTER 2021-2022**

(i) Notify such subcontractor and the City within three days that the party has actual knowledge that the subcontractor is employing or contracting with a worker without authorization; and

(ii) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this section the subcontractor does not cease employing or contracting with the worker without authorization; except that such party shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization.

(f) All parties shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation that the Department undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.

(g) If any party violates any provision of this MOU pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. the City may terminate this MOU. If this MOU is so terminated, the party committing the violation shall be liable for actual and consequential damages to the City arising out of Contractor's violation of Subsection 8-17.5-102, C.R.S.

(h) The City will notify the Office of the Secretary of State if any party violates this provision of this MOU and the City terminates the MOU for such breach.

October 18, 2022

AGENDA ITEM SUMMARY

City Council



STAFF

Ginny Sawyer, Project and Policy Manager
Tyler Marr, Interim Deputy City Manager
Carrie Daggett, Legal

SUBJECT

Resolution 2022-104 Adopting the City's 2023 Legislative Policy Agenda.

EXECUTIVE SUMMARY

The purpose of this item is to adopt the City's 2023 Legislative Policy Agenda. Each year the Legislative Review Committee develops a legislative agenda to assist in the formation, analysis, and advocacy of pending legislation and regulation. The Legislative Policy Agenda is used as a guide by Council and staff to determine positions on legislation and regulation under consideration at the state and federal levels and as a general reference for state legislators and the City's congressional delegation.

The Legislative Review Committee reviewed and made changes/updates at the August 30, 2022, meeting.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

The Legislative Policy Agenda (LPA) is a guiding document meant to highlight our home rule status and reflect issues that affect the quality of life and governance of our community. It also reflects strategic goals of the City and areas of specific focus based on recent Council and staff policy efforts. It is used as a guide by Council and staff to determine positions on pending or introduced legislation, and as a general reference for residents, community organizations, state legislators, and members of Congress.

The Legislative Policy Agenda also refers to the City's partners in the legislative space, which include the Colorado Municipal League, the National League of Cities, the Colorado Association of Municipal Utilities, and Colorado Communities for Climate Action.

The 2022 LPA was developed with direction from Council and input from City staff, then reviewed by the Legislative Review Committee (LRC), which is currently comprised of Councilmembers Canonico, Peel, and Mayor Arndt.

A redlined version is attached to this Agenda Item Summary. A clean version is attached as Exhibit A to the Resolution. Once adopted, the Communications and Public Involvement Office will format and design into a polished document for limited printing and placement on fcgov.com. Noted changes in this year's version include:

- The addition of language intended to streamline and offer guidance when position requests are made.
 - *If staff or Councilmembers are contacted regarding letters of support or opposition from CML, CC4CA, or Representatives, staff will ensure alignment with LPA and provide a letter signed by the Mayor. If staff or Councilmembers are contacted by lobbyists or other interest groups with requests for letters of support or opposition no action will be taken unless directed by the LRC.*
- Added stronger language in parts of the ENERGY section.
 - *Supports initiatives to **reduce or eliminate** natural gas and petroleum use via beneficial electrification for thermal and transportation needs.*
 - *Supports minimizing the environmental impacts of energy production, **reducing fossil-fuel generated electricity and eliminating the use of coal.***
- Inclusion of a statement addressing the Council Priority around Animal Cruelty.
 - *Supports efforts to ensure the health and safety of domestic animals and appropriate penalties for cases of abuse, cruelty, and neglect.*
- Removal of statements that have been addressed through legislation.
 - *Opposes CRS Section 25 17 104, which limits local authority to regulate packaging material (e.g. single use plastic bags.)*
 - *Supports continued efforts to enable municipalities to consider local minimum wage policies.*
 - *Supports potential legislation to clarify when an email exchange among elected officials constitutes a “meeting” subject to the requirements of the Colorado Open Meetings Law, including possible identification of a safe harbor within which elected officials can communicate by electronic mail without constituting a meeting in order to preserve and enable the use of this effective and now common-place technology within appropriate transparency requirements and other reasonable limitations.*
- Added a statement supporting financing options for water conservation.
 - *Opposes barriers to financing for water conservation projects and supports new financing opportunities for these projects including grants, zero/low interest loans, etc.*

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Resolution for Consideration
2. Exhibit A
3. Legislative Policy Agenda (redlined)
4. Legislative Review Committee Minutes, August 30, 2022

RESOLUTION 2022-104
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ADOPTING THE CITY'S 2023 LEGISLATIVE POLICY AGENDA

WHEREAS, state and federal legislation may impact the citizens of Fort Collins, affecting their quality of life; and

WHEREAS, such state and federal legislation may also influence or impact the operations of municipal governments, including the City; and

WHEREAS, the City has an interest in providing input on proposed legislation; and

WHEREAS, Councilmembers and City staff are asked to state the City's policy position on legislation; and

WHEREAS, in addition, on occasion the City has an interest in providing input on proposed county, state and federal regulations; and

WHEREAS, the 2023 Legislative Policy Agenda has been updated to reflect the current status of issues of interest and:

- additional language intended to streamline and offer guidance when position requests are made;
- added stronger language in part of the ENERGY section;
- inclusion of a statement addressing the Council Priority around Animal Cruelty;
- removal of statements that have been addressed through legislation;
- added a statement supporting financing options for water conservation; and

WHEREAS, the Council's Legislative Review Committee reviewed the 2023 Legislative Policy Agenda at its August 30, 2022, meeting and recommended Council approve it; and

WHEREAS, establishing the City's policy position assists the members of the Legislative Review Committee in their review of, and response to, these matters, and assists City staff in communicating and advocating the City's policy position on the same.

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

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

Section 2. That the policy statements contained in the attached 2023 Legislative Policy Agenda accurately reflect the City's policies on these issues.

Section 3. That the City Council hereby adopts the 2023 Legislative Policy Agenda attached hereto as Exhibit "A" and incorporated herein by this reference.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 18th day of October, A.D. 2022.

Mayor

ATTEST:

Chief Deputy City Clerk



2023 City of Fort Collins Legislative Policy Agenda

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Item 12.

EXHIBIT A
INTRODUCTION

Item 12.

Fort Collins is a community of approximately 175,000 residents. Incorporated in 1873, the City has grown to become the commercial, educational and cultural hub of Northern Colorado. The City adopted a home rule charter in 1954 and operates under a Council-Manager form of government.

The City is a data-driven municipal organization that strives to fulfill its mission, “Exceptional service for an exceptional community”, through a vision of providing world-class municipal services through operational excellence and a culture of innovation. City leaders seek innovative solutions to issues facing the community and are often willing to leverage emerging technologies.

The Fort Collins City Council annually adopts a Policy Agenda ahead of the upcoming Colorado general Assembly session for the purpose of guiding legislators and staff in supporting community goals.

The Policy Agenda is broad set of policy statements meant to convey positions on issues that affect the quality of life and the governance of our community. It is structured to address areas of local concern and to also reflect the strategic planning that guides City of Fort Collins organizational resource allocation and decision making.

Fort Collins welcomes opportunities to work in partnership to leverage additional resources and participate in regional dialogue to achieve shared outcomes.

The City has identified seven outcome areas to ensure appropriate and effective resource allocation supporting the community’s priorities. Outcome areas include Culture and Recreation; Economic Health; Environmental Health; High Performing Government; Neighborhood Livability and Social Health; Safe Community; and Transportation and Mobility. The Policy Agenda identifies this alignment as it is important for City staff to ensure that advocacy supports specific desired outcomes.

EXHIBIT A
CITY OF FORT COLLINS
LEGISLATIVE REVIEW COMMITTEE

Item 12.

The Legislative Review Committee (LRC) is a representative group of Council members that reviews and reacts to proposed legislation on behalf of City Council and the City. In taking a position on bills, the LRC interprets and applies the various policies that are included in the Legislative Policy Agenda.

Council Members presently serving on the Legislative Review Committee are:

- Councilmember Tricia Canonico, Chair
- Councilmember Shirley Peel
- Mayor Jeni Arndt

LEGISLATIVE REVIEW PROCESS

In 2023, the City of Fort Collins will rely heavily on the Legislative Policy Agenda, the Colorado Municipal League, and the Colorado Communities for Climate Action organizations for the majority of bill tracking and identification.

The City currently maintains memberships with the Colorado Municipal League and Colorado Communities for Climate Action (CC4CA) - both groups maintain a fulltime presence at the capitol and engage in bill identification and advocacy consistent with their own adopted policy agendas. The City influences both groups' policy agendas, and while not perfectly consistent with our own, both generally advance and protect the City's interests.

Bills introduced in the Colorado General Assembly, United States Congress and federal, state or county regulations or rulemakings are reviewed by City staff. Bills, regulations and rules that are identified as having a potential impact on the City will be brought to the LRC for discussion. If LRC adopts a position, staff will convey that information to the appropriate state or federal representative and advocate for the adopted position.

If staff or Councilmembers are contacted regarding letters of support or opposition from CML, CC4CA, or Representatives, staff will ensure alignment with LPA and provide a letter signed by the Mayor. If staff or Councilmembers are contacted by lobbyists or other interest groups with requests for letters of support or opposition no action will be taken unless directed by the LRC.

Due to the time-sensitive nature of the General Assembly, if a bill's subject matter is addressed in this Policy Agenda, staff will proactively work with state and federal representatives to advance the City's position as expressed in this legislative policy agenda and other Council-adopted plans and policies. Staff will provide regular updates to the LRC and the full City Council regarding bills of consequence to the City and will consult with the LRC regarding bills for which direction under the adopted policy is unclear.

EXHIBIT A

Item 12.

Staff liaisons support the LRC by contributing expertise in various areas of municipal service. The City Attorney's Office also reviews selected bills and may provide confidential legal analysis. Fort Collins also works with community partners to support local projects and staff collaborates with representatives of other municipalities on mutually-held priorities. Fort Collins actively seeks innovative partnerships to leverage positive outcomes for residents.

The City works closely with the Colorado Municipal League (CML) and the National League of Cities (NLC) on many legislative items facing cities. Fort Collins maintains membership with Colorado Association of Municipal Utilities (CAMU) which represents 29 municipal utilities throughout the state on utility issues, Colorado Communities for Climate Action (CC4CA) which represents municipalities on climate issues. In addition, Fort Collins actively participates in various trade organizations which represent specific areas of interest to City operations.

2023 LEGISLATIVE POLICY STATEMENTS

HOME RULE AND LOCAL CONTROL

In order to consider and manage local conditions and desires, community issues and needs should be addressed locally. For this reason, home rule authority is of utmost importance to the City of Fort Collins. The City must be free to regulate local activities that primarily impact the area within the City's boundaries, such as the speed of local traffic or the effects of particular land use developments. The City also understands the accumulative effect of these and other activities have statewide ramifications that may call for statewide regulation, to effectively manage such things as overall growth and development in the state, traffic congestion in major transportation corridors and environmental quality.

Therefore, the City:

1. Supports strengthening and preserving home rule authority of municipal governments.
2. Opposes State or Federal intervention in matters of local concern or matters that unnecessarily or adversely affect the City's ability to manage and operate pursuant to its home rule authority.
3. Opposes changes that increase (and supports changes that lessen) the burdens and limits on municipalities associated with public or other government records, public meetings and establishment of ethics standards and procedures, operation of municipal courts, and other matters of municipal operations or authority including added cost burdens.
4. Supports enabling cities to choose the provision of services through private enterprise in a manner that fosters cost effective, sustainable, quality services.
5. Supports local control of the awarding of contracts and the accountability of local officials for those actions.
6. Opposes mandates that increase the complexity and cost of services without improving those services.
7. Supports collaborative regional efforts for the benefit of participating communities.

AIR QUALITY

ENVIRONMENTAL HEALTH

The City's Air Quality Plan reiterates the adopted City Plan strong overall goal "to protect human health and the environment through continuous improvements in air quality."

Therefore, the City:

1. Supports programs and policies that improve public health and air quality, including attainment of National Ambient Air Quality Standards for ozone.
2. Supports local government authority to improve air quality beyond minimum State or Federal requirements.
3. Supports implementation of expanded air quality monitoring programs.
4. Supports adequate authority and resource at all levels of government to enforce air quality regulations.
5. Supports economic incentives, disincentives and other market approaches that promote low emission and zero emission alternatives to carbon-based fuels.
6. Supports strengthening vehicle and fuel efficiency standards, including programs and policies that promote the use of zero and low emission vehicles (e.g., electric) and the development of infrastructure needed to support the use of those vehicles.
7. Supports programs or incentives that reduce vehicle miles traveled, through transit-oriented development and enhanced access to alternative modes (e.g., walking, biking and transit).

BEER AND LIQUOR

SAFE COMMUNITY

The City issues and renews liquor licenses, enforces license rules, and holds hearings for liquor license violations.

Therefore, the City:

1. Supports greater local licensing final authority for all types of licensing and related fees (New, Transfers, Modifications, and Manager Registration.)
2. Supports a sharing of accountability of serving violations between license holder and individual server or store clerk.
3. Supports permanent ability for licensees to service alcohol on a temporary/permanent basis in non-contiguous areas.

BROADBAND AND CABLE
ECONOMIC HEALTH

Reliable, high-speed, and affordable access to broadband and cable programming throughout the community remains a priority and a long-term goal for the City to ensure our economic vitality and allow for equal access for all residents and businesses.

Therefore, the City:

1. Supports maintaining local franchising authority to preserve local governments' ability to negotiate in the public interest for cable channel space, institutional networks and public education and government (PEG) programming, and to charge franchise and PEG fees to support local programming and compensate for the use of rights-of-way.
2. Supports allowing communities to offer and/or partner to offer high speed internet, Wi-Fi and other enhanced telecommunication services to residents, schools, academic institutions, and businesses.
3. Opposes restrictions on providing telecommunication services within City-owned facilities and on City property, and related restrictions on the manner in which such services may be financed, funded or structured.
4. Opposes infringement on municipalities' ability to compete in the broadband marketplace.
5. Opposes right of way use contrary to existing aesthetic policies and practices, including the addition of any above ground cabling.
6. Supports revisions to the Colorado Open Meetings Law to allow local jurisdictions that provide or arrange for telecommunications services or facilities to authorize executive sessions for discussion of matters pertaining to competition in the provision of telecommunication services and facilities (such as matters subject to negotiation, strategic planning, pricing, sales and marketing, and development planning), along with any other conforming statutory changes.
7. Supports prioritizing state and federal broadband grants and funding to municipal and co-op broadband operations.

CHILDCARE
ECONOMIC HEALTH, NEIGHBORHOOD LIVABILITY AND SOCIAL HEALTH

The City of Fort Collins recognizes the criticality of quality, affordable and accessible childcare for families and businesses in the community. The City's role is to help reduce barriers, increase capacity, leverage assets, identify and respond to childcare needs, and lead by example as an employer.

Therefore, the City:

1. Supports programs and policies that improve the severe shortage of childcare openings with licensed providers, including programs and incentives that promote the expansion of existing childcare centers and development of new centers, particularly those serving low-income families and offering extended hours of operation.
2. Supports regulations that streamline requirements and reduce the complexity and cost of childcare services, including licensing and educational requirements, when those mandates are not clearly benefiting the health and safety of children and the community.
3. Supports increased funding for early childhood education.
4. Supports workforce development in the early care and education field, including scholarships, training programs and simplified credentialing processes.
5. Supports increased and sustainable public subsidization of childcare costs, including proposals to support living wages for providers and those that reduce the cost burden on families.

CLIMATE

ENVIRONMENTAL HEALTH

Making communities more resilient to disaster and the effects of a changing climate has become more important to Colorado communities over the last several years as natural disasters have caused significant human and property loss. In response to the climate emergency, Fort Collins has adopted aggressive emission reduction goals and supports policies and legislation helping communities and the state to achieve these goals and enhance the environment as detailed in the Our Climate Future Plan.

Therefore, the City:

1. Supports greenhouse gas (GHG) emission reduction targets, planning, mechanisms that support the gathering of data to inform greenhouse gas inventories, and implementation at all levels of government.
2. Supports market-based and regulatory mechanisms to reduce emissions, including incentives, enabling legislation, regulations and other mechanisms to achieve emissions reductions and increase resiliency in energy, waste reduction, transportation, and water sectors.
3. Supports protection of the Colorado self-audit law.

4. Supports policies that put equity at the center of decision-making to consider systemic inequities in energy and climate impacts, based on race or socioeconomic status, to justly transition and grow a clean energy future.

HOUSING

NEIGHBORHOOD LIVABILITY AND SOCIAL HEALTH

The City recognizes that the affordability and availability of quality housing is critical to a vibrant and diverse community. The City's Housing Strategic Plan establishes a housing-first community vision that everyone has stable, healthy housing they can afford.

Therefore, the City:

1. Supports enhancing funding for affordable housing throughout Colorado, including expanding the State Low Income Housing Tax Credit program and providing funding for affordable for-sale homes, but not increases to unrelated fees.
2. Supports increasing local government's ability to regulate, manage or generate alternative sources of funding for affordable housing, including public-private partnerships.
3. Supports maintaining stronger amendments to construction defect laws to promote the construction of owner occupied-attached housing.
4. Supports creating an adequate supply of housing for all income levels and continued public and private sector support for these efforts.
5. Supports exploring expansion of Mobile Home Act to address rent pad stabilization, transparency in utility billing, and other livability issues.
6. Supports consideration of changes that would permit municipalities to adopt rent stabilization policies.
7. Supports continued funding and expansion of programs for eviction and foreclosure prevention, including provision of free legal assistance and adopting a statewide right to counsel for residents facing eviction or foreclosure.
8. Supports consideration of incentives and/or requirements to encourage land use reforms that will increase housing supply statewide, particularly through eliminating zoning barriers to accessible, healthy, affordable housing (e.g. increased density, accessory dwelling units, conversion of existing buildings to housing).
9. Supports policies that intentionally link transportation funding and housing funding so that investment is prioritized where there is policy alignment between multi modal infrastructure and transit supportive housing densities.

10. Supports funding and regional support for housing-first approaches to homelessness prevention including housing coordination and placement, rapid rehousing, and supportive services (e.g. rental assistance, utility assistance, case management) to assist with housing retention and stability.
11. Supports the development of a statewide disparity study, in consultation with local governments, to assess the state and local impacts of systemic racism on multiple indicators, e.g., housing affordability, social inclusion and economic opportunity, educational attainment, mental and physical health, and more.

INTEGRATED LAND USE, TRANSPORTATION PLANNING, AND DEVELOPMENT REVIEW
ECONOMIC HEALTH, NEIGHBORHOOD LIVABILITY AND SOCIAL HEALTH

City Plan and the Transit Master Plan guides the City's long-term decisions on land use and transportation investments and regulations. Fort Collins uses tools such as land use and building code, and well-established development review processes

Therefore, the City:

1. Supports requirements for comprehensive land use planning that organizes and directs growth to achieve stated community vision, policies and goals.
2. Supports policies, standards or programs that require the analysis of public health, sustainability, and equity in land use planning and regulation.
3. Supports local governments' ability to obtain financial compensation for additional work of inspectors through fees or other means.
4. Opposes any unfunded state mandated review, permitting or inspection requirements.
5. Supports local governments' authority to determine zoning, development review, building and inspection standards, procedures, and timelines.
6. Encourages regional cooperation in land use, transportation planning, utility and water resource planning, and fostering sustainable development. Supports intergovernmental agreements between a municipality and a county to establish boundaries and annexation of a GMA and prohibit any outside parties to annex said GMA.
7. Supports municipal discretion concerning the imposition of building and development fees and requirements.
8. Supports retaining and/or increasing local authority related to the siting, design and regulation of wireless telecommunication facilities, including both small cell and macro sites.
9. Supports local adoption of Building and other related Codes, including addition of local amendments needed to safeguard public health and safety by regulating

building construction, structural strength, sanitation, light, ventilation, and energy conservation.

10. Supports local control and regulation of Building Department staff including qualifications of Building Inspectors performing plumbing and electrical inspections.

ELECTIONS

HIGH PERFORMING GOVERNMENT

The City of Fort Collins conducts municipal elections and special elections as required by the citizen (or Council) initiative process. The City is committed to conducting a clear, legal, and trustworthy elections process.

Therefore, the City:

1. Supports all efforts that assist the City in conducting fair and transparent election processes according to the City's adopted procedures.
2. Supports process improvements that encourage voter participation.
3. Supports additional mechanisms to prevent election tampering, through increased cyber security around election data and the election processes.

ENERGY

ECONOMIC HEALTH, ENVIRONMENTAL HEALTH

As a municipally-owned electric utility, the City is committed to providing affordable, reliable, and clean energy services to residents and businesses, as described in the Our Climate Future plan. Energy issues extend beyond electricity to also encompass the community's use of natural gas and petroleum.

Therefore, the City:

1. Supports efforts that promote energy affordability in general for residents, businesses and institutions and specifically for households with high energy bill burdens.
2. Supports efforts which promote safety in the generation, transmission and distribution of energy.
3. Supports efforts and incentives which promote energy efficiency, conservation, distributed energy resources, electrification and grid flexibility.

4. Supports opportunities for local economic activities related to energy efficiency, clean energy production, and utility operations.
5. Supports initiatives to reduce or eliminate natural gas and petroleum use via beneficial electrification for thermal and transportation needs.
6. Supports initiatives which reduce barriers to coordinated integrated planning for energy supply and demands.
7. Supports state and federal funding for resilience efforts to mitigate potential energy and climate related disruptions.
8. Supports federal and state incentives for renewable energy production, including wind power, and provide for “State Implementation Plan” credits for renewable energy (excluding residential wood burning and corn-based ethanol) and energy efficiency.
9. Opposes attempts to prevent or inhibit provision of municipal electric service in newly annexed areas.
10. Supports smart grid technology adoption and grid modernization.
11. Supports minimizing the environmental impacts of energy production, reducing fossil-fuel generated electricity and eliminating the use of coal.
12. Supports efforts which promote the development of regional electricity markets.

FINANCE

ECONOMIC HEALTH; HIGH PERFORMING GOVERNMENT

Strong fiscal planning, prudent debt management and investment policies, and preservation of the City’s revenue base are vital in maintaining and improving the City’s financial health. Considering the known impacts of legislation on the City’s business community can help foster a stronger tax base and retain a strong quality of life.

Therefore, the City:

1. Supports expanding municipal authority to establish alternative funding mechanisms, including financing tools such as public improvement fees (PIF) and certificates of participation (COP).
2. Supports increased funding for K-12 and higher education, specifically Colorado State University and Front Range Community College.

3. Encourages the equitable treatment of sales and use taxes to residents and corporations residing or doing business in Colorado by limiting exemptions.
4. Supports the equitable distribution sales tax collections on e-commerce transactions.
5. Opposes efforts that inhibit the City's ability and authority to increase its revenue base (sales, use and property taxes).
6. Supports protections that do not unnecessarily restrict the investments of government entities.
7. Supports programs that provide economic assistance to organizations and individuals impacted by the COVID-19 pandemic.

HAZARDOUS MATERIALS MANAGEMENT

SAFE COMMUNITY; ENVIRONMENTAL HEALTH

It is an important concern of the City to safeguard Fort Collins' health and environmental safety by reducing risks from the unauthorized release of hazardous materials or hazardous waste.

Therefore, the City:

1. Supports strengthening the enforcement of hazardous materials regulations.
2. Supports increasing diversion of hazardous waste from landfills.
3. Support City's ability and authority to review and approve locations of facilities that use or store hazardous materials or hazardous waste.

HEALTH CARE

NEIGHBORHOOD LIVABILITY & SOCIAL HEALTH; ECONOMIC HEALTH; HIGH PERFORMING GOVERNMENT

The City recognizes that the rapidly increasing cost of health care and health insurance is a barrier to real wage growth, equitable health outcomes, and economic gains among many residents of Fort Collins. The City further recognizes that employer-sponsored health care and varying state regulations that are not consistent across the United States have resulted in the system we have today.

Therefore, the City:

1. Supports health care policy that provides single-payer, not-for-profit health care to all residents.

2. Supports the portability of health care plans across employers and state-lines.
3. Supports health care policies that end the practice in the United States of employers being the primary source of health insurance for residents.
4. Supports policies that allocate costs to individuals and their families proportional to their ability to pay.

HUMAN RESOURCES

HIGH PERFORMING GOVERNMENT

The City of Fort Collins is committed to the health, safety, and well-being of its employees. The City works diligently to be efficient and responsible stewards of tax dollars ensuring that employee compensation and benefits are meaningful, equitable, market-based, and competitive. The City believes that its residents, through their elected representatives on City Council, are in the best position to determine appropriate City employee compensation, benefits, appeal rights related to disciplinary action and policies.

Therefore, the City:

1. Supports the City's ability and authority to make decisions on employment issues, including collective bargaining, arbitration, compensation, appeal rights related to disciplinary action and benefits to further an equitable work environment.
2. Supports the development and expansion to the City's ability to determine how best to manage employee health and benefit programs.
3. Supports current state funding levels for police officers' and dispatchers' death and disability benefits made available by Fire & Police Pension Association of Colorado.
4. Opposes proposals that would allow employees and/or retirees with defined contribution or deferred plans to move into defined benefit plans if there is a cost to local government.
5. Opposes proposals that would limit the City's ability to test job applicants for presence of alcohol or controlled substances or employees at work for impairment due to consumption of alcohol, marijuana, or other controlled substances or to set limits related to such testing.
6. Opposes proposals that expand Colorado and federal anti-discrimination protections to allow individuals other than employees to file claims against public entities for violations, that expand the definition of "hostile work environment" beyond current state and federal protections or that waive a public entity's sovereign immunity in an action for injuries resulting from a discrimination or unfair employment practice claim brought pursuant to Colorado anti-discrimination law.

7. Opposes proposals that require a municipality to collectively bargain with its employees in conflict with a home rule municipality's authority.

IMMIGRATION AND NATIONAL BORDER CONDITIONS

NEIGHBORHOOD LIVABILITY & SOCIAL HEALTH; SAFE COMMUNITY; HIGH PERFORMING GOVERNMENT

The City recognizes that federal issues pertaining to civil rights at the United States' borders and immigration law more broadly have wide impacts that can directly impact the day-to-day life of Fort Collins residents. It can also impact those residents' willingness and comfort with engaging with local public safety agencies and other key service providers.

Therefore, the City:

1. Supports the humane treatment of persons who are detained by Immigration Officials and the rapid resolution of legal proceedings to determine their status.
2. Supports pathways to legal immigration into the United States that are sustainable in the long term, including removing financial barriers and increasing access to legal services.
3. Supports regulations and laws that support the use of employment eligibility verification by employers.
4. Supports the 2011 ICE memorandum on "sensitive locations" limiting its immigration enforcement actions and arrests at the following locations so as to preserve the health, safety and education of all residents:
 - Hospitals;
 - Schools and scholastic bus stops (pre-schools, primary schools, secondary schools, post-secondary schools, colleges and universities, and other learning institutions such as vocational or trade schools);
 - Churches, synagogues, mosques, or other institutions of worship, such as buildings rented for the purpose of religious services;
 - The site of a funeral, wedding, or other public religious ceremony; and
 - Public demonstrations, such as a march, rally, or parade.
5. Supports regulations and laws that add wage and labor protection requirements for workers currently excluded from minimum wages and overtime protections, breaks, and mandatory rest days.
6. Supports de minimus exemptions to Verification of lawful presence CO ST § 24-76.5-103 by adding a new section (3)(f) to the State law that exempts the City from following the verification process for any particular local public benefit that is valued at less than \$500.00, or that is not provided directly to the beneficiary by the City.

7. Supports local control over how state and federal funding for healthcare, affordable housing and food security is allocated to meet the needs of all residents and their families regardless of immigration status.

MARIJUANA AND HEMP

SAFE COMMUNITY

After the State's legalization of medical and recreational marijuana, the City of Fort Collins created local marijuana business licensing programs and adopted ordinances to balance the needs and desires of the community related to legal marijuana. The City also regulates hemp cultivation and extraction.

Therefore, the City:

1. Supports communities' ability to raise necessary funds to maintain public safety and enforce marijuana and intoxicating hemp and related products possession laws.
2. Supports additional state marijuana and intoxicating hemp enforcement resources, especially for field enforcement.
3. Opposes under-21 access to marijuana and supports increasing penalties to those supplying to underage individuals.
4. Supports greater education and research on the harmful effects of high concentrate THC and transparency in the spending of dedicated marijuana education dollars.
5. Supports local opt-in provisions regarding new permits and/or licenses or other marijuana-related activities allowed under state law.
6. Supports further development of laws and regulations to stop the proliferation of gray and black-market marijuana while coordinating with the federal level to help address safety through research and legal banking, and to reduce conflict between Colorado and federal laws.

MUNICIPAL COURT

SAFE COMMUNITY; HIGH PERFORMING GOVERNMENT

The Fort Collins Municipal Court is responsible for administering the operations of the judicial branch of City government according to the City Charter and ordinances adopted by City Council. Cases adjudicated in Municipal Court include traffic violations, misdemeanors, civil infractions, and civil cases. Generally, cases are brought to Municipal Court by Fort Collins Police Services, Colorado State University Police Department, Animal Control, other City departments, and private residents.

Therefore, the City:

1. Opposes limitations on the authority of municipalities to enforce their own ordinances in municipal courts and increased procedural requirements or limitations on municipal court proceedings, such as limitations on bonding requirements related to municipal court warrants and sentencing options and supports elimination of requirements impinging on municipal court authority and discretion.
2. Opposes the imposition of state surcharges on municipal court fines for the purpose of funding state programs.
3. Opposes any unfunded mandates imposed on municipal courts by the state.

OIL AND GAS

ENVIRONMENTAL HEALTH

Fort Collins residents have expressed continuing concern about the human and environmental impacts from local oil and gas development. Additionally, community members have expressed concern over transported emissions from oil and gas operations outside of City limits that contribute to local ozone formation.

Therefore, the City:

1. Supports local authority to regulate oil and gas operations as granted in 2019 through Senate Bill 19-181, which includes the ability to regulate the siting of new development and surface impacts.
2. Supports scientific studies that evaluate impacts of oil and gas operations on human health, the environment and property values.
3. Supports air pollution monitoring, emission characterization and modeling studies to better understand the contributions of the oil and gas industry to air pollution.
4. Supports the current formula allocation of State Severance Tax and Federal Mineral Lease (FML) revenue to impacted jurisdictions so that they might address impacts from resource extraction.
5. Supports collaboration with operators, state agencies and local governments on oil and gas development within and adjacent to the City's Growth Management Area, and on City-owned properties outside of City limits.
6. Supports legislation that protects public health, safety, welfare, the environment and wildlife resources in consideration of surface owners and mineral owner rights.

OPEN RECORDS AND DATA MANAGEMENT

HIGH PERFORMING GOVERNMENT

The City is the collector and keeper of hundreds of datasets and recorded information is legally bound and responsible for responding to Open Record requests. The City supports transparency and open data initiatives.

Therefore, the City:

1. Supports clear requirements that allow for reasonable requests and timeframes to provide information that is legally available.
2. Opposes mandates that include unrealistic timeframes and requests that require additional staff time with no means to recover costs.
3. Supports cybersecurity efforts that protect the City, consumers, and infrastructure.
4. Supports data privacy regulations, prohibiting the sharing of residents' data with federal agencies without a court-authorized subpoena, warrant or other valid order.

PARKS AND NATURAL AREAS, AND PUBLIC AMENITIES

ENVIRONMENTAL HEALTH; CULTURE AND RECREATION

The City is committed to providing the community with excellent natural areas, parks, recreation facilities, trails, cultural centers, and engaging programs. Our residents and visitors enjoy improved health, less crime, a higher quality of life, and a greater sense of community because of the quality natural areas, parks and recreation programs, and other public spaces.

Therefore, the City:

1. Supports maintaining or enhancing funding for parks, trails, forestry, horticulture, natural areas, cultural centers, and recreation services and facilities.
2. Supports local discretion to use Great Outdoors Colorado and other sources for funding municipal government projects addressing local needs and priorities.
3. Supports equal or greater funding levels of Great Outdoors Colorado grants awarded to municipalities
4. Supports maintaining or enhancing tax incentives to private landowners for voluntary land conservation.
5. Supports protection of the Cache la Poudre River and local urban streams.
6. Supports programs and funding for equitable access to public space and services.

PUBLIC HEALTH

SAFE COMMUNITY; NEIGHBORHOOD LIVABILITY AND SOCIAL HEALTH

The City of Fort Collins strives to be a healthy, livable City that is a welcoming and inclusive community for all, including residents who may be experiencing the challenges of homelessness, mental health issues, substance use disorders, depression, and other challenging life situations. The City also supports primary prevention strategies to reduce the injuries and deaths associated with gun violence.

Therefore, the City:

1. Supports maintaining or increasing the funds available through the state and federal government for community-focused non-profits to provide human services and housing support.
2. Supports providing communities with resources to address chronic homelessness, supportive housing, mental health, and substance use disorders, including tobacco, alcohol, and drug prevention programs.
3. Supports a standardized statewide approach to addressing homelessness.
4. Supports statewide efforts to enforce retail tobacco sales compliance as well as prohibiting the sale of intoxicating hemp and THC products to minors.
5. Supports legislation or regulatory efforts that restrict and better ensure the prevention of firearm purchases of those individuals convicted of a violent criminal offense and those who have been involuntarily committed to a mental institution or are otherwise suffering from a severe mental condition.
6. Supports public health research and necessary funding related to the root causes and effects of gun violence to better inform prevention strategies.
7. Supports legislation that prohibits the sale or transfer of ghost firearms.
8. Supports legislation that greatly reduces or eliminates the incidence of smoking and vaping. Specific measures may include the elimination of flavored vaping cartridges, an increase in the legal smoking age, state-wide retail licensing for tobacco and vaping products, and identical treatment of vaping and e-cigarette products to traditional forms of tobacco.
9. Supports funding and/or programs to address disparities in social determinants of health (e.g. housing, income, educational attainment, access to healthcare) to improve community-wide health outcomes.
10. Supports efforts to ensure the health and safety of domestic animals and appropriate penalties for cases of abuse, cruelty, and neglect.

PUBLIC SAFETY
SAFE COMMUNITY

The Fort Collins City Council recognizes the critical importance of maintaining public safety, providing a safe environment, and protecting the lives and property of the residents of Fort Collins on a daily basis as well as through preparedness and resiliency planning efforts.

Therefore, the City:

1. Supports greater protections to victims of crime, regardless of immigration status.
2. Supports the City's right to use camera enforcement of traffic laws, reduce operational restrictions on the use of camera enforcement, and increase the fines associated with violations.
3. Supports protocols and funding for shared, statewide emergency response communications, including supporting Larimer Emergency Telephone Authority (LETA) and other efforts to resolve 911 diversity (back-up/resilience) issues.
4. Opposes increased 911 provider tariffs without clear documentation of cost needs.
5. Opposes initiatives that have the potential to compromise officer safety.
6. Supports minimum training criteria and professional mediator certification that formally legitimizes the field of Alternative Dispute Resolution (ADR).
7. Opposes municipal liability for prisoners' self-inflicted wounds while in police custody or detention facilities.
8. Opposes efforts to undermine local control or enforcement of activities on public property.
9. Supports a state adopted fire and building code, the code of choice being the International Fire and Building Code, while allowing municipalities to adopt their own codes and local amendments.
10. Opposes limits to local enforcement of the International Fire Code as adopted with local amendments, imposing inspection requirements or preventing collection of permit or inspection fees as required by the local jurisdiction.
11. Opposes restricting any local jurisdiction from requiring the installation of fire sprinklers.
12. Supports the City's ability to prohibit the use and sale of fireworks and allow counties and fire districts to prohibit and otherwise control fireworks within City boundaries.
13. Supports efforts to reduce abuse and improper disposal of over-the-counter and prescription drugs.
14. Supports exclusive digital communication networks for public safety personnel during emergencies.

15. Opposes the reduction and loss of qualified immunity for government officials.
16. Supports practical standards related to use of force which appropriately balance the rights and safety of Fort Collins residents with the safety of first responders.
17. Supports increased reporting of crimes by refraining from inquiries about legal immigration status unless such inquiry is pertinent to a crime; supports continuation of non-restrictive U-Visa certification policies that allow victims of crime to access important legal protections.
18. Supports continued use of body-worn cameras, protections for public recordings of police, and the maintenance and reporting of such data that does not compromise police operations or public safety. Opposes unfunded legislative mandates in regard to such programs.

RECYCLING AND SOLID WASTE REDUCTION

ENVIRONMENTAL HEALTH

The City of Fort Collins endorses a multi-pronged approach to waste minimization that includes recycling, re-use, composting, and source reduction, and which also applies Zero Waste principles such as redesigning systems to reduce pollution and waste. Additionally, the City has adopted a goal of diverting 75 percent of community waste by 2020; 90 percent by 2025, and 100 percent by 2030.

Therefore, the City:

1. Encourages integrated, sustainable waste management planning and implementation policy, including but not limited to centralized data collection requirements, local hauler licensing and initiatives to reach statewide diversion targets.
2. Supports a regulatory authority role for local government to ensure the efficient management of recyclable material and solid waste, including application of laws that prescribe the use of county-funded disposal facilities for certain types of wastes, and other local bans on landfill disposal for certain types of debris.
3. Encourages “buy recycled” or “environmentally preferable purchasing” policies for government agency procurement.
4. Supports incentives and funding for programs that promote waste reduction, reuse and recycling, and development of related infrastructure.
5. Supports continued or increased funding for programs to collect and monitor data on trash volumes, rates of diversion from landfill disposal and economic impacts of recycling.

6. Supports extended producer responsibility initiatives that fund recycling programs and incentivize products to be designed for reuse, recycling, or composting and maintain local control of recycling programs.
7. Supports establishing a refundable deposit fee on beverage containers to increase recovery rates and pay for recycling programs.
8. Supports state and regional economic tools for existing and new businesses that provide end markets for recycled materials in support of a domestic, circular economy.
9. Supports incentives and programs to encourage the use of compost, developing end markets to help divert organic material from landfills (food and yard waste), and developing composting infrastructure.
10. Supports incentives and programs to develop end markets for construction and demolition waste materials and other potentially recyclable materials.

RISK MANAGEMENT AND LIABILITY

HIGH PERFORMING GOVERNMENT

The City of Fort Collins recognizes the dual purpose of the workers' compensation system - providing benefits promptly to injured employees in a cost-effective manner and minimizing costly litigation. The City also recognizes that the City's self-insurance program is a cost-efficient method to insure workers' compensation and that government intervention or taxation can negatively impact the City.

Therefore, the City:

1. Supports improving administrative efficiency of the Division of Workers' Compensation.
2. Opposes increased insurance premium costs to employers.
3. Opposes administrative burdens or taxes to self-insurance programs.
4. Supports limits to insurance claim litigation.
5. Opposes limiting the City's options and ability to manage workers' compensation claims; including actions like removing existing offsets to workers' compensation benefits or limiting the City's ability to designate treating physicians.
6. Opposes efforts to presumptively expand workers' compensation coverage to illnesses or injuries that are not work related.

7. Opposes efforts to reduce or weaken protections against liability through governmental immunity or other statutory provisions.

SMALL BUSINESS SUPPORT

ECONOMIC HEALTH; HIGH PERFORMING GOVERNMENT

The COVID pandemic has further underscored the need for strong and stable small businesses in every community in the State. The City of Fort Collins actively supports small businesses throughout their stages of formation and growth. Changing consumer habits and increased online competition threaten to disrupt the faltering recovery for small businesses.

Therefore, the City:

1. Supports efforts to reduce the cost of food delivery for small businesses by managing third-party delivery fees and encouraging statewide licensing of these service providers.
2. Supports efforts to enhance state-wide funding for small business support - including enhanced services to support new business formation owned by women, minority, low-income, and veteran individuals.

TRANSPORTATION INVESTMENT

TRANSPORTATION AND MOBILITY

The City actively promotes transportation infrastructure that facilitates the safe and efficient movement of people, goods, and services regardless of mode. Infrastructure improvements will be in concert with land use development while being respectful of community values and the environment.

Therefore, the City:

1. Supports alternative methods of funding transportation infrastructure needs.
2. Supports funding the analysis and implementation of inter- and intra-regional transit linkages, including future commuter rail connectivity.
3. Encourages flexibility in federal funding and regulations in order to better meet the needs of small to medium-size communities.
4. Supports guaranteed levels of federal funding for transportation and allocation of all federal motor fuel taxes and other federal transportation trust funds for their intended transportation purposes.
5. Supports funding for the build out of Interstate 25 improvements.

6. Supports additional funding options and availability for active transportation modes.
7. Supports broadening the definition of the gasoline tax to a “fuel tax” that encompasses other fuel options as they become more prevalent.
8. Opposes reductions to the present allocation formula of 60 percent state, 22 percent counties, and 18 percent municipalities for Highway User Tax Fund (HUTF) or any appropriations from the state using the same formula.
9. Supports enhanced ability to implement railroad quiet zones in municipalities, further options in pursuing various degrees of quiet zones, and an overall reduction in train horn decibel and duration requirements.
10. Opposes divesting highway roads in urban areas from the state and making them the sole responsibility of local jurisdictions without adequate compensation for ongoing maintenance.
11. Supports safe operation of railroads through timely track inspections, joint training and communication between railroad and emergency personnel, and the use of safe equipment.
12. Supports local regulatory and design standard control of public roads, pedestrian paths, and bike lanes to address all modes of transportation.

URBAN RENEWAL AND DOWNTOWN DEVELOPMENT

ECONOMIC HEALTH

The state of Colorado has empowered local authorities to use Urban Renewal Authorities (URA) and Downtown Development Authorities (DDA) to encourage downtown revitalization and the elimination of blight. The main funding tool for URAs and DDAs is Tax Increment Financing (TIF) generated through property taxes. In its best intention, urban renewal and downtown revitalization restores economic vitality and improves the safety of a designated area, with limited financial impact to other government jurisdictions.

Therefore, the City:

1. Opposes limitations on municipalities’ ability to utilize financing mechanisms such as TIF.
2. Opposes efforts to increase influence of non-City jurisdictions over the use of TIF within City limits.
3. Supports maintaining the ability of downtown development authorities to utilize the full offering of tools and powers provided in the DDA Act.
4. Supports maintaining the ability of Urban Renewal Authorities to utilize the full offering of tools and powers provided for in state statute.

WATER, WASTEWATER, AND STORMWATER**ENVIRONMENTAL HEALTH; SAFE COMMUNITY**

The City operates a water utility, a wastewater utility, and a stormwater utility in a financially sound, reliable, safe, and environmentally responsible manner. The availability of adequate water supplies is critical to the City and is managed by the Water Supply and Demand Management Policy, the Water Efficiency Plan, and other water-related codes, rules, regulations, plans, and policies.

Therefore, the City:

1. Supports expanding the authority delegated to the state to administer federally mandated water, stormwater, and wastewater environmental regulatory programs.
2. Supports reasonable water quality regulations that are cost effective and can show identifiable benefits.
3. Supports municipal flexibility to manage instream flows to preserve or improve the natural environment while protecting the integrity of Colorado's appropriation doctrine, protecting the City's water supplies, and preventing injury to other water users.
4. Opposes unfunded mandates.
5. Opposes barriers to financing for water conservation projects and supports new financing opportunities for these projects including grants, zero/low interest loans, etc.
6. Supports funding for the recovery and treatment of the Fort Collins water supply, its watershed, and other waterways impacted by natural disasters and human-caused events, including fires.
7. Supports enhanced municipal authority to protect and increase the flexibility and resiliency of the City's water supplies under Colorado's appropriation doctrine, without causing injury to other water users and without adversely affecting instream flows or the natural environment. This includes potential bills related to treated water providers being able to more easily share treated water supplies between their distribution systems.
8. Supports reducing legal barriers and clarifying legal ambiguities related to water reuse and greywater projects, while protecting the integrity of Colorado's appropriation doctrine, protecting the City's water supplies, and preventing injury to other water users.
9. Supports streamlining federal and state permitting requirements for water development projects that increase coordination between permitting agencies, reduces administrative and financial burdens on permit applicants, and ensures robust and enforceable environmental protections.

10. Supports the enlargement of Halligan Reservoir as a common-sense, cost-effective, environmentally-beneficial approach to meet Fort Collins Utilities' future water supply needs.

CITY OF FORT COLLINS LEGISLATIVE CONTACTS

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Item 12.

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INTRODUCTION

Fort Collins is a community of approximately 175,000 residents. Incorporated in 1873, the City has grown to become the commercial, educational and cultural hub of Northern Colorado. The City adopted a home rule charter in 1954 and operates under a Council-Manager form of government.

The City is a data-driven municipal organization that strives to fulfill its mission, “Exceptional service for an exceptional community”, through a vision of providing world-class municipal services through operational excellence and a culture of innovation. City leaders seek innovative solutions to issues facing the community and are often willing to leverage emerging technologies.

The Fort Collins City Council annually adopts a Policy Agenda ahead of the upcoming Colorado general Assembly session for the purpose of guiding legislators and staff in supporting community goals.

The Policy Agenda is broad set of policy statements meant to convey positions on issues that affect the quality of life and the governance of our community. It is structured to address areas of local concern and to also reflect the strategic planning that guides City of Fort Collins organizational resource allocation and decision making.

Fort Collins welcomes opportunities to work in partnership to leverage additional resources and participate in regional dialogue to achieve shared outcomes.

The City has identified seven outcome areas to ensure appropriate and effective resource allocation supporting the community’s priorities. Outcome areas include Culture and Recreation; Economic Health; Environmental Health; High Performing Government; Neighborhood Livability and Social Health; Safe Community; and Transportation and Mobility. The Policy Agenda identifies this alignment as it is important for City staff to ensure that advocacy supports specific desired outcomes.

CITY OF FORT COLLINS LEGISLATIVE REVIEW COMMITTEE

The Legislative Review Committee (LRC) is a representative group of Council members that reviews and reacts to proposed legislation on behalf of City Council and the City. In taking a position on bills, the LRC interprets and applies the various policies that are included in the Legislative Policy Agenda.

Council Members presently serving on the Legislative Review Committee are:

- -Councilmember Tricia Canonico, Chair
- Councilmember Shirley Peel
- Mayor Jeni Arndt

LEGISLATIVE REVIEW PROCESS

In 2023³², the City of Fort Collins will rely heavily on the Legislative Policy Agenda, the Colorado Municipal League, and the Colorado Communities for Climate Action organizations for the majority of bill tracking and identification.

The City currently maintains memberships with the Colorado Municipal League and Colorado Communities for Climate Action (CC4CA) - both groups maintain a fulltime presence at the capitol and engage in bill identification and advocacy consistent with their own adopted policy agendas. The City influences both groups' policy agendas, and while not perfectly consistent with our own, both generally advance and protect the City's interests.

Bills introduced in the Colorado General Assembly, United States Congress and federal, state or county regulations or rulemakings are reviewed by City staff. Bills, regulations and rules that are identified as having a potential impact on the City will be brought to the LRC for discussion. If LRC adopts a position, staff will convey that information to the appropriate state or federal representative and advocate for the adopted position.

If staff or Councilmembers are contacted regarding letters of support or opposition from CML, CC4CA, or Representatives, staff will ensure alignment with LPA and provide a letter signed by the Mayor. If staff or Councilmembers are contacted by lobbyists or other interest groups with requests for letters of support or opposition no action will be taken unless directed by the LRC.

Due to the time-sensitive nature of the General Assembly, if a bill's subject matter is addressed in this Policy Agenda, staff will proactively work with state and federal representatives to advance the City's position as expressed in this legislative policy agenda and other Council-adopted plans and policies. Staff will provide regular updates to the LRC and the full City Council regarding bills of consequence to the City and will consult with the LRC regarding bills for which direction under the adopted policy is unclear.

Staff liaisons support the LRC by contributing expertise in various areas of municipal service. The City Attorney's Office also reviews selected bills and may provide confidential legal analysis. Fort Collins also works with community partners to support local projects and staff collaborates with representatives of other municipalities on mutually-held priorities. Fort Collins actively seeks innovative partnerships to leverage positive outcomes for residents.

The City works closely with the Colorado Municipal League (CML) and the National League of Cities (NLC) on many legislative items facing cities. Fort Collins maintains membership with Colorado Association of Municipal Utilities (CAMU) which represents 29 municipal utilities throughout the state on utility issues, Colorado Communities for Climate Action (CC4CA) which represents municipalities on climate issues. In addition, Fort Collins actively participates in various trade organizations which represent specific areas of interest to City operations.

202~~32~~ LEGISLATIVE POLICY STATEMENTS

HOME RULE AND LOCAL CONTROL

In order to consider and manage local conditions and desires, community issues and needs should be addressed locally. For this reason, home rule authority is of utmost importance to the City of Fort Collins. The City must be free to regulate local activities that primarily impact the area within the City's boundaries, such as the speed of local traffic or the effects of particular land use developments. The City also understands the accumulative effect of these and other activities have statewide ramifications that may call for statewide regulation, to effectively manage such things as overall growth and development in the state, traffic congestion in major transportation corridors and environmental quality.

Therefore, the City:

1. Supports strengthening and preserving home rule authority of municipal governments.
2. Opposes State or Federal intervention in matters of local concern or matters that unnecessarily or adversely affect the City's ability to manage and operate pursuant to its home rule authority.
3. Opposes changes that increase (and supports changes that lessen) the burdens and limits on municipalities associated with public or other government records, public meetings and establishment of ethics standards and procedures, operation of municipal courts, and other matters of municipal operations or authority including added cost burdens.
4. Supports enabling cities to choose the provision of services through private enterprise in a manner that fosters cost effective, sustainable, quality services.
5. Supports local control of the awarding of contracts and the accountability of local officials for those actions.
6. Opposes mandates that increase the complexity and cost of services without improving those services.
7. Supports collaborative regional efforts for the benefit of participating communities.
- ~~8. Supports potential legislation to clarify when an email or text exchange among elected officials constitutes a "meeting" subject to the requirements of the Colorado Open Meetings Law, including possible identification of a safe harbor within which elected officials can communicate by electronic mail without constituting a meeting in order to preserve and enable the use of this effective~~

and now common-place technology within appropriate transparency requirements and other reasonable limitations.

HOUSING

NEIGHBORHOOD LIVABILITY AND SOCIAL HEALTH

The City recognizes that the affordability and availability of quality housing is critical to a vibrant and diverse community. The City's Housing Strategic Plan establishes a housing-first community vision that everyone has stable, healthy housing they can afford.

Therefore, the City:

1. Supports enhancing funding for affordable housing throughout Colorado, including expanding the State Low Income Housing Tax Credit program and providing funding for affordable for-sale homes, but not increases to unrelated fees.
2. Supports increasing local government's ability to regulate, manage or generate alternative sources of funding for affordable housing, including public-private partnerships.
3. Supports maintaining stronger amendments to construction defect laws to promote the construction of owner occupied attached housing.
4. Supports creating an adequate supply of housing for all income levels and continued public and private sector support for these efforts.
5. Supports exploring expansion of Mobile Home Act to address rent pad stabilization, transparency in utility billing, and other livability issues.
- Supports consideration of changes that would permit municipalities to adopt rent stabilization policies.
6. Supports continued funding and expansion of programs for eviction and foreclosure prevention, including provision of free legal assistance and adopting a statewide right to counsel for residents facing eviction or foreclosure.
- Supports consideration of incentives and/or requirements to encourage land use reforms that will increase housing supply statewide, particularly through eliminating zoning barriers to accessible, healthy, affordable housing (e.g. increased density, accessory dwelling units, conversion of existing buildings to housing).
7. Supports policies that intentionally link transportation funding and housing funding so that investment is prioritized where there is policy alignment between multi modal infrastructure and transit supportive housing densities.
8. Supports funding and regional support for housing-first approaches to homelessness prevention including, housing coordination and placement, rapid rehousing, and

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~~supportive services (e.g., rental assistance, utility assistance, case management) to assist with housing retention and stability.~~

- ~~9. Supports the development of a statewide disparity study, in consultation with local governments, to assess the state and local impacts of systemic racism on multiple indicators, e.g., housing affordability, social inclusion and economic opportunity, educational attainment, mental and physical health, and more.~~

AIR QUALITY

ENVIRONMENTAL HEALTH

The City's Air Quality Plan reiterates the adopted City Plan strong overall goal "to protect human health and the environment through continuous improvements in air quality."

Therefore, the City:

1. Supports programs and policies that improve public health and air quality, including attainment of National Ambient Air Quality Standards for ozone.
2. Supports local government authority to improve air quality beyond minimum State or Federal requirements.
3. Supports implementation of expanded air quality monitoring programs.
4. Supports adequate authority and resource at all levels of government to enforce air quality regulations.
5. Supports economic incentives, disincentives and other market approaches that promote low emission and zero emission alternatives to carbon-based fuels.
6. Supports strengthening vehicle and fuel efficiency standards, including programs and policies that promote the use of zero and low emission vehicles (e.g., electric) and the development of infrastructure needed to support the use of those vehicles.
7. Supports programs or incentives that reduce vehicle miles traveled, through transit-oriented development and enhanced access to alternative modes (e.g., walking, biking and transit).

BEER AND LIQUOR

SAFE COMMUNITY

The City issues and renews liquor licenses, enforces license rules, and holds hearings for liquor license violations.

Therefore, the City:

1. Supports greater local licensing final authority for all types of licensing and related fees (New, Transfers, Modifications, and Manager Registration.)
2. Supports a sharing of accountability of serving violations between license holder and individual server or store clerk.
3. Supports permanent ability for licensees to service alcohol on a temporary/permanent basis in non-contiguous areas.

BROADBAND AND CABLE **ECONOMIC HEALTH**

Reliable, high-speed, and affordable access to broadband and cable programming throughout the community remains a priority and a long-term goal for the City to ensure our economic vitality and allow for equal access for all residents and businesses.

Therefore, the City:

1. Supports maintaining local franchising authority to preserve local governments' ability to negotiate in the public interest for cable channel space, institutional networks and public education and government (PEG) programming, and to charge franchise and PEG fees to support local programming and compensate for the use of rights-of-way.
2. Supports allowing communities to offer and/or partner to offer high speed internet, Wi-Fi and other enhanced telecommunication services to residents, schools, academic institutions, and businesses.
3. Opposes restrictions on providing telecommunication services within City-owned facilities and on City property, and related restrictions on the manner in which such services may be financed, funded or structured.
4. Opposes infringement on municipalities' ability to compete in the broadband marketplace.
5. Opposes right of way use contrary to existing aesthetic policies and practices, including the addition of any above ground cabling.
6. Supports revisions to the Colorado Open Meetings Law to allow local jurisdictions that provide or arrange for telecommunications services or facilities to authorize executive sessions for discussion of matters pertaining to competition in the provision of telecommunication services and facilities (such as matters subject to

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negotiation, strategic planning, pricing, sales and marketing, and development planning), along with any other conforming statutory changes.

6-7. Supports prioritizing state and federal broadband grants and funding to municipal and co-op broadband operations.

CHILDCARE

ECONOMIC HEALTH, NEIGHBORHOOD LIVABILITY AND SOCIAL HEALTH

The City of Fort Collins recognizes the criticality of quality, affordable and accessible childcare for families and businesses in the community. The City's role is to help reduce barriers, increase capacity, leverage assets, identify and respond to childcare needs, and lead by example as an employer.

Therefore, the City:

1. Supports programs and policies that improve the severe shortage of childcare openings with licensed providers, including programs and incentives that promote the expansion of existing childcare centers and development of new centers, particularly those serving low-income families and offering extended hours of operation.
2. Supports regulations that streamline requirements and reduce the complexity and cost of childcare services, including licensing and educational requirements, when those mandates are not clearly benefiting the health and safety of children and the community.
3. Supports increased funding for early childhood education.
4. Supports workforce development in the early care and education field, including scholarships, training programs and simplified credentialing processes.
5. Supports increased and sustainable public subsidization of childcare costs, including proposals to support living wages for providers and those that reduce the cost burden on families.

CLIMATE

ENVIRONMENTAL HEALTH

Making communities more resilient to disaster and the effects of a changing climate has become more important to Colorado communities over the last several years as natural disasters have caused significant human and property loss. In response to the climate emergency, Fort Collins has adopted aggressive emission reduction goals and supports policies and legislation helping communities and the state to achieve these goals and enhance the environment as detailed in the Our Climate Future Plan.

Therefore, the City:

1. Supports greenhouse gas (GHG) emission reduction targets, planning, mechanisms that support the gathering of data to inform greenhouse gas inventories, and implementation at all levels of government.
2. Supports market-based and regulatory mechanisms to reduce emissions, including incentives, enabling legislation, regulations and other mechanisms to achieve emissions reductions and increase resiliency in energy, waste reduction, transportation, and water sectors.
3. Supports protection of the Colorado self-audit law.
4. Supports policies that put equity at the center of decision-making to consider systemic inequities in energy and climate impacts, based on race or socioeconomic status, to justly transition and grow a clean energy future.

HOUSING

NEIGHBORHOOD LIVABILITY AND SOCIAL HEALTH

The City recognizes that the affordability and availability of quality housing is critical to a vibrant and diverse community. The City's Housing Strategic Plan establishes a housing-first community vision that everyone has stable, healthy housing they can afford.

Therefore, the City:

1. Supports enhancing funding for affordable housing throughout Colorado, including expanding the State Low Income Housing Tax Credit program and providing funding for affordable for-sale homes, but not increases to unrelated fees.
2. Supports increasing local government's ability to regulate, manage or generate alternative sources of funding for affordable housing, including public-private partnerships.
3. Supports maintaining stronger amendments to construction defect laws to promote the construction of owner occupied-attached housing.
4. Supports creating an adequate supply of housing for all income levels and continued public and private sector support for these efforts.
5. Supports exploring expansion of Mobile Home Act to address rent pad stabilization, transparency in utility billing, and other livability issues.
6. Supports consideration of changes that would permit municipalities to adopt rent stabilization policies.

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7. Supports continued funding and expansion of programs for eviction and foreclosure prevention, including provision of free legal assistance and adopting a statewide right to counsel for residents facing eviction or foreclosure.
8. Supports consideration of incentives and/or requirements to encourage land use reforms that will increase housing supply statewide, particularly through eliminating zoning barriers to accessible, healthy, affordable housing (e.g. increased density, accessory dwelling units, conversion of existing buildings to housing).
9. Supports policies that intentionally link transportation funding and housing funding so that investment is prioritized where there is policy alignment between multi modal infrastructure and transit supportive housing densities.
10. Supports funding and regional support for housing-first approaches to homelessness prevention including housing coordination and placement, rapid rehousing, and supportive services (e.g. rental assistance, utility assistance, case management) to assist with housing retention and stability.
11. Supports the development of a statewide disparity study, in consultation with local governments, to assess the state and local impacts of systemic racism on multiple indicators, e.g., housing affordability, social inclusion and economic opportunity, educational attainment, mental and physical health, and more.

INTEGRATED LAND USE, TRANSPORTATION PLANNING, AND DEVELOPMENT REVIEW
ECONOMIC HEALTH, NEIGHBORHOOD LIVABILITY AND SOCIAL HEALTH

City Plan and the Transit Master Plan guides the City's long-term decisions on land use and transportation investments and regulations. Fort Collins uses tools such as land use and building code, and well-established development review processes

Therefore, the City:

1. Supports requirements for comprehensive land use planning that organizes and directs growth to achieve stated community vision, policies and goals.
2. Supports policies, standards or programs that require the analysis of public health, sustainability, and equity in land use planning and regulation.
3. Supports local governments' ability to obtain financial compensation for additional work of inspectors through fees or other means.
4. Opposes any unfunded state mandated review, permitting or inspection requirements.

5. Supports local governments' authority to determine zoning, development review, building and inspection standards, procedures, and timelines.
6. Encourages regional cooperation in land use, transportation planning, utility and water resource planning, and fostering sustainable development. Supports intergovernmental agreements between a municipality and a county to establish boundaries and annexation of a GMA and prohibit any outside parties to annex said GMA.
7. Supports municipal discretion concerning the imposition of building and development fees and requirements.
8. Supports retaining and/or increasing local authority related to the siting, design and regulation of wireless telecommunication facilities, including both small cell and macro sites.
9. Supports local adoption of Building and other related Codes, including addition of local amendments needed to safeguard public health and safety by regulating building construction, structural strength, sanitation, light, ventilation, and energy conservation.
10. Supports local control and regulation of Building Department staff including qualifications of Building Inspectors performing plumbing and electrical inspections.

ELECTIONS

HIGH PERFORMING GOVERNMENT

The City of Fort Collins conducts municipal elections ~~in April of odd years~~ and special elections as required by the citizen (or Council) initiative process. The City is committed to conducting a clear, legal, and trustworthy elections process.

Therefore, the City:

1. Supports all efforts that assist the City in conducting fair and transparent election processes according to the City's adopted procedures.
2. Supports process improvements that encourage voter participation.
3. Supports additional mechanisms to prevent election tampering, through increased cyber security around election data and the election processes.

ENERGY

ECONOMIC HEALTH, ENVIRONMENTAL HEALTH

As a municipally-owned electric utility, the City is committed to providing affordable, reliable, and clean energy services to residents and businesses, as described in the Our Climate Future plan. Energy issues extend beyond electricity to also encompass the community's use of natural gas and petroleum.

Therefore, the City:

1. Supports efforts that promote energy affordability in general for residents, businesses and institutions and specifically for households with high energy bill burdens.
2. Supports efforts which promote safety in the generation, transmission and distribution of energy.
3. Supports efforts and incentives which promote energy efficiency, conservation, distributed energy resources, electrification and grid flexibility.
4. Supports opportunities for local economic activities related to energy efficiency, clean energy production, and utility operations.
5. Supports initiatives to ~~facilitate transition from~~ reduce or eliminate natural gas and petroleum use ~~to~~ via beneficial electrification for thermal and transportation needs.
6. Supports initiatives which reduce barriers to coordinated integrated planning for energy supply and demands.
7. Supports state and federal funding for resilience efforts to mitigate potential energy and climate related disruptions.
8. Supports federal and state incentives for renewable energy production, including wind power, and provide for "State Implementation Plan" credits for renewable energy (excluding residential wood burning and corn-based ethanol) and energy efficiency.
9. Opposes attempts to prevent or inhibit provision of municipal electric service in newly annexed areas.
10. Supports smart grid technology adoption and grid modernization.
11. Supports minimizing the environmental impacts of energy production, reducing fossil-fuel generated electricity and eliminating the use of coal.
12. Supports efforts which promote the development of regional electricity markets.

FINANCE***ECONOMIC HEALTH; HIGH PERFORMING GOVERNMENT***

Strong fiscal planning, prudent debt management and investment policies, and preservation of the City's revenue base are vital in maintaining and improving the City's financial health. Considering the known impacts of legislation on the City's business community can help foster a stronger tax base and retain a strong quality of life.

Therefore, the City:

1. Supports expanding municipal authority to establish alternative funding mechanisms, including financing tools such as public improvement fees (PIF) and certificates of participation (COP).
2. Supports increased funding for K-12 and higher education, specifically Colorado State University and Front Range Community College.
3. Encourages the equitable treatment of sales and use taxes to residents and corporations residing or doing business in Colorado by limiting exemptions.
4. Supports the equitable distribution sales tax collections on e-commerce transactions.
5. Opposes efforts that inhibit the City's ability and authority to increase its revenue base (sales, use and property taxes).
6. Supports protections that do not unnecessarily restrict the investments of government entities.
7. Supports programs that provide economic assistance to organizations and individuals impacted by the COVID-19 pandemic.

HAZARDOUS MATERIALS MANAGEMENT***SAFE COMMUNITY; ENVIRONMENTAL HEALTH***

It is an important concern of the City to safeguard Fort Collins' health and environmental safety by reducing risks from the unauthorized release of hazardous materials or hazardous waste.

Therefore, the City:

1. Supports strengthening the enforcement of hazardous materials regulations.
2. Supports increasing diversion of hazardous waste from landfills.

3. Support City's ability and authority to review and approve locations of facilities that use or store hazardous materials or hazardous waste.

HEALTH CARE

NEIGHBORHOOD LIVABILITY & SOCIAL HEALTH; ECONOMIC HEALTH; HIGH PERFORMING GOVERNMENT

The City recognizes that the rapidly increasing cost of health care and health insurance is a barrier to real wage growth, equitable health outcomes, and economic gains among many residents of Fort Collins. The City further recognizes that employer-sponsored health care and varying state regulations that are not consistent across the United States have resulted in the system we have today.

Therefore, the City:

1. Supports health care policy that provides single-payer, not-for-profit health care to all residents.
2. Supports the portability of health care plans across employers and state-lines.
3. Supports health care policies that end the practice in the United States of employers being the primary source of health insurance for residents.
4. Supports policies that allocate costs to individuals and their families proportional to their ability to pay.

HUMAN RESOURCES

HIGH PERFORMING GOVERNMENT

The City of Fort Collins is committed to the health, safety, and well-being of its employees. The City works diligently to be efficient and responsible stewards of tax dollars ensuring that employee compensation and benefits are meaningful, equitable, market-based, and competitive. The City believes that its residents, through their elected representatives on City Council, are in the best position to determine appropriate City employee compensation, benefits, appeal rights related to disciplinary action and policies.

Therefore, the City:

1. Supports the City's ability and authority to make decisions on employment issues, including collective bargaining, arbitration, compensation, appeal rights related to disciplinary action and benefits to further an equitable work environment.
2. Supports the development and expansion to the City's ability to determine how best to manage employee health and benefit programs.

3. Supports current state funding levels for police officers' and dispatchers' death and disability benefits made available by Fire & Police Pension Association of Colorado.
4. Opposes proposals that would allow employees and/or retirees with defined contribution or deferred plans to move into defined benefit plans if there is a cost to local government.
5. Opposes proposals that would limit the City's ability to test job applicants for presence of alcohol or controlled substances or employees at work for impairment due to consumption of alcohol, marijuana, or other controlled substances or to set limits related to such testing.
6. Opposes proposals that expand Colorado and federal anti-discrimination protections to allow individuals other than employees to file claims against public entities for violations, that expand the definition of "hostile work environment" beyond current state and federal protections or that waive a public entity's sovereign immunity in an action for injuries resulting from a discrimination or unfair employment practice claim brought pursuant to Colorado anti-discrimination law.
7. Opposes proposals that require a municipality to collectively bargain with its employees in conflict with a home rule municipality's authority.

IMMIGRATION AND NATIONAL BORDER CONDITIONS

NEIGHBORHOOD LIVABILITY & SOCIAL HEALTH; SAFE COMMUNITY; HIGH PERFORMING GOVERNMENT

The City recognizes that federal issues pertaining to civil rights at the United States' borders and immigration law more broadly have wide impacts that can directly impact the day-to-day life of Fort Collins residents. It can also impact those residents' willingness and comfort with engaging with local public safety agencies and other key service providers.

Therefore, the City:

1. Supports the humane treatment of persons who are detained by Immigration Officials and the rapid resolution of legal proceedings to determine their status.
2. Supports pathways to legal immigration into the United States that ~~is~~ **are** sustainable in the long term, including removing financial barriers and increasing access to legal services.
3. Supports regulations and laws that support the use of employment eligibility verification by employers.

4. Supports the 2011 ICE memorandum on “sensitive locations” limiting its immigration enforcement actions and arrests at the following locations so as to preserve the health, safety and education of all residents:
 - Hospitals;
 - Schools and scholastic bus stops (pre-schools, primary schools, secondary schools, post-secondary schools, colleges and universities, and other learning institutions such as vocational or trade schools);
 - Churches, synagogues, mosques, or other institutions of worship, such as buildings rented for the purpose of religious services;
 - The site of a funeral, wedding, or other public religious ceremony; and
 - Public demonstrations, such as a march, rally, or parade.
5. Supports regulations and laws that add wage and labor protection requirements for workers currently excluded from minimum wages and overtime protections, breaks, and mandatory rest days.
6. Supports de minimus exemptions to Verification of lawful presence CO ST § 24-76.5-103 by adding a new section (3)(f) to the State law that exempts the City from following the verification process for any particular local public benefit that is valued at less than \$500.00, or that is not provided directly to the beneficiary by the City.
7. Supports local control over how state and federal funding for healthcare, affordable housing and food security is allocated to meet the needs of all residents and their families regardless of immigration status.

MARIJUANA AND HEMP

SAFE COMMUNITY

After the State’s legalization of medical and recreational marijuana, the City of Fort Collins created local marijuana business licensing programs and adopted ordinances to balance the needs and desires of the community related to legal marijuana. The City also regulates hemp cultivation and extraction.

Therefore, the City:

1. Supports communities’ ability to raise necessary funds to maintain public safety and enforce marijuana and intoxicating hemp and related products possession laws.
2. Supports additional state marijuana and intoxicating hemp enforcement resources, especially for field enforcement.
3. Opposes under-21 access to marijuana and supports increasing penalties to those supplying to underage individuals.
4. Supports greater education and research on the harmful effects of high concentrate THC and transparency in the spending of dedicated marijuana education dollars.

5. Supports local opt-in provisions regarding new permits and/or licenses or other marijuana-related activities allowed under state law.
6. Supports further development of laws and regulations to stop the proliferation of gray and black-market marijuana while coordinating with the federal level to help address safety through research and legal banking, and to reduce conflict between Colorado and federal laws.

MUNICIPAL COURT

SAFE COMMUNITY; HIGH PERFORMING GOVERNMENT

The Fort Collins Municipal Court is responsible for administering the operations of the judicial branch of City government according to the City Charter and ordinances adopted by City Council. Cases adjudicated in Municipal Court include traffic violations, misdemeanors, civil infractions, and civil cases. Generally, cases are brought to Municipal Court by Fort Collins Police Services, Colorado State University Police Department, Animal Control, other City departments, and private residents.

Therefore, the City:

1. Opposes limitations on the authority of municipalities to enforce their own ordinances in municipal courts and increased procedural requirements or limitations on municipal court proceedings, such as limitations on bonding requirements related to municipal court warrants and sentencing options and supports elimination of requirements impinging on municipal court authority and discretion.
2. Opposes the imposition of state surcharges on municipal court fines for the purpose of funding state programs.
3. Opposes any unfunded mandates imposed on municipal courts by the state.

OIL AND GAS

ENVIRONMENTAL HEALTH

Fort Collins residents have expressed continuing concern about the human and environmental impacts from local oil and gas development. Additionally, community members have expressed concern over transported emissions from oil and gas operations outside of City limits that contribute to local ozone formation.

Therefore, the City:

1. Supports local authority to regulate oil and gas operations as granted in 2019 through Senate Bill 19-181, which includes the ability to regulate the siting of new development and surface impacts.

2. Supports scientific studies that evaluate impacts of oil and gas operations on human health, the environment and property values.
3. Supports air pollution monitoring, emission characterization and modeling studies to better understand the contributions of the oil and gas industry to air pollution.
4. Supports the current formula allocation of State Severance Tax and Federal Mineral Lease (FML) revenue to impacted jurisdictions so that they might address impacts from resource extraction.
5. Supports collaboration with operators, state agencies and local governments on oil and gas development within and adjacent to the City's Growth Management Area, and on City-owned properties outside of City limits.
6. Supports legislation that protects public health, safety, welfare, the environment and wildlife resources in consideration of surface owners and mineral owner rights.

OPEN RECORDS AND DATA MANAGEMENT

HIGH PERFORMING GOVERNMENT

The City is the collector and keeper of hundreds of datasets and recorded information and is legally bound and responsible for responding to Open Record requests. The City supports transparency and open data initiatives.

Therefore, the City:

1. Supports clear requirements that allow for reasonable requests and timeframes to provide information that is legally available.
2. Opposes mandates that include unrealistic timeframes and requests that require additional staff time with no means to recover costs.
3. Supports cybersecurity efforts that protect the City, consumers, and infrastructure.
4. Supports data privacy regulations, prohibiting the sharing of residents' data with federal agencies without a court-authorized subpoena, warrant or other valid order.

PARKS AND NATURAL AREAS, AND PUBLIC AMENITIES

ENVIRONMENTAL HEALTH; CULTURE AND RECREATION

The City is committed to providing the community with excellent natural areas, parks, recreation facilities, trails, cultural centers, and engaging programs. Our residents and visitors enjoy improved health, less crime, a higher quality of life, and a greater sense of community because of the quality natural areas, parks and recreation programs, and other public spaces.

Therefore, the City:

1. Supports maintaining or enhancing funding for parks, trails, forestry, horticulture, natural areas, cultural centers, and recreation services and facilities.
2. Supports local discretion to use Great Outdoors Colorado and other sources for funding municipal government projects addressing local needs and priorities.
3. Supports equal or greater funding levels of Great Outdoors Colorado grants awarded to municipalities
4. Supports maintaining or enhancing tax incentives to private landowners for voluntary land conservation.
5. Supports protection of the Cache la Poudre River and local urban streams.
- Supports programs and funding for equitable access to public space and services.
- 6.

PUBLIC HEALTH

SAFE COMMUNITY; NEIGHBORHOOD LIVABILITY AND SOCIAL HEALTH

The City of Fort Collins strives to be a healthy, livable City that is a welcoming and inclusive community for all, including residents who may be experiencing the challenges of homelessness, mental health issues, substance use disorders~~addiction~~, depression, and other challenging life situations. The City also supports primary prevention strategies to reduce the injuries and deaths associated with gun violence.

Therefore, the City:

1. Supports maintaining or increasing the funds available through the state and federal government for community-focused non-profits to provide human services and housing support.
2. Supports providing communities with resources to address chronic homelessness, supportive housing, mental health, and substance use disorders, including tobacco, alcohol, and drug prevention programs.
3. Supports a standardized statewide approach to addressing homelessness.
4. Supports statewide efforts to enforce retail tobacco sales compliance as well as prohibiting the sale of intoxicating hemp and THC products to minors.
5. Supports legislation or regulatory efforts that restrict and better ensure the prevention of firearm purchases of those individuals convicted of a violent criminal

offense and those who have been involuntarily committed to a mental institution or are otherwise suffering from a severe mental condition.

6. Supports public health research and necessary funding related to the root causes and effects of gun violence to better inform prevention strategies.
7. Supports legislation that prohibits the sale or transfer of unregistered-ghost firearms.
8. Supports legislation that greatly reduces or eliminates the incidence of smoking and vaping. Specific measures may include the elimination of flavored vaping cartridges, an increase in the legal smoking age, state-wide retail licensing for tobacco and vaping products, and identical treatment of vaping and e-cigarette products to traditional forms of tobacco.
9. Supports funding and/or programs to address disparities in social determinants of health (e.g. housing, income, educational attainment, access to healthcare) to improve community-wide health outcomes.
- 9-10. Supports efforts to ensure the health and safety of domestic animals and appropriate penalties for cases of abuse, cruelty, and neglect.

PUBLIC SAFETY

SAFE COMMUNITY

The Fort Collins City Council recognizes the critical importance of maintaining public safety, providing a safe environment, and protecting the lives and property of the residents of Fort Collins on a daily basis as well as through preparedness and resiliency planning efforts.

Therefore, the City:

1. Supports greater protections to victims of crime, regardless of immigration status.
2. Supports the City's right to use camera enforcement of traffic laws, reduce operational restrictions on the use of camera enforcement, and increases the fines associated with violations.
3. Supports protocols and funding for shared, statewide emergency response communications, including supporting Larimer Emergency Telephone Authority (LETA) and other efforts to resolve 911 diversity (back-up/resilience) issues.
4. Opposes increased 911 provider tariffs without clear documentation of cost needs.
5. Opposes initiatives that have the potential to compromise officer safety.
6. Supports minimum training criteria and professional mediator certification that formally legitimizes the field of Alternative Dispute Resolution (ADR).

7. Opposes municipal liability for prisoners' self-inflicted wounds while in police custody or detention facilities.
8. Opposes efforts to undermine local control or enforcement of activities on public property.
9. Supports a state adopted fire and building code, the code of choice being the International Fire and Building Code, while allowing municipalities to adopt their own codes and local amendments.
10. Opposes limits to local enforcement of the International Fire Code as adopted with local amendments, imposing inspection requirements or preventing collection of permit or inspection fees as required by the local jurisdiction.
11. Opposes restricting any local jurisdiction from requiring the installation of fire sprinklers.
12. Supports the City's ability to prohibit the use and sale of fireworks and allow counties and fire districts to prohibit and otherwise control fireworks within City boundaries.
13. Supports efforts to reduce abuse and improper disposal of over-the-counter and prescription drugs.
14. Supports exclusive digital communication networks for public safety personnel during emergencies.
15. Opposes the reduction and loss of qualified immunity for government officials.
16. Supports practical standards related to use of force which appropriately balance the rights and safety of Fort Collins residents with the safety of first responders.
17. Supports increased reporting of crimes by refraining from inquiries about legal immigration status unless such inquiry is pertinent to a crime; supports continuation of non-restrictive U-Visa certification policies that allow victims of crime to access important legal protections.
18. Supports continued use of body-worn cameras, protections for public recordings of police, and the maintenance and reporting of such data that does not compromise police operations or public safety. Opposes unfunded legislative mandates in regard to such programs.

RECYCLING AND SOLID WASTE REDUCTION

ENVIRONMENTAL HEALTH

The City of Fort Collins endorses a multi-pronged approach to waste minimization that includes recycling, re-use, composting, and source reduction, and which also applies Zero

Waste principles such as redesigning systems to reduce pollution and waste. Additionally, the City has adopted a goal of diverting 75 percent of community waste by 2020; 90 percent by 2025, and 100 percent by 2030.

Therefore, the City:

1. Encourages integrated, sustainable waste management planning and implementation policy, including but not limited to centralized data collection requirements, local hauler licensing and initiatives to reach statewide diversion targets.
2. Supports a regulatory authority role for local government to ensure the efficient management of recyclable material and solid waste, including application of laws that prescribe the use of county-funded disposal facilities for certain types of wastes, and other local bans on landfill disposal for certain types of debris.
3. Encourages “buy recycled” or “environmentally preferable purchasing” policies for government agency procurement.
4. Supports incentives and funding for programs that promote waste reduction, reuse and recycling, and development of related infrastructure.
5. Supports continued or increased funding for programs to collect and monitor data on trash volumes, rates of diversion from landfill disposal and economic impacts of recycling.
6. Supports extended producer responsibility initiatives that fund recycling programs and incentivize products to be designed for reuse, recycling, or composting and maintain local control of recycling programs.
- ~~7. Opposes CRS Section 25-17-104, which currently limits local authority to regulate packaging materials (e.g., single-use plastic bags).~~
- ~~8-7.~~ Supports establishing a refundable deposit fee on beverage containers to increase recovery rates and pay for recycling programs.
- ~~9-8.~~ Supports state and regional economic tools for existing and new businesses that provide end markets for recycled materials in support of a domestic, circular economy.
- ~~10-9.~~ Supports incentives and programs to encourage the use of compost, developing end markets to help divert organic material from landfills (food and yard waste), and developing composting infrastructure.
- ~~11-10.~~ Supports incentives and programs to develop end markets for construction and demolition waste materials and other potentially recyclable materials.

RISK MANAGEMENT AND LIABILITY

HIGH PERFORMING GOVERNMENT

The City of Fort Collins recognizes the dual purpose of the workers' compensation system - providing benefits promptly to injured employees in a cost-effective manner and minimizing costly litigation. The City also recognizes that the City's self-insurance program is a cost-efficient method to insure workers' compensation and that government intervention or taxation can negatively impact the City.

Therefore, the City:

1. Supports improving administrative efficiency of the Division of Workers' Compensation.
2. Opposes increased insurance premium costs to employers.
3. Opposes administrative burdens or taxes to self-insurance programs.
4. Supports limits to insurance claim litigation.
5. Opposes limiting the City's options and ability to manage workers' compensation claims; including actions like removing existing offsets to workers' compensation benefits or limiting the City's ability to designate treating physicians.
6. Opposes efforts to presumptively expand workers' compensation coverage to illnesses or injuries that are not work related.
- ~~7.~~ Opposes efforts to reduce or weaken protections against liability through governmental immunity or other statutory provisions.

7.

SMALL BUSINESS SUPPORT*ECONOMIC HEALTH; HIGH PERFORMING GOVERNMENT*

The COVID pandemic has further underscored the need for strong and stable small businesses in every community in the State. The City of Fort Collins actively supports small businesses throughout their stages of formation and growth. Changing consumer habits and increased online competition threaten to disrupt the faltering recovery for small businesses.

Therefore, the City:

1. Supports efforts to reduce the cost of food delivery for small businesses by managing third-party delivery fees and encouraging statewide licensing of these service providers.

~~2. Supports continued efforts to enable municipalities to consider local minimum wage policies.~~

~~3.2.~~ Supports efforts to enhance state-wide funding for small business support - including enhanced services to support new business formation owned by women, minority, low-income, and veteran individuals.

TRANSPORTATION INVESTMENT

TRANSPORTATION AND MOBILITY

The City actively promotes transportation infrastructure that facilitates the safe and efficient movement of people, goods, and services regardless of mode. Infrastructure improvements will be in concert with land use development while being respectful of community values and the environment.

Therefore, the City:

1. Supports alternative methods of funding transportation infrastructure needs.
2. Supports funding the analysis and implementation of inter- and intra-regional transit linkages, including future commuter rail connectivity.
3. Encourages flexibility in federal funding and regulations in order to better meet the needs of small to medium-size communities.
4. Supports guaranteed levels of federal funding for transportation and allocation of all federal motor fuel taxes and other federal transportation trust funds for their intended transportation purposes.
5. Supports funding for the build out of Interstate 25 improvements.
6. Supports additional funding options and availability for active transportation modes.
7. Supports broadening the definition of the gasoline tax to a “fuel tax” that encompasses other fuel options as they become more prevalent.
8. Opposes reductions to the present allocation formula of 60 percent state, 22 percent counties, and 18 percent municipalities for Highway User Tax Fund (HUTF) or any appropriations from the state using the same formula.
9. Supports enhanced ability to implement railroad quiet zones in municipalities, further options in pursuing various degrees of quiet zones, and an overall reduction in train horn decibel and duration requirements.

10. Opposes divesting highway roads in urban areas from the state and making them the sole responsibility of local jurisdictions without adequate compensation for ongoing maintenance.
11. Supports safe operation of railroads through timely track inspections, joint training and communication between railroad and emergency personnel, and the use of safe equipment.
12. Supports local regulatory and design standard control of public roads, pedestrian paths, and bike lanes to address all modes of transportation.

URBAN RENEWAL AND DOWNTOWN DEVELOPMENT

ECONOMIC HEALTH

The state of Colorado has empowered local authorities to use Urban Renewal Authorities (URA) and Downtown Development Authorities (DDA) to encourage downtown revitalization and the elimination of blight. The main funding tool for URAs and DDAs is Tax Increment Financing (TIF) generated through property taxes. In its best intention, urban renewal and downtown revitalization restores economic vitality and improves the safety of a designated area, with limited financial impact to other government jurisdictions.

Therefore, the City:

1. Opposes limitations on municipalities' ability to utilize financing mechanisms such as TIF.
2. Opposes efforts to increase influence of non-City jurisdictions over the use of TIF within City limits.
3. Supports maintaining the ability of downtown development authorities to utilize the full offering of tools and powers provided in the DDA Act.
4. Supports maintaining the ability of Urban Renewal Authorities to utilize the full offering of tools and powers provided for in state statute.

WATER, WASTEWATER, AND STORMWATER

ENVIRONMENTAL HEALTH; SAFE COMMUNITY

The City operates a water utility, a wastewater utility, and a stormwater utility in a financially sound, reliable, safe, and environmentally responsible manner. The availability of adequate water supplies is critical to the City and is managed by the Water Supply and Demand Management Policy, the Water Efficiency Plan, and other water-related codes, rules, regulations, plans, and policies.

Therefore, the City:

1. Supports expanding the authority delegated to the state to administer federally mandated water, stormwater, and wastewater environmental regulatory programs.

2. Supports reasonable water quality regulations that are cost effective and can show identifiable benefits.
3. Supports municipal flexibility to manage instream flows to preserve or improve the natural environment, while protecting the integrity of Colorado's appropriation doctrine, protecting the City's water supplies, and preventing injury to other water users.
4. Opposes unfunded mandates.
5. Opposes barriers to financing for water conservation projects and supports new financing opportunities for these projects including grants, zero/low interest loans, etc.
6. Supports funding for the recovery and treatment of the Fort Collins water supply, its watershed, and other waterways impacted by natural disasters and human-caused events, including fires.
7. Supports enhanced municipal authority to protect and increase the flexibility and resiliency of the City's water supplies under Colorado's appropriation doctrine, without causing injury to other water users and without adversely affecting instream flows or the natural environment. This includes potential bills related to treated water providers being able to more easily share treated water supplies between their distribution systems.
8. Supports reducing legal barriers and clarifying legal ambiguities related to water reuse and greywater projects, while protecting the integrity of Colorado's appropriation doctrine, protecting the City's water supplies, and preventing injury to other water users.
9. Supports streamlining federal and state permitting requirements for water development projects that increase coordination between permitting agencies, reduces administrative and financial burdens on permit applicants, and ensures robust and enforceable environmental protections.
10. Supports the enlargement of Halligan Reservoir as a common-sense, cost-effective, and environmentally-beneficial approach to meet Fort Collins Utilities' future water supply needs.

CITY OF FORT COLLINS LEGISLATIVE CONTACTS

Legislative Review Committee				
Name	District/Title	Email	Phone	
Councilmember Tricia Canonico	District 3	tcanonico@fcgov.com	970-305-6296	
Mayor Jeni Arndt	Mayor	jarndt@fcgov.com	970-413-3146	
Councilmember Shirley Peel	District 4	speer@fcgov.com	970-217-5817	
Kelly DiMartino	Interim City Manager	kdimartino@fcgov.com	(970) 416-2028	
Carrie Daggett	City Attorney	cdaggett@fcgov.com	(970) 416-2463	
Tyler Marr Ginny Sawyer	Legislative Staff	tmarr@fcgov.com gsawyer@fcgov.com	(970) 416-4205 (970) 224-6094	

Legislative Staff Liaison Members				
Topic Area	Name	Title	Email	Phone
Affordable Housing and Social Sustainability	Meaghan Overton Beth Yonce	Housing Manager, Social Sustainability Director	moverton@fcgov.com byonce@fcgov.com	(970) 221-6752

Air Quality	Cassie Archuleta	Air Quality Program Manager	carchuleta@fcgov.com	(970) 416-2648
Broadband	Chad Crager	Broadband Director	ccreager@fcgov.com	(610) 224-6001
Cable Television Franchise	Carson Hamlin	Cable Television Manager	chamlin@fcgov.com	(970) 221-6510
Childcare	Adam Molzer	City Grants and Community Partnerships Coordinator	amolzer@fcgov.com	(970) 221-6757
Climate	Honore Depew	Climate Program Manager	hdepew@fcgov.com	(970) 224-6143
Environmental Protection	Lindsay Ex	Environmental Services Director	lex@fcgov.com	(970) 224-6085
Elections, Liquor and Marijuana Licensing	Tammi Pusheck Anissa Hollingshead	Interim City Clerk	tpusheck@fcgov.com ahollingshead@fcgov.com	(970) 416-8025
Energy	Tim McCollough , John Phelan	Light and Power, Deputy Utilities Director Energy Services, Senior Manager	tmccollough@fcgov.com jphelan@fcgov.com	(970) 416-2622 (970) 416-2539
Finance	Travis Storin	Interim Chief Financial Officer	tstorin@fcgov.com	(970) 221-6795
Economic Health	Josh Birks	Economic Health Director	jbirks@fcgov.com	(970) 221-6324
Fire Protection and HAZMAT Mgmt	Derek Bergsten	Division Chief, Poudre Fire Authority	derek.bergsten@poudre-fire.org	(970) 566-7274
Human Resources	Teresa Roche	Chief Human Resources Officer	troche@fcgov.com	(970) 221-6717
Natural Areas, Open Lands and Cache la Poudre River Issues	Zoe Shark Katie Donahue	Interim Natural Areas Director	zshark kdonahue@fcgov.com	(970) 221-6263 416-8067
Building Services	Russ Hovland Marcus Coldiron	Interim Chief Building Official	rhovland mcoldiron@fcgov.com	(970) 416-2324 444
Parks and Recreation	Mike Calhoon, LeAnn Williams Aaron Harris	Director of Parks, Interim Director of Recreation	mcalhoon@fcgov.com aharris lewilliams@fcgov.com	(970) 416-2079 (970) 416-2225
Planning and Land Use	Paul Sizemore, Rebecca Everette	Community Development and Neighborhood Services Director, Planning Manager	psizemore@fcgov.com reverette@fcgov.com	(970) 224-6140 (970) 416-2625
Public Safety	Greg Yeager	Deputy Chief of Police	gyeager@fcgov.com	(970) 416-2185

Recycling and Solid Waste Reduction	Caroline Mitchell	Environmental Program Manager	cmitchell@fcgov.com	(970) 221-6288
Risk Management	Claire Goodwin	Safety, Security, and Risk Management Director	cgoodwin@fcgov.com	(970) 221-6774
Stormwater	Theresa Connor, Andrew Gingerich	Interim Utilities Director, Water Field Operations Director	tconnor@fcgov.com agingrich@fcgov.com	(970) 221-6671 (970) 221-6232
Transportation	Dean Klingner	Planning, Development and Transportation Deputy Director	dklingner@fcgov.com	(970) 416-2029
Utilities Customer Connections and Water Conservation	Gretchen Stanford	Interim Deputy Director, Customer Connections	gstanford@fcgov.com	(970) 416-2627
Water Supply and Quality	Theresa Connor <u>Jason Graham</u>	Interim Utilities Director <u>of</u> <u>Water Utilities</u>	tconnor@fcgov.com <u>jgraham@fcgov.com</u>	(970-221-6921) <u>(970) 221-6671</u>



Legislative Review Committee Minutes
Tuesday, August 30, 2022
3:00-4:00PM

Committee Members Present:

Tricia Canonico (chair), Shirley Peel

Committee Members Absent:

Jeni Arndt

Staff Present:

Tyler Marr, Ginny Sawyer, John Duval, Megan Valliere, Jennifer Cassell (lobbyist), Ed Bowditch (lobbyist)

1. No changes to the minutes from June 28, 2022, meeting.
2. Review current Legislative Policy Agenda 2023 updates.
 - a. Additions, changes, or comments:
 - i. Councilmember Canonico asked if the recommended changes to the Legislative Policy Agenda (LPA) regarding letters of support would preclude Committee members from receiving staff support for bill testimony.
 1. Tyler responded that the intent of this recommended change is to help discern decisions about when staff can provide letters based on the explicit language of the LPA and the nature of the requesting agency versus when Committee members would need to take a more active role. Staff will still be available to assist when Committee members would like to testify on specific bills supported by CML and CC4CA.
 - ii. There were a few changes to the LPA in the area of housing, and Jen and Ed see affordable housing as a huge topic to watch during this year's session of the General Assembly.
 - iii. Councilmember Peel asked a question related to [HB 22-1137, Homeowner's Association Board Accountability and Transparency](#). She mentioned that a constituent reached out to her with concern about this bill and asked whether we can or should address that within the LPA.
 1. Tyler responded that this is the first time we have heard from a resident regarding this piece of legislation. When Councilmember Peel returns from travel, she will forward this information to staff in the City Manager's Office. Staff will either come up with a suggested edit to the LPA or provide a justification for leaving the LPA as is regarding HB 22-1137.
 - iv. The committee discussed whether we have heard of any state-level conversations about removing parking minimums for developments within a certain distance of transit routes.
 1. Tyler said he will flag this topic for a conversation with Caryn Champine as part of Land Use Code updates.

2. Ed replied that nothing is happening with this at the state-level that he knows of but that there is a very active movement to support a policy of this type in Denver.
- v. To clarify the LPA and keep it on track for adoption earlier than in previous years, Ginny will remove language specifying the time frame for elections.
- vi. Councilmember Canonico stated that as of Friday, 08/26/2022, the EPA has labelled PFAS as a hazardous material. She asked if we should add something to the LPA about consumer education or PFAS removal.
 1. Ginny flagged this topic for further investigation.
- vii. John Duval discussed a requested change to the LPA and an advocacy topic for this year's session of the legislature. As SB 20-217, Enhance Law Enforcement Integrity, is currently written, the POST board could revoke or suspend an officer's POST certification for not activating body worn cameras when in interactions being recorded by other means.
 1. Councilmembers Canonico and Peel would like to proceed with an LPA edit that advocates for officers' ability to turn off body worn cameras when they are in circumstances in which their interactions are being recorded by other means (i.e., in interview rooms or during phone interviews).
- viii. Councilmember Peel requested clarification regarding blight studies for URA development. She asked staff if we are required to spend a minimum of \$50,000 on a blight study to have an area declared eligible for URA funding.
 1. John responded that there isn't a cost requirement for the study but that certain components are required to be present to make a blight determination. We can see if there are ways to make a blight declaration easier, but ultimately the evidence must be convincing to the City Council. A state-of-the-art, comprehensive blight study by consultants could likely cost around \$50,000, but we can try to find other ways to conduct these studies.
 2. Since this issue is more local in nature, staff will follow up to find out what is common practice for Fort Collins to see if there is a way to address this cost barrier.
 3. Jen caught wind that Adams County might be interested in running URA legislation that would allow counties some of the same authority that municipalities hold in this area. Adams County and others may bring this to CCI to discuss and explore legislation ahead of the session.
- ix. Under the Water, Wastewater, and Stormwater section of the LPA, Councilmember Canonico asked why number 5 is worded "opposes barriers to financing for water conservation projects" rather than "supports financing opportunities for water conservation projects"?
 1. Tyler said that his recollection of the history behind that wording is that there are many regulatory barriers in the water conservation space, especially regarding storage projects. We don't want to de-emphasize how burdensome the regulatory process is, but Tyler heard support from the LRC to include language that directly promotes greater state

funding for water conservation projects. Staff will look at this and propose new language to the LPA.

- x. Tyler added that the DDA is starting think about their renewal period sunseting. It is currently a thirty-year window, and the period is ending later this decade. We plan to work with the DDA and other cities across the state to request an extended sunset for development funding.
- xi. Anissa Hollingshead and other city clerks would like to advocate for precinct boundaries to follow county incorporation boundaries. This will make it easier for clerks to determine city-specific voter turnout statistics. There is a clerk's section of CML, and that is where staff will solicit more information and feedback on this topic.
- xii. Finally, staff is looking for clarification on liquor licensing for established on-street patios. City staff will continue communications with lobbyists and other interested communities with support from the LRC. Potential partners include Boulder and Arvada. Tyler noted that there is room for clarification on the rules surrounding liquor and entertainment districts.

b. Target adoption date

- i. The final redlined version of the LPA will be sent in a memo which staff will work to complete. Staff hopes to come to the full council for adoption sometime in October.

3. CC4CA

a. Will attend September LRC meeting.

- i. Councilmember Canonico stated that they might be attending in-person for that meeting.
- ii. Ginny will follow up with CC4CA and make appropriate accommodations.

4. Other Business

a. Washington D.C. trip

i. Confirm dates and visits of interest

- 1. Tyler, Councilmember Canonico, and Mayor Arndt will be visiting Washington D.C. on September 22 and 23.
- 2. Tyler and Megan have met with PDT regarding various grant programs. Staff hopes to build awareness for these programs because we expect stiff competition for federal dollars. For elected officials, we want to spend time discussing where mid-size municipalities are struggling with applying for federal grant dollars.
- 3. Councilmember Peel asked if staff will put all Council trips and conferences on the calendar for next year.
 - a. Tyler responded that this item is on the to-do list for early next year. Staff wants to be more coordinated in these efforts, and a full list of proposed dates will be presented at Council's planning session in January.

b. Schedule Legislative Breakfast

- i. The legislative breakfast is a time for LRC members and others to meet with our state legislative delegation. Ginny will start working with them to find a date on

the calendar, and we will essentially take any time we can get given the difficulty of scheduling this event.

c. Capitol Watch

- i. This is a bill tracking system that has proven incredibly useful to staff. Ginny offered to give a tutorial to Councilmembers Canonico and Peel so that they can decide if they would like access to the platform.

October 18, 2022



AGENDA ITEM SUMMARY

City Council

STAFF

Cassie Archuletta, Air Quality Program Manager
Judy Schmidt, Legal

SUBJECT

Resolution 2022-105 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the Larimer County Board of Health for Purchase and Use of an Optical Gas Imaging (OGI) Camera.

EXECUTIVE SUMMARY

The purpose of this item is to authorize the City Manager to sign an Intergovernmental Agreement (IGA) with Larimer County Board of Health, where the City will provide \$100,000 in appropriated funds toward the purchase of an OGI camera that will be owned and operated by the County, for the purpose of detecting hydrocarbon leaks at oil and gas and other sites within the City and County.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

In April 2022, Council and Larimer County Commissioners met jointly, and directed staff to establish agreements to share air quality monitoring and compliance resources. One priority need identified is the ability to detect emissions from oil and gas operations in a field contained partially within City limits in northeast Fort Collins. As emissions from these facilities are invisible and sometime odorless, optical gas imaging (OGI) cameras can be used to respond to complaints, identify leaks and help ensure regulatory compliance with State and County rules that prohibit uncontrolled emissions.

For 2022, Council had adopted an air quality monitoring budget, in part to be used for regional priorities. Additionally, in September 2021, Larimer County adopted new oil and gas regulations, and in 2022 hired new air quality staff to support site inspections and leak detections at oil and gas facilities. The Intergovernmental Agreement (IGA) was drafted to leverage resources by committing City funds towards the purchase of an OGI, which would then be owned, operated and maintained by Larimer County field personnel, in part for complaint response and leak detections at oil and gas facilities in and near Fort Collins City limits.

CITY FINANCIAL IMPACTS

Required funds have already been appropriated in the 2022 General Fund for purposes of regional collaboration and improved air quality monitoring. No ongoing costs to the City are expected.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Not applicable.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Resolution for Consideration
2. Exhibit A

RESOLUTION 2022-105
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF FORT COLLINS AND THE LARIMER COUNTY BOARD OF
HEALTH FOR PURCHASE AND USE OF AN OPTICAL GAS IMAGING (OGI) CAMERA

WHEREAS, in April 2022, the Fort Collins City Council and the Larimer County Commissioners met jointly, and directed staff to establish agreements to share air quality monitoring and compliance resources; and

WHEREAS, one identified City priority is gaining the ability to detect emissions from oil and gas operations within City limits in northeast Fort Collins and the County, as emissions from these facilities are invisible and sometime odorless, and optical gas imaging (OGI) cameras can be used to respond to complaints, identify leaks and help ensure regulatory compliance with State and County rules that prohibit uncontrolled emissions; and

WHEREAS, both inactive and active oil and gas operations have the potential to release harmful emissions into the air surrounding our communities impacting air quality, health and climate change; and

WHEREAS, uncontrolled leaks from oil and gas operations are prohibited by both State and County regulations; and

WHEREAS, air pollution is a matter of regional concern and the City and Larimer County Board of Health have interest in identifying and controlling emissions within and outside of their respective jurisdictional boundaries; and

WHEREAS, in September 2021, Larimer County adopted new oil and gas regulations, and in 2022 hired new air quality staff to support site inspections and leak detections at oil and gas facilities; and

WHEREAS, the City and Larimer County Board of Health wish to enter into an intergovernmental agreement (“IGA”) to jointly fund the purchase and use of an OGI camera as a monitoring tool to help the Board of Health identify compliance issues such as leaking hydrocarbon emissions at oil and gas operations and other sources of hydrocarbon emissions; and

WHEREAS, the City funds needed to support the purchase of the OGI camera as described in the IGA were appropriated in the General Fund for 2022, to support regional priorities; and

WHEREAS, Article II, Section 16 of the City Charter empowers the City Council, by ordinance and resolution, to enter into contracts with governmental bodies to furnish governmental services and make charges for such services, or enter into cooperative or joint activities with other governmental bodies; and

WHEREAS, Section 29-1-203 of the Colorado Revised Statutes and Article XIV, Section 18 of the Colorado Constitution provides that governments may cooperate or contract with one

another to provide certain services or facilities when such cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the power to so approve; and

WHEREAS, under Section 1-22 of the City Code, intergovernmental agreements and other cooperative arrangements between the City and other governmental entities are to be submitted to the City Council for review, unless they fit within one of the exceptions that permit execution by the City Manager; and

WHEREAS, the City Council has determined that the IGA is in the best interests of the City and its residents, and the City Manager should be authorized to execute the IGA.

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

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

Section 2. That the City Manager is hereby authorized to execute the IGA substantially in the form attached hereto as Exhibit "A," with such modifications and additions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes set forth herein and not otherwise inconsistent with this Resolution.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 18th day of October, A.D. 2022.

Mayor

ATTEST:

Chief Deputy City Clerk

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF FORT COLLINS
AND
LARIMER COUNTY BOARD OF HEALTH FOR PURCHASE AND USE OF AN OPTICAL GAS IMAGING (OGI)
CAMERA**

THIS AGREEMENT made and entered into this _____ day of _____, 2022 by and between the CITY OF FORT COLLINS, a Colorado home rule municipality (hereinafter referred to as “the City”) and LARIMER COUNTY BOARD OF HEALTH, Colorado (hereinafter referred to as “the Health Department”) (collectively the “Parties”).

WHEREAS, Oil and gas operations, including all preproduction, production, surface operations, and transport activities, exist within the incorporated City of Fort Collins, the Fort Collins Growth Management Area (GMA), and throughout Larimer County; and

WHEREAS, both inactive and active oil and gas operations have the potential to release harmful emissions into the air surrounding our communities impacting air quality, health and climate change; and

WHEREAS, uncontrolled leaks from oil and gas operations are prohibited by both State and County regulations; and

WHEREAS, the Larimer County Department of Health and Environment serves as duly delegated representatives of the Colorado Air Pollution Control Division of the Colorado Department of Public Health and Environment, including authority to support inspection, investigation of complaints, and reporting results of investigations to the APCD related to oil and gas operations; and

WHEREAS, optical gas imaging (OGI) cameras are monitoring tools that can help identify compliance issues such as leaking hydrocarbon emissions at oil and gas operations; and

WHEREAS, OGI cameras can also support education/outreach efforts for improving air quality in relation to other sources of hydrocarbon emissions like transportation and lawn and garden equipment; and

WHEREAS, air pollution is a matter of regional concern and the City and Health Department have interest in identifying and controlling emissions within and outside of their respective jurisdictional boundaries; and

WHEREAS, the City Council has appropriated the sum of \$100,000 in City funds for the City’s Air Quality Programs, which include furthering leak detection and enforcement of emissions from oil and gas operations; and

WHEREAS, the agreements and understandings set forth below will promote increased coordination between the City and Health Department and result in better management, control and enforcement of oil and gas operations related emissions; and

WHEREAS, the Parties are authorized under C.R.S. §§ 29-1-201, *et seq.*, as amended, to cooperate and contract with one another with respect to functions lawfully authorized to each of the Parties, and the people of the State of Colorado have encouraged such cooperation and contracting through the adoption of Article XIV, § 18(2) of the Colorado Constitution; and

WHEREAS, under the City Charter and City Code Section 1-22, and C.R.S. 29-20-101, this intergovernmental agreement is subject to the City Council's approval; and

WHEREAS, it is in the best interest of the Parties, their residents and public health and safety to cooperate in enhancing capacity to identify and control emissions from oil and gas operations as set forth in this Agreement.

NOW, THEREFORE, in consideration of mutual rights and obligations as set forth below, the City and County agree as follows:

1. Procurement, Operation and Maintenance of OGI Camera

- 1.1. The City will contribute up to \$100,000 to the Health Department to be applied toward the purchase price of one (1) OGI camera. The City shall issue a purchase order to the Health Department in the amount of \$100,000 no later than December 31, 2022. The Health Department will invoice the City for payment upon receipt of the OGI camera and payment shall be made Net 30 days from the date of the invoice. The Health Department's invoice shall include a copy of the invoice for the OGI camera as supporting documentation.
- 1.2. The Health Department will purchase the OGI camera and provide any funds necessary in excess of \$100,000 to complete such purchase; procurement will begin no later than March 31, 2023, and will adhere to Larimer County Procurement's competitive bid and other purchasing requirements.
- 1.3. The Health Department will have the exclusive right to own and operate the OGI camera; this Agreement is not intended to create a joint ownership or joint venture.
- 1.4. The Health Department will provide trained and certified staff to operate the OGI camera throughout the Term of the Agreement.
- 1.5. The Health Department will be responsible for any and all required calibration and routine maintenance of the camera throughout the Term of the Agreement.

2. Complaint Response, Inspections and Reporting

- 2.1. The Health Department will utilize the OGI camera according to applicable state or local standards as appropriate to assist in identification and documentation of hydrocarbon

leaks both as part of a complaint response and for routine inspections located in the City in addition to those located in their jurisdiction throughout the Term of the Agreement.

- 2.2. The City will notify the Health Department of any leak or odor complaints within City limits.
 - 2.3. The Health Department will use the camera to respond to complaints, including, but not limited to, those that are covered by the contract with the CDPHE for air quality monitoring, as well as complaints within the City, the Fort Collins GMA, and the remainder of the County throughout the Term of the Agreement.
 - 2.4. Throughout the Term of the Agreement, the Health Department will provide an annual report to the City regarding the complaints and the responses to those complaints.
 - 2.5. The Health Department and the City will work with the Air Pollution Control Division and the Colorado Oil and Gas Conservation Commission (COGCC), or other entity with regulatory authority when a leak or other potential compliance issue is detected within the City or the Fort Collins GMA to ensure appropriate compliance measures are taken, such as any necessary repairs per the applicable regulations.
3. **Term of Agreement.** The Health Department will maintain and operate the OGI camera for the useful life of the camera ("Useful Life"), or a period of at least 10 years, whichever comes first (the "Term"). The Useful Life of the camera shall be defined as such period the camera remains functional for its intended use and any repairs necessary to maintain the functionality of the camera are less than twenty (20) percent of the original cost of the camera.
 4. **Default.** Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this agreement, such party may be declared in default thereof.
 5. **Remedies.** In the event a party has been declared in default, such defaulting party shall be allowed a period of ten (10) days within which to cure said default. In the event the default remains uncorrected, the party declaring default may elect to (a) terminate the Agreement and seek damages; (b) if the OGI Camera remains functional, treat the Agreement as continuing and require specific performance; or (c) avail himself of any other remedy at law or equity.

6. MISCELLANEOUS

- A. Notice. Any notice shall be sent to the parties listed below.

1. If to Health Department: Director of Environmental Health
1525 Blue Spruce Drive
Fort Collins CO 80524
2. If to Fort Collins: City Manager's Office
PO Box 580
300 LaPorte Ave

Ft. Collins, CO 80521

Copied to: City Attorney's Office
PO Box 580
300 LaPorte Ave
Ft Collins CO 80521

B. Annual Appropriations. Any financial obligations of the Parties arising under this Agreement are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available by the respective governing bodies of the Parties in their sole discretion. No term or condition of this Agreement is intended nor shall be interpreted to create a multi-fiscal year obligation or debt of the Parties.

C. Entire Agreement. This Agreement is to be construed according to its fair meaning and as if prepared by all Parties hereto and is deemed to be and contain the entire understanding and agreement between the Parties hereto. There shall be deemed to be no other terms, conditions, promises, understandings, statements, or representations, expressed or implied, concerning this Agreement unless set forth in writing and signed by the Parties hereto.

D. Governing Law. This Agreement shall be governed by and its terms construed under the laws of the State of Colorado and venue for any action hereunder shall be in Larimer County District Court.

E. Nature of Relationship. The provisions of this Agreement shall not be construed as creating a partnership, joint venture, or other relationship between the Parties. Unless specifically provided, this Agreement shall not allow any Party to act as the agent of the other Party, nor permit any Party to have any authority to act for, or to assume any obligations or responsibilities on behalf of the other Party, nor in any manner limit the Parties in carrying out their respective separate businesses or activities. Employees, agents, consultants, and attorneys of one Party are not, and shall not be deemed to be, employees, agents, consultants, and attorneys of the other Party.

F. No Personal Liability. No elected official, director, officer, agent or employee of any of the Parties shall be charged personally by, or held contractually liable to, any Party under the terms and conditions of this Agreement or any breach thereof, or because of its or their execution, approval or attempted execution of this Agreement.

G. Third Party Beneficiaries. This Agreement is made for the sole and exclusive benefit of the Parties, and their successors and assigns, and it is not made for the

benefit of any third party. The enforcement of the terms and conditions in this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Parties. No third-party beneficiary rights shall be created by this Agreement in favor of any person not a party to this Agreement, unless the Parties mutually agree otherwise in writing.

H. Counterparts. This Agreement may be signed by the Parties, electronically or otherwise, in counterparts.

I. Governmental Immunity. No term or condition of this Agreement is intended nor shall be construed as a waiver, either express or implied, of the monetary limits, notice requirements, immunities, rights, benefits, defenses, limitations and protections available to the Parties under any applicable law, including but not limited to the Colorado Governmental Immunity Act, C.R.S. 24-10-101, *et. seq.*, as currently written or hereafter amended or implemented.

J. Assignment. No Party may assign its interest in this Agreement without the written consent of the other Parties, which consent may be withheld at the sole discretion of each Party.

K. Amendment. This Agreement may be modified or amended from time to time to reflect the mutual agreements and understandings of the Parties regarding the subject matter hereof. However, no modification or amendment of the terms and conditions in this Agreement shall be valid or binding unless such modification or amendment is in writing and signed by all of the Parties or their respective successors in interest. The terms and conditions of any such modification or amendment shall be construed according to their fair meaning.

L. Waiver. A waiver of any term or condition of this Agreement must be in writing and executed by all the Parties. No waiver of any breach of any term or condition of this Agreement by any Party shall be deemed to imply or constitute a waiver of any other term or condition of this Agreement. The failure of any Party to insist on strict performance of any term or condition of this Agreement shall not constitute or be construed as a waiver of that Party's or any other Party's rights including, without limitation, the right thereafter to enforce any other default of such term or condition; neither shall such failure to insist upon strict performance be deemed sufficient grounds to enable any Party to forego or subvert or otherwise disregard any other term or condition of this Agreement.

M. Force Majeure. No Party hereto shall be considered in default in the performance of an obligation hereunder to the extent that performance of such obligation is delayed, hindered, or prevented by force majeure. Force majeure shall be

any cause beyond the control of the defaulting Party which could not reasonably have been foreseen and guarded against. Force majeure includes, but is not limited to, acts of God, fires, riots, pandemics, incendiarism, interference by civil or military authorities, compliance with regulations or orders of military authorities, and acts of war (declared or undeclared), provided such cause could not have been reasonably foreseen and guarded against by the defaulting Party. Force majeure shall not include increases in labor, commodity, utility, material, supply, fuel, or energy costs, or compliance with regulations or orders of civil authorities.

N. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and to their respective heirs, legal representatives, successors, executors, and permitted assigns.

O. Construction. Throughout this Agreement, the singular shall include the plural, the plural shall include the singular, and all genders shall be deemed to include other genders, wherever the context so requires. The terms “including,” “include” or derivatives thereof, unless otherwise specified, shall be interpreted in as broad a sense as possible to mean “including, but not limited to,” or “including, by way of example and not limitation.”

P. Authority. Each of the Parties represents to the other Parties that such Party has full power and authority to execute, deliver, and perform this Agreement, that such Party has taken the necessary steps that are lawfully required to execute, deliver, and perform this Agreement, and that the individual(s) executing this Agreement on behalf of such Party are fully empowered and authorized to do so.

Q. Severability. If any provision of this Agreement is held to be invalid or unenforceable to any extent, the Parties shall meet, confer, and agree on appropriate modifications to this Agreement to ensure that the original intent, obligations, goals, and purposes of this Agreement are satisfied.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be ratified by their governing Boards or Councils or duly authorized officers as of the date first written.

LARIMER COUNTY BOARD OF HEALTH

By: _____
Tom Gonzales, MPH
Public Health Director

CITY OF FORT COLLINS, COLORADO

By: _____
Kelly DiMartino, City Manager

ATTEST:

City Clerk

Approved as to form:

Judy Schmidt, Sr. Assistant City Attorney

October 18, 2022

AGENDA ITEM SUMMARY

City Council



STAFF

Anissa Hollingshead, City Clerk
Carrie Daggett, Legal

SUBJECT

Resolution 2022-106 Making Appointments to the Youth Advisory Board.

EXECUTIVE SUMMARY

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

STAFF RECOMMENDATION

Staff recommends adoption of this Resolution.

BACKGROUND / DISCUSSION

This Resolution appoints two individuals to fill vacancies left from previous board members. These appointments will begin and expire as noted next to each recommended name shown below.

Youth Advisory Board

Appointments	Term Effective Date	Expiration of Term
Micah Probst (Seat A)	October 18, 2022	December 31, 2023
Michelle Zhou (Seat B)	October 18, 2022	December 31, 2023

CITY FINANCIAL IMPACTS

Not applicable.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Not applicable.

PUBLIC OUTREACH

Public outreach to seek applicants for the Youth Advisory Board included advertising in print publications, media releases for coverage in local media sources, and social media promotion of opportunities.

ATTACHMENTS

1. Resolution for Consideration
2. Applications (redacted)

RESOLUTION 2022-106
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING APPOINTMENTS TO THE YOUTH ADVISORY BOARD

WHEREAS, the Youth Advisory Board has vacancies that have been open for an extended time; and

WHEREAS, Councilmembers interviewed candidates for this appointment on September 29, 2022; and

WHEREAS, the City Council desires to make appointments to fill these vacancies on the Youth Advisory Board.

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

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

Section 2. That the following named persons are hereby appointed to fill the vacancies on the Youth Advisory Board with a term to begin and expire as noted below next to the appointee's name.

Youth Advisory Board

Appointments	Term Effective Date	Expiration of Term
Micah Probst (Seat A)	October 18, 2022	December 31, 2023
Michelle Zhou (Seat B)	October 18, 2022	December 31, 2023

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 18th day of October, A.D. 2022.

Mayor

ATTEST:

Chief Deputy City Clerk

VOLUNTEER APPLICATION

Micah Probst

8/9/2022 10:07 PM

Application: YAB - Youth Advisory Board

Applicant Information

Birthday: 07/30/2005

Gender: Male

Education Level: Some College

Address: [REDACTED]
Fort Collins, CO 80525

Phone: (M) [REDACTED] <<
(H) [REDACTED]

Availability

	S	M	T	W	T	F	S
Morning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Afternoon	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Evening	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Volunteer Groups Applied For

Youth Advisory Board

Job Description

☒ I have read the job description

Questions

Which Council District do you live in? Please refer to the map at: <https://gisweb.fcgov.com/HTML5View> 3

What school do you attend? If not attending traditional school please list alternative method of school. Colorado Early Colleges

What is your expected date of graduation? May 2023

Volunteer experience (please include dates): Habitat for Humanity (November 2021)

Why do you want to become a member of this particular board and what do you hope to gain from this experience? I want to learn more about how local governments are run to further my progress to becoming a well educated citizen.

If applicable, please list any other clubs, groups, or other organizational bodies that you are a member. I have previously been a member of my schools student government and have been a member of my karate schools demonstration team for the last 8 years.

How did you learn of a vacancy on this board or commission? Other (please specify); My mother informed me of the position and advised me to pursue it.

VOLUNTEER APPLICATION

Shel Zhou

8/20/2022 8:47 PM

Application: **YAB - Youth Advisory Board**

Applicant Information

Birthday: 02/19/2007

Gender:

Education Level: High School

Address:
Fort Collins, CO 80525

Phone: (H)
(M) <<

Availability

	S	M	T	W	T	F	S
Morning	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Afternoon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Evening	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Volunteer Groups Applied For

Youth Advisory Board

Skills & Interests

Additional Skills / Interests: Chinese

Job Description

☒ I have read the job description

Questions

Which Council District do you live in? Please refer to the map at: <https://gisweb.fcgov.com/HTML5View> 3

What school do you attend? If not attending traditional school please list alternative method of school. Fossil Ridge High School

What is your expected date of graduation? May 2025

Volunteer experience (please include dates):
Larimer County Food Bank Volunteer
November: 2021-Present
Science Olympiad Test Proctor: February 2022
FSHN Department CSU Cooking Summer Camp: June 2022

Why do you want to become a member of this particular board and what do you hope to gain from this experience?

I applied to this position, because the job description indicates a lot of responsibility, and I'm hoping to gain more leadership skills from this experience. I think being a member of this board will teach me more about communication and working with peers.

If applicable, please list any other clubs, groups, or other organizational bodies that you are a member.

How did you learn of a vacancy on this board or commission

Mock Trial
Fossil Ridge Theatre
Mu Alpha Theta National Math Honors Society
HOSA
National Science Honors Society
Website

October 18, 2022



AGENDA ITEM SUMMARY

City Council

STAFF

Paul Sizemore, Director, Community Development & Neighborhood Services
Maren Bzdek, Manager, Historic Preservation Services
Jim Bertolini, Senior Historic Preservation Planner
Brad Yatabe, Legal

SUBJECT

Resolution 2022-107 Adopting Findings of Fact Supporting the Historic Preservation Commission's Decision to Deny Proposed Window Alterations to the Landmarked Property Located at 1306 West Mountain Avenue and Denying the Appeal.

EXECUTIVE SUMMARY

The purpose of this item is to make findings of fact regarding the appeal of the Historic Preservation Commission's decision to deny the proposed window treatment for the northwest bedroom at 1306 West Mountain Avenue. The appeal was heard by Council on October 4, 2022.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

On July 20, 2022, the Historic Preservation Commission (HPC) held a hearing to consider a proposed alteration to the designated City Landmark at 1306 West Mountain Avenue, the William & Violet Jackson/Robert Bailey Property. The proposal included an addition onto the rear of the property, along with associated alterations to the historic window pattern on the west elevation of the historic building near the northwest corner. The HPC approved the addition, but denied the associated window modifications, finding that the alteration did not meet Standards 2 and 5 of the *U.S. Secretary of the Interior's Standards for Rehabilitation* (adopted by reference in Municipal Code 14, Article IV). Following the July 20, 2022, HPC appeal hearing, on August 2, 2022, the property owner and their contractor filed a Notice of Appeal, with the following allegations:

1. The Historic Preservation Commission was biased against the appellant by reason of a conflict of interest or other close business, personal or social relationship that interfered with the HPC's independence of judgement.
2. The Historic Preservation Commission failed to properly interpret and apply relevant provisions of the City Code, specifically City Code Section 14-53 or more specifically, Secretary of the Interior Rehabilitation Standards 2 and 5 which are incorporated in Section 14-53.

On October 4, Council conducted a hearing to consider the allegations in the appeal, the record on appeal, and presentations by City staff, the Appellant and the owner of 1306 West Mountain Avenue, and Laura Bailey, a party-in-interest opposed to the appeal. Council noted that the proper City Code Section being appealed was Section 14-54, not 14-53 as stated in the notice of appeal, although it was clear that the notice of appeal intended Section 15-54. After discussion, Council voted (4-1, 1 recusal, 1 absence) to deny the appeal, finding that the Historic Preservation Commission conducted a fair hearing and properly interpreted City Code Section 14-54 with regards to Secretary of the Interior Rehabilitation Standards 2 and 5.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Not applicable.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Resolution for Consideration

RESOLUTION 2022-107
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ADOPTING FINDINGS OF FACT SUPPORTING THE HISTORIC PRESERVATION
COMMISSION'S DECISION TO DENY PROPOSED WINDOW ALTERATIONS TO THE
LANDMARKED PROPERTY LOCATED AT 1306 W. MOUNTAIN AVENUE AND
DENYING THE APPEAL

WHEREAS, the property located at 1306. W. Mountain Avenue was designated as a Fort Collins landmark in 2014 as the William and Violet Jackson Property (the "Property"); and

WHEREAS, pursuant to City Code Section 14-54, proposed alterations of a Fort Collins landmark must meet the United States Secretary of the Interior Standards for Rehabilitation of historic properties (the "Standards") in order for the HPC to approve such alterations; and

WHEREAS, on July 20, 2022, the Fort Collins Historic Preservation Commission (the "HPC") conducted a public hearing to review proposed alterations to the Property and at the hearing, the HPC on a 4-2 vote approved certain alterations but denied proposed alterations to remove an existing window in the northwest bedroom and install two new windows (the "Window Alterations") because the Window Alterations did not meet Standards #2 and #5; and

WHEREAS, pursuant to City Code Sections 2-46 and 2-49, a notice of appeal was timely filed (the "Appeal") and the party (the "Appellant") filing the Appeal is the Property owner's representative and is a party-in-interest eligible to file an appeal; and

WHEREAS, the Appeal alleged that the HPC failed to conduct a fair hearing because Commissioner Meg Dunn was biased against the Appellant by reason of a conflict of interest or other close business, personal or social relationship that interfered with her independence of judgment as a decision maker; and

WHEREAS, the Appeal further alleged that the HPC failed to properly interpret and apply City Code Section 14-53, specifically that the HPC improperly interpreted and applied Standards #2 and #5 and the Secretary of Interior's technical bulletin ITS Number 14 when the HPC denied the Window Alterations; and

WHEREAS, while the Appeal allegation of failure to properly interpret and apply refers to City Code Section 14-53, the correct City Code Section is 14-54 and, because it is clear from the Appeal that was what the Appellant intended, Council finds that it is reasonable to consider the Appeal as though it referenced City Code Section 14-54; and

WHEREAS, the City Council finds that based upon City staff testimony at the Appeal Hearing that the Secretary of Interior's technical bulletin ITS Number 14 is intended to provide guidance in the application of the Standards but is not itself a City Code, Land Use Code, or Charter provision subject to appeal pursuant to City Code Section 2-48; and

WHEREAS, on October 4, 2022, the City Council, after notice given in accordance with City Code Section 2-52, held a public hearing (the "Appeal Hearing") pursuant to City Code

Section 2-54 to consider the allegations raised in the Appeal at which hearing the City Council considered the record on appeal, and testimony from City Staff, the Appellant and Property owner, and Laura Bailey, a party-in-interest opposed to the Appeal; and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the Appeal Hearing, that the HPC conducted a fair hearing because the Appellant did not establish with competent evidence in the record that Commissioner Dunn was biased against the Appellant, and there is competent evidence in the record indicating that Commissioner Dunn applied the appropriate legal standards in a reasoned and unbiased manner; and

WHEREAS, the City Council further found and concluded based on the evidence in the record and presented at the City Council Appeal Hearing, that the HPC properly interpreted and applied City Code Section 14-54 with regards to Standards #2 and #5 because the Appellant did not establish with competent evidence that the HPC failed to do so and, there is competent evidence in the record indicating a reasoned and reasonable HPC discussion and application of Standards #2 and #5 to the Window Alterations in light of the purpose of preserving the historic nature of the Property; and

WHEREAS, City Code Section 2-56(c) provides that no later than the date of its next regular meeting after the hearing of an appeal, City Council shall adopt, by resolution, findings of fact in support of its decision on such appeal.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that, pursuant to Section 2-56(c) of the City Code, the City Council hereby makes and adopts the following findings of fact and conclusions:

1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.
2. That, based on the evidence in the record and presented at the City Council Appeal Hearing, the Council finds that the HPC conducted a fair hearing because Commissioner Meg Dunn was not biased against the Appellant for the reasons set forth in the recitals above.
3. That, based on the evidence in the record and presented at the City Council Appeal Hearing, the Council finds that the HPC properly interpreted and applied City Code Section 14-54 regarding Standards #2 and #5 for the reasons set forth in the recitals above.
4. That, based on the evidence in the record and presented at the Appeal Hearing, the Appeal is without merit and is denied in its entirety.
5. That adoption of this Resolution shall constitute the final action of the City Council in accordance with City Code Section 2-56(c).

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 18th day of October, A.D. 2022.

Mayor Pro Tem

ATTEST:

Chief Deputy City Clerk

October 18, 2022

AGENDA ITEM SUMMARY

City Council



STAFF

Noah Beals, Development Review Manager
Meaghan Overton, Housing Manager
Caryn Champine, Director of PDT
Josh Birks, Deputy Sustainability Officer
Paul Sizemore, Community Development and Neighborhood Services Director
Beth Yonce, Social Sustainability Director
Rebecca Everette, Planning Manager
Brad Yatabe, Legal
Claire Havelda, Legal

SUBJECT

Items Relating to the Adoption of the Land Development Code.

EXECUTIVE SUMMARY

A. First Reading of Ordinance No. 114, 2022, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt the Land Development Code and Separately Codifying the 1997 Land Use Code as "Transitional Land Use Regulations".

B. First Reading of Ordinance No. 115, 2022, 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 District to the Old Town Zone District in Conjunction with the Adoption of the Land Development Code.

The purpose of this item is to consider adoption of changes to the City's Land Use Code including renaming to the Land Development 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. Changes are intended to address one or more of the following Guiding Principles:

1. Increase overall housing capacity and calibrate market-feasible incentives for affordable housing
2. Enable more affordability, especially near high frequency transit and priority growth areas
3. Allow more diverse housing choices that fit in with the existing context and priority place types
4. Make the LUC easier to use and understand
5. Improve predictability of the development review process, especially for housing

In conjunction with adoption of the Land Development Code, a conforming change to the zoning map to rename the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone District to the Old Town zone district is proposed by means of a rezoning.

If adopted by Council, staff recommends that the proposed LUC changes and renaming to the Old Town

zone district take effect on January 1, 2023.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinances on First Reading.

BACKGROUND / DISCUSSION

In March 2021, in conjunction with the adoption of the Housing Strategic Plan (HSP), Council unanimously approved an off-cycle appropriation to fund updates to the City's land use regulations as codified in the Land Use Code (LUC). These updates are focused on reorganization of the LUC to improve usability and clarity and on housing-related changes. A public review draft of the proposed LUC changes has been available since August 2022, and this hearing is the First Reading of an Ordinance that would adopt the proposed LUC changes, including renaming the LUC to the Land Development Code.

Project Overview

The LUC Phase 1 project began in summer 2021. The consultant team selected to support this work includes Metta Urban Design (lead consultant), Peter J. Park City Planning and Design, Cascadia Partners, and Equity Policy Solutions. Over the last 15 months, the project team has approached the LUC updates systematically to ensure that proposed changes align with and advance community and City goals. Community engagement throughout the project provided regular updates and opportunities to consult with members of the public. The diagram below summarizes the LUC update process. Hundreds of pages of policies were synthesized, confirmed, and summarized into five guiding principles that then informed the Diagnostic Report, Drafting Approach, and Proposed LUC Revisions.



Key milestones are briefly summarized below, with a more thorough overview of public engagement in the “Public Outreach” section of this AIS. In addition, the November 2021, February 2022, and June 2022 Work Session materials provide additional detail.

Policy Analysis and Synthesis (July-October 2021): The LUC is the City's primary regulatory tool for implementing the community's vision as described in various policies and adopted plans. It was critical to establish a clear understanding of the relationship between the City's policy priorities and the current LUC

early in the process. The City has over 300 pages of adopted policies and information that have informed the LUC Updates that primarily come from the following documents:

- Housing Strategic Plan (HSP)
- City Plan
- Our Climate Future (OCF)
- Transit Master Plan
- Land Use Code Audit (identified opportunities to align with the newly-adopted City Plan)
- Council Priorities (affordable and achievable housing strategies; 15-minute communities)

These documents serve as primary inputs, which were augmented by a series of interviews with City Council and Planning and Zoning Commission Members held in July 2021. Questions focused on the primary policy documents, and the discussions helped inform the project team about policies most relevant to the LUC Code Updates. Community engagement opportunities for the public during this phase of the project included a series of four informational sessions about the LUC update project.

Guiding Principles (November 2021): The LUC Phase 1 update has been informed throughout by five guiding principles, originally presented to Council at the November 9, 2021 Work Session:

1. Increase overall housing capacity and calibrate market-feasible incentives for Affordable housing
2. Enable more affordability, especially near high frequency transit and priority growth areas
3. Allow more diverse housing choices that fit in with the existing context and priority place types
4. Make the LUC easier to use and understand
5. Improve predictability of the development review process, especially for housing

Creating a more equitable code was also a critical priority for the LUC Phase 1 work and has been integrated into each of the guiding principles. An Equity and Opportunity Assessment (EOA) was prepared as a parallel effort to the LUC Phase 1 project and shared with Council in December 2021. Additional equity analysis of the specific proposed code changes has been included in Attachment 2 and Attachment 3. Community engagement opportunities for the public during this phase of the project included three input sessions hosted by the Center for Public Deliberation to gather input on the types of code changes that could best implement the City's adopted policies and the guiding principles.

Diagnostic Report (January 2022): At its February 8 Work Session, Council reviewed the [LUC Phase 1 Diagnostic Report](#). The Diagnostic Report was completed to identify existing regulatory barriers to housing capacity, affordability, and choice, and outline key findings and recommendations to guide the development of draft LUC language. The Diagnostic Report is centered around the *place types* identified in City Plan. The project team analyzed each place type and conducted pro forma (development) analyses for a range of different prototypes to determine potential future housing capacity, estimate a place type's affordability range, and identify barriers to housing choice, capacity, and affordability.

Findings from the Diagnostic Report suggested several areas of potential improvement, noting that the current LUC: 1) does not support future Priority Place Types; 2) limits housing capacity; 3) does not prioritize housing capacity, diversity, or affordability along transit corridors; and 4) is difficult to use. Presentations of the Diagnostic Report findings to Boards, Commissions, and community groups and briefing meetings with City Council were key engagement activities during this phase. The Diagnostic Report also included 15 specific recommendations to address the key findings that Council reviewed in a three-hour work session in June 2022.

LUC Drafting (March-July 2022): This phase of the project was primarily internal as the project team drafted LUC language to address the recommendations in the Diagnostic Report. A thorough legal review of the draft LUC was also completed prior to release of a Public Review Draft in August 2022. To inform both Council and the community about the draft LUC and related engagement opportunities, a memorandum

and press release were prepared. An in-depth article in the Coloradoan also summarized work on the LUC Phase 1 updates in June 2022.

Public Review Draft (August-October 2022): A Public Review Draft was posted in August 2022 to the project website (<https://www.fcgov.com/housing/lucupdates>), and the project team has been seeking community input on the proposed changes prior to Council consideration of adoption. A series of four workshops on the proposed LUC changes, 6-10 hours a week of one-on-one office hour meetings (in-person or virtual), Board and Commission presentations, and multiple avenues for members of the public to provide comment have all been available during the public review period. Staff will present a number of additional recommended changes to the Public Review Draft for Council consideration based on input received during this phase.

Proposed LUC Changes: Public Review Draft

The remainder of this AIS describes the proposed code changes contained in the Public Review Draft and recommends several additional changes Council may consider incorporating into the LUC between First and Second Reading. The summary of proposed changes is organized based on the Guiding Principles the changes are intended to support. Specific recommendations from the Diagnostic Report are also included for reference.

Principle: Make the LUC easier to use and understand. The project team has heard from many different groups that the code is hard to understand, inaccessible and cumbersome to navigate. The intent of the proposed LUC reorganization changes is to make the LUC easier to use and understand for all users, including neighbors, customers, staff, decision-makers, and others. These improvements will provide benefits to users by making it easier to understand what is allowed, what can be built, and what can change in a neighborhood. These improvements will also provide common understanding and clarity to users engaged in decision making.

Improvements proposed include:

- Consistent, graphic approach to communicate land use standards
- Change name from “Land Use Code” to “Land Development Code” (Recommendation 14)
- Reorganize content so the most used information is first in the Land Development Code
- Reformat all zone districts to use consistent graphics, tables, lists, and illustrations (Recommendation 12)
- Create a new article (Article 3 – Building Types) to consolidate form standards in one place and develop consistent graphic templates (Recommendation 11)
- Create a new article (Article 4 – Use Standards) to consolidate use standards in one place and reformat into a clear and comprehensive Land Use Table (Recommendation 13)
- Update definitions and rules of measurement for consistency; remove duplicative definitions; consolidate all rules of measurement in Article 7 – Rules of Measurement and Definitions (Recommendation 13)
- Rename some zones and create subdistricts (ex: Neighborhood Conservation District) to improve usability and consolidate similar standards (Recommendation 15)

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Principle: Allow more diverse housing choices. The Diagnostic Report suggests that the current LUC does not provide a clear, context-specific framework for infill and redevelopment. Rather, the LUC has many standards that assume a “greenfield” or undeveloped site. This can create challenges for compatibility, as most of the land in the city has already been developed. Additionally, there are very few types of housing that can be approved through a Basic Development Review (BDR) process. Constrained choices for housing contribute to limited housing supply and does not meet the needs of the variety of household types in our community, both today and in the future.

Improvements proposed include:

- Allow Accessory Dwelling Units (ADUs) in all residential and mixed-use zones. Add “cottage court” as a housing type allowed in most residential zones. (Recommendation 1)
- Create a menu of building types and standards that apply to all proposed development. Form standards will be illustrated for ease of use and include (but are not limited to) building height, lot dimensions, massing and articulation, and build-to lines. (Recommendation 1)
- Update the Land Use Table to permit residential developments through a BDR process. (Recommendation 1)
- Adjust standards to enable more small-lot infill development and develop form-based standards to guide compatibility more effectively. (Recommendation 2)
 - In the historic core (Old Town/Neighborhood Conservation Districts):
 - Set a floor area maximum of 2,000 square feet for single-unit detached homes
 - Reduce minimum lot sizes from 6,000 square feet to 4,500 square feet for single-unit detached dwellings; permit multi-unit “missing middle” housing types on lots 6,000 square feet or larger

- Allow “missing middle” housing types including duplex, cottage court, and apartment (triplex and fourplex)
- Allow additional units through affordable housing incentives
- Outside the historic core:
 - Allow “missing middle” housing types including duplex, cottage court, and apartment (triplex and fourplex)
 - Allow additional units through affordable housing incentives
 - ◆ Consolidate duplicative standards
 - ◆ Reduce required setbacks where feasible to allow small-lot infill development (ex: corner lots)
- Update use standards, rules of measurement, and definitions to align with new building types and standards. (Recommendation 3)
 - Define new terms and rules of measurement (ex: detached accessory structure, cottage court, bulk plane)
 - Remove unneeded or duplicative definitions
- Address conflicts with private housing covenants and the City regulations designed to implement adopting housing policies.






Principle: Increase overall housing capacity. Similar to the challenges created by limited housing choices, current regulations constrain housing capacity in certain areas of the City. As a result, the inventory of housing options is not keeping pace with demand. To ensure that Fort Collins has sufficient housing capacity to meet our community’s needs now and into the future, recommendations in the Diagnostic Report suggests several improvements to the ways the LUC currently regulates housing development.

Improvements proposed include:

- Target increases in housing capacity to zones in transit corridors and zones with the greatest amount of buildable land (Recommendation 8)
- Increase maximum density in the LMN zone from 9 to 12 dwelling units per acre (Recommendations 4, 5, and 8)
- Reduce parking requirements for studio, one- and two-bedroom units in multi-unit developments (Recommendations 4, 9, and 10)
- Regulate building size through maximum floor area and form standards instead of units per building (Recommendation 5)
- Regulate density through form standards and building types instead of dwelling units per acre (Recommendation 5)

If Council adopts the housing capacity changes proposed, staff estimates that overall housing capacity will increase by about 53% overall, and by about 63% within a 5-minute walk of current and future transit corridors.

HOUSING CAPACITY REPORT CARD

PERFORMANCE METRIC	EXISTING CODE	PROPOSED CODE	% CHANGE
 Total Housing Capacity Estimated number of units possible to build under zoning standards	25,959 dwelling units	39,725 dwelling units	 53%
 Housing Capacity as Percent of Projected 20-Year Housing Need Estimated capacity compared to total projected housing demand through 2040. ¹	85% of 30,480 units	130% of 30,480 units	
 Housing Capacity in Transit Corridors Estimated number of units possible to build under zoning standards within 5 minute walk of existing and future transit corridors.	5,104 dwelling units	8,299 dwelling units	 63%






Principle: Calibrate market-feasible incentives for affordable housing. The current LUC provides limited incentives for affordable housing development. To encourage production of affordable housing and align with community needs identified in the Housing Strategic Plan, the Diagnostic Report recommended development of more effective incentives for deed-restricted affordable housing. After conducting pro forma and market analyses, significant improvements to affordable housing incentives have been calibrated and proposed.

Improvements proposed include:

- Expand affordable housing incentives to most residential & mixed-use zones (Recommendations 6 and 9)
- Modify income criteria (currently 80% AMI) so incentives help address the most critical shortages in affordable rental (60% AMI or below) and ownership (100% AMI or below) (Recommendations 6 and 9)
- Raise the density bonus incentive in the LMN zone to increase the economic value of the incentive (Recommendations 6 and 9)
- Create height bonus and parking reduction incentives in higher density residential and mixed-use zones (Recommendations 6 and 9)
- Require 50-60 years of deed restriction instead of the current 20 years
- Continue to require a minimum 10% of units to be affordable for any development seeking incentives
- Update definitions for affordable housing, review for consistency. Staff proposes review of all affordable housing terms and definitions and creation of a new affordable housing section within Article 5 to consolidate incentives, definitions, and terms in one place. (Recommendation 7)

If Council adopts the housing affordability changes proposed, staff estimates that capacity for affordable units will increase by about 194%.

HOUSING AFFORDABILITY REPORT CARD

PERFORMANCE METRIC	EXISTING CODE	PROPOSED CODE	% CHANGE
 Capacity for Affordable Units with Bonus Incentives Estimated number of deed-restricted affordable units possible to build if bonus incentives are used in all projects.	1,590 dwelling units (LMN Zone)	4,677 dwelling units (multiple zones)	
			 194%
 Capacity as Percent of Affordable Rental Unit Shortage Estimated capacity compared to total estimated shortage of rental units affordable to households earning less than 60% of AMI. ¹	23% of 6,787 units	68% of 6,787 units	
 Total Housing Capacity with Bonus Incentives Estimated number of total units (market rate and affordable) possible to build if bonus incentives are used in all projects.	32,394 dwelling units	53,106 dwelling units	 64%

Additional Recommended Changes: Between First and Second Reading

The following table outlines additional proposed changes since the Draft Land Development Code was released in early August, based on community and Board and Commission feedback. A compilation of public comments received to date has been included as Attachment 13.

Change #	Feedback	Public Review Draft	Recommendation	
			Staff	P&Z
Article 1				
1	Name change portrays pro-development stance and not preservation as well.	Name proposed to change to the Land Development Code	Change was intended to be inclusive of all that definition of development contains.	Proposed "Land Use and Development Code"
Article 2				
2	The proposed floor area allowance (2,000 sf) in OT zone is overly restrictive. Excludes larger lots from having a bigger house	Floor area for primary structure in OT zone limited to 2,000 sf	Supports 2,400 sf floor area for the primary building in the OT-A and OT-B	Supports 2,400 sf floor area for the primary building in the OT-A and OT-B
3	In the NCB Floor Area is not currently limited. In the new OT-C (name change from NCB) a limit of	Floor area for primary structure in OT zone limited to 2,000 sf	Consider increase in floor area allowance in OT zone for primary structure to 2,400 sf	Remove limit on primary structure size in the OT-C or permit larger structures on

	2,000 or 2,400 is being proposed			large lots as a % of lot size
4	A 10' setback in the HMN is too small, results in taller buildings shadowing the street	A 10' front setback is a change from the existing code 15' setback	Supports keeping the 15' front setback in the HMN zone district	Supports keeping the 15' front setback in the HMN zone district
5	The stepback standard in the HMN zone district helps reduce the impact of taller buildings	A similar setback standard is required for all zone districts, but the existing stepback was not included	Supports keeping the existing stepback standard in the HMN zone district	Supports keeping the existing stepback standard in the HMN zone district
6	Façade articulation wording appears to allow a building color change to count as significant change	This is existing language in the code that was carried over	Supports clarifying color change does not create required façade articulation	Supports clarifying color change does not create required façade articulation
Article 3				
7	The Row House allows parking in the rear of the building, but not clear if the parking can be visible from the public right of way	Parking spaces tucked under the building may still be visible.	Supports eliminating tuck under parking visible from the public right of way	Supports eliminating tuck under parking visible from the public right of way
8	Clarify that the cottage court building type not allow parking within the court.	The proposed code language and graphic shows required parking being behind the houses and not in court.	Supports clarifying parking is not allowed in the court	Supports clarifying parking is not allowed in the court
9	12' maximum driveway entrance in the RL zone district is small for a two-car driveway	The detached suburban house limits the width of a driveway entrance to 12'. This does not limit it from flaring out behind the sidewalk	Supports expanding the maximum driveway width to accommodate two-car driveway	Supports expanding the maximum driveway width to accommodate two-car driveway
10	Unclear if an Accessory Dwelling Unit (ADU) can be built over a garage	The proposed code does not prohibit a combined ADU and garage, but does not explicitly say it is a possibility	Supports clarifying ADU building type can be built with a garage	Supports clarifying ADU building type can be built with a garage

11	Consider allowing more than 45% of primary structure for detached ADUs. Current proposal penalizes those with small houses.	Detached ADU size is limited to 45% of the floor area of the primary structure or 1,000 sf, whichever is smaller	Allow a detached ADU of up to 600 sf. for primary houses that have 1,335 sf of floor area or less. All others must meet the 45% floor area requirement	Supports more floor area for an ADU accessory to smaller houses of 1,335 or less
12	Suggested another building type to highlight missing middle housing.	The proposed building type apartment covers everything from a 3 unit, 4 unit, 5 unit and more	Agreed exploring another building type in the next phase after seeing how the proposed code change is being used	Encourages exploring the benefits of adding another housing type between apartment and duplex
Article 4				
13	If ADUs are allowed in RL, why not duplexes?	Duplexes are not allowed in RL zone	Support creating the same list of uses in the OT-A district and the RL zone district	Support creating the same list of uses in the OT-A district and the RL zone district
14	In the NCB zone district the use Mixed-use dwelling is permitted, this should continue to be allowed in the OT-C	The proposed use table inadvertently did not include mixed-use dwelling in the OT-C	Supports correction to continue to allow mixed-use dwelling in the OT-C	Supports correction to continue to allow mixed-use dwelling in the OT-C
15	The proposed code moving Type 1 and Type 2 reviews for residential projects to a BDR, eliminates a public hearing	This change is part of the goals of this phase to reduce hurdles in the review process for residential projects. At the same time there is a concern that reduced public hearings may reduce neighborhood input	Support change to require a neighborhood meeting early in the BDR process and determine metrics for when a neighborhood meeting would be required. This will allow comments to be received and be addressed during the design process	Not supportive of all residential projects being moved to a BDR process. Supportive for council to direct city staff to adding metrics for requiring a public hearing
Article 5				
16	Extend deed restriction for affordable housing (50 years)	50-year deed restriction	Supports the increase deed restriction to 99 years	Supports the increase deed restriction to 99 years

17	Make the requirements for “substantially varied” building design clearer and more objective	No change from current code	Create table outlining options for meeting requirement for “substantial variation”	Supports the table created.
18	Will parking reductions create impacts to existing neighborhoods?	Incentive for both multi-unit and affordable housing developments include reduction in parking requirements	Would not recommend a change. Reductions were calibrated to create an incentive to provide additional dwellings and affordable dwellings	Encourage Council to consider the impacts of spill over parking vs. the need for additional dwelling units
Article 6				
No additional recommendations				
Article 7				
19	The way “floor area” is measured is very confusing	The new code reduced the number of times it appears but did not change from current code	Adjust measurement of floor area to improve clarity and consistency with new building types	Supports the clarification on how to measure floor area.

Staff plans to revise the Public Review Draft to incorporate revisions and changes after Council consideration at First Reading. The Code document will also be edited for grammar, clarity, and consistency.

The Draft Land Development Code proposes the renaming of the current Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer zone districts to the Old Town zone district better align the zone district name with the character and purpose of the zoning. To accomplish the renaming, a rezoning ordinance is being presented to make conforming changes to the City’s zoning map.

CITY FINANCIAL IMPACTS

As with any regulatory change, additional work will be needed following adoption to align existing processes and procedures with updated LUC requirements. For this reason, staff recommends an effective date of January 1, 2023 for the proposed LUC changes. This implementation work will not require additional funding but will require utilization of existing staff capacity and departmental resources.

The LUC Phase 1 updates are focused on housing-related changes and LUC 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 LUC changes that are not directly tied to housing. Staff has prepared a Budgeting for Outcomes (BFO) offer to fund the LUC Phase 2 project for the 2023-24 budget cycle.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Three Boards and Commissions have provided formal recommendations and specific feedback on the draft Land Development Code for Council consideration, as follows:

- **Planning and Zoning (P&Z) Commission:** P&Z has visited with staff on a monthly basis throughout the development of the Draft Land Development Code. On September 28, 2022, P&Z adopted a recommendation in support (5-2 vote, Commissioners Haefele and Hogestad opposed the recommendation of approval) and a list of suggested edits to City Council (Attachment 4). At the same meeting, P&Z adopted a recommendation (6-1 vote, Commissioner Haefele opposed the recommendation of approval) that Council approve the renaming of the neighborhood conservation zone districts to the Old Town zone district to conform with the Land Development Code updates.
- **Affordable Housing Board:** The Affordable Housing Board has invited staff to present updates on the proposed LUC changes on a regular basis over the last year. At their October meeting, the Affordable Housing Board unanimously passed a recommendation to City Council to adopt the proposed LUC changes (Attachment 5).
- **Historic Preservation Commission (HPC):** Staff has presented progress on the LUC updates at several HPC work sessions. At their September hearing, the Historic Preservation Commission unanimously passed a recommendation to City Council to adopt the proposed LUC changes (Attachment 6).

Staff also met with the Economic Advisory Board (January 2022), the Youth Advisory Board (March 2022), the Transportation Board (July 2022), and the Natural Resources Advisory Board (August 2022) to provide project updates and ask for feedback on the proposed LUC changes.

PUBLIC OUTREACH

LUC updates are complex efforts that build on years of planning and community engagement work. Community members regularly identify housing affordability as a top priority for action in citywide engagement efforts, with changes to land use regulation frequently mentioned as an area for improvement.

Because the LUC is the City's one of the City's primary regulatory tools for implementing the community's vision, the LUC Phase 1 Update seeks to respond to high-priority community recommendations identified and described in multiple policies and adopted plans, including:

- City Plan (2019)
- Transit Master Plan (2019)
- Housing Strategic Plan (HSP, 2021)
- Our Climate Future (OCF, 2021)

These adopted plans were developed with input from thousands of residents beginning in 2018 with the launch of the City Plan update. The stories, voices, and priorities of community members shaped the City's adopted policy documents, and these policy documents have served as primary inputs to the proposed LUC changes. A brief summary of relevant engagement findings from previously adopted plans follows:

- *City Plan Engagement (2018-2019):* During the extensive engagement effort for the most recent update to City Plan - which included thousands of residents, more than 175 public events, and numerous Plan Ambassador and Community Partner hours of small-group meetings - housing affordability was frequently mentioned as a high priority for the future of Fort Collins.
 - City Plan kickoff (400+ participants) - "housing access" identified as highest priority focus

- Visioning (769 participants) - When asked what should be prioritized in the City Plan vision, “housing choices, attainability, and affordability” was most frequently mentioned
- Scenarios (1022 participants) - In general, 77.2% of respondents were open to “moderate” or “big” changes to improve housing attainability and provide more housing choices. Community members also supported a greater diversity of housing types in future neighborhoods (74.2%) and in existing neighborhoods (58.7%).
- *Home2Health and Housing Strategic Plan Engagement (2019-2021)*: Home2Health was a two-year, grant-funded project built around partnerships, community dialogue, and capacity building. Approximately 700 people participated over a two-year period. Areas of focus for the HSP identified in the Housing Strategic Plan Fall 2020 Engagement Report included housing equity, choice, creativity, and affordability.
- *Our Climate Future Engagement (2020-2021)*: Engagement for the Our Climate Future (OCF) Plan shaped the development of the plan’s “Big Moves” and “Next Moves.” Housing affordability and healthy housing were key themes in OCF engagement, leading to Big Move 7 – Healthy Affordable Housing. Land Use Code updates were included as one of the Next Moves for implementation to both address housing affordability and help reduce carbon emissions, increase community resilience, and advance more equitable solutions for all community members.
- *Community Survey Results (2021, 2022)*: In the most recent annual Community Survey (2022), housing affordability was the lowest rated characteristic of our community. Only 7% of respondents (620 total responses) rated the availability of affordable quality housing as ‘very good’ or ‘good,’ which is lower than both national and Front Range benchmark data. The 2021 Community Survey results were similar, with 8% of respondents (603 total responses) rating the availability of affordable quality housing as ‘very good’ or ‘good.’ The same survey also asked residents to identify one focus area the City should improve upon in the next few years, and 19% of respondents who provided a written answer cited housing affordability.

The policy and engagement foundation for the proposed LUC changes was further augmented by a 15-month public engagement strategy that sought to confirm the City’s policy direction and seek input from the community about how those policy priorities could be reflected in the draft LUC. A compilation of public comments and an engagement summary from the fall 2021 input sessions has been included as Attachment 13. Key engagement activities included:

- A series of four virtual information sessions in mid-October 2021 to explore housing and demographic trends, planning 101, housing capacity, and housing choice. Recordings of the information sessions are available for all residents to review at <https://www.fcgov.com/housing/lucupdates> and <https://www.fcgov.com/vivienda/usodesuelo>.
- Three community input sessions in late October/November 2021, in collaboration with the Center for Public Deliberation at CSU. Each session focused on a specific place type – suburban neighborhoods, neighborhoods with a mix of housing options, and mixed-use neighborhoods. Participants shared their experiences with housing in these different place types and identified potential changes to consider with LUC updates.
- Four workshops on the Public Review Draft in August, September, and October. The final workshop will be held between First and Second Reading. These sessions include an overview of the proposed changes, Q&A with community members, and opportunities to provide input.
- 6-10 hours per week of one-on-one office hour meetings with members of the project team from August-October 2022. These meetings can be in-person or virtual. Office hours are intended to provide a more casual environment for dialogue and exploration of the proposed code changes with community members who would like to dig deeper into the proposed LUC changes.

- For community members who are not able to engage in the workshops, office hours, or other engagement opportunities, an online comment form and a list of “Frequently Asked Questions” as well as recordings of public workshops are all available on the project website.

This effort has also been informed by two rounds of briefings with Councilmembers and Council work sessions in November 2021 and February 2022, as well as many presentations to Boards and Commissions and community groups. Groups engaged to date include, but are not limited to: Planning and Zoning Commission, Affordable Housing Board, Economic Advisory Board, Historic Preservation Commission, multiple affordable housing providers (e.g. Housing Catalyst, CARE housing, Habitat for Humanity, Neighbor to Neighbor), League of Women Voters, Healthy Larimer Committee, Partnership for Age-Friendly Communities, Fort Collins Chamber of Commerce, and a LUC Phase 1 working group of frequent LUC users who are advising staff on technical code items (see membership list in Attachments).

ATTACHMENTS

1. Ordinance A for Consideration
2. Exhibit "A" to Ordinance A
3. Ordinance B for Consideration.pdf
4. Exhibit "A" to Ordinance B.pdf
5. Equity Framework Memo
6. Equity, Policy, and Proposed Code Changes Matrix
7. Planning and Zoning Commission Recommendation, September 2022
8. Affordable Housing Board Recommendation and Draft Minutes, October 2022
9. Historic Preservation Commission Recommendation, September 2022
10. Natural Resources Advisory Board Minutes, August 2022
11. Transportation Board Minutes, July 2022
12. Youth Advisory Board Minutes, March 2022
13. Economic Advisory Board Minutes, January 2022
14. Technical Advisory Group Members and Affiliations
15. Zone District Abbreviations and Purposes
16. Compiled Public Comments
17. Presentation

ORDINANCE NO. 114, 2022
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 THE LAND DEVELOPMENT CODE AND
SEPARATELY CODIFYING THE 1997 LAND USE CODE AS
“TRANSITIONAL LAND USE REGULATIONS”

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

WHEREAS, 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”); and

WHEREAS, 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, subarea plans (the “2019 City Plan”); and

WHEREAS, on March 2, 2021, by adoption of Ordinance No. 033, 2021, City Council adopted the Housing Strategic Plan as an element of the City’s comprehensive plan establishing a goal that all residents have healthy stable housing they can afford and listing 26 housing strategies proposed for implementation to progress toward that goal; and

WHEREAS, the City commissioned the Land Use Code Audit dated January 2020 to align the 1997 Land Use Code with adopted City plans and policies with a focus on housing-related changes, code organization, and equity; and

WHEREAS, changes to the 1997 Land Use Code to implement the 2019 City Plan and the Housing Strategic Plan goals of improving housing supply and affordability are desired; and

WHEREAS, in preparation for a future comprehensive review and rewrite (Phase Two) of the 1997 Land Use Code as contemplated in the 2019 City Plan, reorganization of the 1997 Land Use Code to consolidate standards, eliminate repetition, simplify language, and increase user-friendliness is also desired; and

WHEREAS, in light of the proposed changes to the 1997 Land Use Code, the anticipated continuing work in Phase Two, and to better describe its purpose, the code replacing the 1997 Land Use Code is known as the Land Development Code; and

WHEREAS, City staff has conducted extensive public outreach regarding the Land Development Code including conducting public meetings both remote and in person upon request while offering interpreting services during such meetings, making recordings of public meetings available, answering questions at advertised office hours and by email, maintaining a website with the latest information in the process, outreach to City boards and commissions including the Planning and Zoning Commission, Historic Preservation Commission, Transportation Board, Affordable Housing Board, Natural Resource Advisory, Youth Advisory Board, and multiple Council work sessions; and

WHEREAS, City Council has further determined that the 1997 Land Use Code shall be separately codified as the "Transitional Land Use Regulations" and limited in their 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 Development Code as set forth in this Ordinance; and

WHEREAS, the new Land Development Code, effective January 1, 2023, will replace the 1997 Land Use Code in its entirety; and

WHEREAS, 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; and

WHEREAS, in compliance with City Charter, Article II, Section 7, the City Clerk published in the *Fort Collins Coloradoan* such notice of hearing on October 2, 2022, and October 9, 2022, and

WHEREAS, 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; and

WHEREAS, pursuant to City Code Section 1- 14, at least one copy of the Land Development 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; and

WHEREAS, on September 28, the Planning and Zoning Commission on a 5-2 vote recommended that City Council adopt the Land Development Code with certain recommended changes; and

WHEREAS, City Council has determined that adoption of the new Land Development Code is appropriate to accomplish the goals set forth above and is in the best interests of the residents of the City.

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

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

Section 2. That 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 Development Code

Pursuant to the authority conferred by Article II, Section 7 of the Charter, there is hereby adopted by reference the Land Development Code, which shall have the same force and effect as though set forth herein. The Land Development 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 Development Code. One copy of the Land Development Code shall be kept on file in the office of the City Clerk and available for public inspection during regular business hours.

Section 3. That the 1997 Land Use Code is hereby repealed and separately codified as the “Transitional Land Use Regulations” and shall be limited in their 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 Development Code as set forth in this Ordinance.

Section 4. That the Land Development Code shall be effective for all land development applications submitted on or after January 1, 2023.

Section 5. That references to the Land Use Code in the Code of the City of Fort Collins and City Council and administratively adopted policy, planning, regulatory, and other documents including, but not limited to, the 2019 City Plan, the Larimer County Urban Area Street Standards, the Stormwater Criteria Manual, Dust Prevention and Control Manual shall be interpreted to refer to the appropriate provisions of the Land Development Code until conforming changes can be made.

Section 6. That penalties for Land Development Code violations are set forth in Land Development Code Section 6.26.4 which states:

6.26.4 CRIMINAL AND CIVIL LIABILITY; PENALTIES

- (A) Except as otherwise specified in this Land Development 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 Development Code.

- (B) An owner, property manager or occupant commits a civil infraction by violating any provision of Section 5.14.1 of this Land Development 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 Development 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 and ordered published this 18th day of October, A.D. 2022, and to be presented for final passage on the 1st day of November, A.D. 2022.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading this 1st day of November, A.D. 2022.

Mayor

ATTEST:

City Clerk

NOTICE OF PUBLIC HEARING

NOTICE is hereby given of a public hearing to be held before the Council of the City of Fort Collins, Colorado, on the 18th day of October, A.D., 2022 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 adopts by reference the new *Land Development Code*.

Not less than one (1) copy of the new *Land Development Code* has been, and now is on file in the Office of the City Clerk of the City of Fort Collins and is available for public inspection.

The purpose of adopting the new *Land Development Code* by said ordinance is to protect the public health, safety and welfare of the City and its residents by updating the regulation of zoning and development of land within the City to support the adopted goals and policies in City Plan, the Housing Strategic Plan and other City Plan elements, and other Council adopted policy plans.

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.

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.

Dated this 2nd day of October, A.D. 2022.

Anissa Hollingshead
City Clerk

Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 970.221.6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide 48 hours advance notice when possible.

A solicitud, 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.

ORDINANCE NO. 115 2022
 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 LAND DEVELOPMENT CODE

WHEREAS, the City is adopting the Land Development Code (“LDC”) to replace the Land Use Code that was originally adopted on December 2, 1997, via Ordinance 190, 1997; and

WHEREAS, the LDC 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; and

WHEREAS, the renaming is to better align the purpose of the Old Town zone district under the LDC with its name to facilitate public understanding and use of the LDC; and

WHEREAS, 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; and

WHEREAS, whereas the existing N-C-L, N-C-M, and N-C-B zone districts are greater than 640 acres in size and pursuant to 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; and

WHEREAS, the City Planning and Zoning Commission, at its meeting on September 28, 2022, recommended on a 6-1 vote renaming the N-C-L, N-C-M, and N-C-B zone districts to become the OT zone district; and

WHEREAS, the required notice of this rezoning was published in the *Fort Collins Coloradan* and the text of the notice is attached hereto as Exhibit “A”; and

WHEREAS, 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 LDC, and facilitates public understanding and use of the LDC; and

WHEREAS, 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.

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

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

Section 2. That the 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 LDC 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.

Section 3. That 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.

Section 4. That the renaming to the OT zone district set forth in this Ordinance shall not go into effect until the effective date of the Land Development Code.

Section 5. That the City Manager is hereby authorized and directed to amend said Zoning Map in accordance with this Ordinance.

Introduced, considered favorably on first reading and ordered published this 18th day of October, A.D. 2022, and to be presented for final passage on the 1st day of November, A.D. 2022.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading this 1st Day of November, A.D. 2022.

Mayor

ATTEST:

City Clerk

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that, on October 18, 2022, 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 effective upon the effective date of the new Land Development 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.

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.

Dated this 2nd day of October, A.D. 2022.

Anissa Hollingshead
City Clerk

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An Equity Framework for
The City of Fort Collins -- Land Development Code Update

***“Address is a proxy for opportunity. Where we live determines whether or not we have access to the requisite resources for success, including good schools, decently paid jobs, and transportation that connects to employment centers.”**¹*

Angela Glover Blackwell, PolicyLink

Safe, stable affordable housing provides a foundation that allows individuals, families, and communities to thrive. Housing has a positive impact on health, economic security, educational attainment, and the overall stability of families and communities.

Nationally, almost half of Americans say that the availability of affordable housing is a major problem in their local community.² In Fort Collins, both home prices and rents have risen much faster than incomes over the past decade.³ Today, 60% of renters and 20% of homeowners in Fort Collins spend more than 30% of their income on housing.⁴ Black, Indigenous, and people of color (BIPOC) and residents with low incomes make up a disproportionate share of these cost-burdened households, as they typically have less wealth from home equity, lower incomes, and higher risk of displacement.⁵

The Fort Collins Land Development Code (LDC) revisions have been designed using an ‘equity framework’ to expand housing affordability, capacity and diversity in the City of Fort Collins. An equity framework considers the historic and systemic barriers to housing experienced by BIPOC and low-income households. It examines the current inventory of housing types across all neighborhoods, identifies gaps, and seeks to reduce historic and disproportionate impacts through specific zoning regulations and incentives that will increase the supply and diversity of housing.

The LDC revisions implement the goals of the Fort Collins *Housing Strategic Plan* adopted in 2021, which engaged over 600 community members, numerous Boards and Commissions, and the Home2Health Partnership. These LDC revisions aim to implement the goals of the *Housing Strategic Plan*, to “center the work in equity, and lead with race, so that policy decisions reduce inequities in our community.”

What is Equity?

“Equity is when everyone, regardless of race, gender, age, neighborhood or financial status, has fair and equal access to opportunity”⁶

¹ [Making Every Community a Livable Community](#), PolicyLink, November 16, 2005

² [Key Facts about housing affordability in the U.S.](#), Pew Research Center, March 23, 2022

³ Housing Strategic Plan, Appendix C: Existing Conditions Assessment.

⁴ Housing Strategic Plan, p. 6

⁵ Housing Strategic Plan, p. 16-17.

⁶ [PolicyLink](#)

Land use planning practices and regulations enacted over the past century resulted in disproportionate negative impacts to certain groups – such as Black people, Latinx, and people with low incomes – more than others. Zoning, which was intended to separate incompatible land uses, was also used to exclude certain groups of people from single-family neighborhoods and to exclude multifamily rental housing from neighborhoods with good access to jobs, transit, and amenities.⁷

Zoning ordinances introduced in the early 1900s explicitly excluded residents from living in certain neighborhoods based on race, and often included minimum sales prices for homes to exclude lower-income residents.⁸ After these types of racially defined zoning ordinances were outlawed by the U.S. Supreme Court in 1917, similar practices in the form of covenants (privately enforced restrictions associated with individual developments) followed. Though such openly discriminatory practices are illegal today, limitations on multifamily dwellings, affordable homes, and housing opportunities continue to perpetuate exclusionary practices, making it difficult for some groups of people to access basic necessities such as housing, transportation, jobs, and quality education.⁹

The proposed revisions to the Land Development Code (LDC) are designed to increase access to housing that is affordable to Fort Collins residents. The LDC revisions are designed to reduce barriers that BIPOC and low-income households face to both home ownership and rental housing in Fort Collins and reduce the racial wealth gap by increasing opportunities to own a home, adding more types and sizes of owner-occupied and rental housing, and adding more housing in high-opportunity neighborhoods.

Equity in Fort Collins Plans

The Fort Collins *Housing Strategic Plan* identifies strategies that can expand equitable access to housing, including:

- ‘Lead with health equity’ - prioritize housing strategies that improve health equity and reduce health disparities
- Expand ‘equity in the process’ – impacted groups participated in strategy prioritization
- Expand access to housing for both current and future residents.

This Equity Framework also draws from the equity goals in other City plans including the *2020 Strategic Plan*, *Our Climate Future*, and *CityPlan*:

- Equitable access to ‘high-opportunity areas’ with transportation, services, and amenities
- Equitable access to sustainability practices (such as complete neighborhoods)
- Equitable community engagement and outcomes

The LDC revisions were considered and crafted using the equity framing questions of:

- Who will benefit?
- Who will be burdened?
- Will the existing racial and health disparities among groups be improved or worsened with these revisions?

⁷ [APA Planning for Equity Policy Guide](#)

⁸ Housing Strategic Plan, p. 16-17

⁹ [APA Planning for Equity Policy Guide](#)

The LDC revisions were informed by many voices and stories of struggles to find and afford housing in Fort Collins from the *Housing Strategic Plan*. The LDC revisions are an important ‘piece of the puzzle’ to advance equity in housing and improve health, education access, job opportunities, mobility, and community resilience. (Other housing strategies that Fort Collins may be considering outside of the LDC, such as tenant protection programs, housing assistance or community land trusts, can also work in tandem to improve equity.)

Equity Factors

There are a number of cross-cutting factors that disproportionately impact people of color or those with low incomes. *Equity factors* are overarching systemic conditions that are historically and/or currently present that impact people’s ability to reach their full potential for health and prosperity:

- **Racial Inequity** - *differences in economic and social progress due to race*
- **Health Inequity** – *differences in health outcomes due to race, income, gender, age, disability*
- **Gentrification / Displacement Risk** – *risk of losing one’s home due to increasing property values, rents, and displacement by higher-income residents*
- **Climate Resilience & Environmental Justice** – *eliminating differences in exposure to climate or environmental impacts due to race, income, age, disability*
- **Access to Opportunity** – *access to ‘high-opportunity’ neighborhoods regardless of race, income, age, disability*
- **Income and Wealth Inequality** – *differences in distribution of income and wealth based on race, age, gender, disability*
- **Pandemic Response & Recovery** – *ability to withstand and recover from pandemic impacts regardless of race, income, age, gender, disability*
- **Community Empowerment / Access to the Political Process** – *access to participating in civic processes regardless of race, income, age, disability, or housing status*

The disproportionate negative impacts of these factors on some groups can be mitigated or improved through intentional housing policy and regulatory solutions, which this LDC update aims to achieve.

Equity Policy Levers

Policy levers are tools that governments can use to achieve goals for the public good, such as increasing access to housing. The following policy levers are used throughout the LDC update to achieve the equity goals of the *Housing Strategic Plan* and other City plans. They are evidence-based strategies or best practices¹⁰ that have been shown to be effective in improving access to housing:

1. **By-right zoning** for more housing types
2. **Incentives** to build affordable housing
3. **Affordable housing in transit-rich locations**
4. **Diversity of housing types** including multifamily
5. **Increased supply of housing** across the price spectrum
6. Expansion of housing **in high-opportunity areas**

¹⁰ [Linking recommendations to scientific evidence](#) of their effectiveness and/or other characteristics of such practices.

7. **Reduced minimum parking requirements**
8. **Increased density and density bonuses**
9. **Accessory Dwelling Units (ADUs)** allowed in all zones
10. **Simplification of the code**

Taken together, the *equity factors* are addressed using *policy levers* to achieve the City's goals. Many of the proposed code revisions offer co-benefits to achieve climate, health, and equity goals. For example, *increasing housing density with smaller minimum lot sizes and reduced parking minimums* (as proposed in the Neighborhood Conservation and Mixed Neighborhood districts) can reduce vehicle miles traveled and greenhouse gas emissions, reduce housing costs and allow more spending on health care and basic necessities, and allow households to save money and build wealth.¹¹

Challenges to Achieving Equity Goals

The LDC revisions can improve equity and reduce disparities in access to housing. However, there are a number of processes or entities that may inadvertently restrict the achievement of Fort Collins' equity goals for improved housing access. These may include:

1. Homeowners' Associations (HOAs)

- Covenants that prohibit the construction of accessory dwelling units (ADUs) can restrict housing supply and homeowner wealth-building
- Fines and escalating penalty fees for maintenance violations can put low-income homeowners at risk for displacement or foreclosure

2. Historic Preservation commissions¹²

- These commissions may 'lock out' higher-density residential development in high-opportunity areas by expanding historic designations to thwart upzoning

3. Public input processes¹³

- Public processes that frequently deny housing applications based on 'community opposition' may be disproportionately weighted toward the voices of organized longtime homeowners who can show up to public hearings than toward the achievement of Citywide housing goals for current and future residents
- The more housing types that require 'review processes' (vs. by-right approval) create more systemic opportunities for opponents to restrict housing development

4. Mixed-use zones that do not allow housing by-right

- Requiring additional processes to gain approval for housing in areas that are intended to be mixed-use can restrict housing supply

5. Low Density Residential District (RL)

- RL zoning covers the most acreage in the City. In addition to adding ADUs, RL should be considered for gradual increases in density and capacity in the future, especially in 'high-opportunity' areas.

¹¹ Streetsmart, '[residential density' strategy](#).

¹² [What Historic Preservation is Doing to American Cities](#), April 2022, The Atlantic.

¹³ [Community Input is Bad, Actually](#), April 2022, The Atlantic.

6. Low Density Mixed-Use Neighborhood District (LMN) in the far northeast area

- This area has the most LMN zoning by acreage in the City yet scores low in 3 out of 4 ‘Opportunity Indices’, including Economic, Mobility and Education, with few commercial or public services or access to transit. Residential growth could be expanded here with a corresponding requirement for a mix of other uses (to avoid isolated residential development requiring many vehicle trips to access basic services).

These challenges should be examined with the same equity questions used for the LDC revisions: ‘who benefits?’ and ‘who is burdened?’ There may be opportunities to adjust some processes or policies to align more closely with the LDC revisions to improve equity outcomes.

Future proofing for Equity

As we now know after two years of the Covid-19 pandemic, any ‘*shock to the system*’ -- such as pandemics/ongoing epidemics, a spike in gas prices, wildfires, flooding, extreme storms, utility outages, supply chain interruptions, cyber-attacks -- can quickly expose whether neighborhoods are complete and designed for resiliency in the face of such threats. Neighborhoods that are ‘future proof’ must include a diverse housing supply, access to basic services, local food supplies, access to multimodal transit, green space and the outdoors, nearby health and medical services, and cooling centers, among others. A ‘roof over one’s head’ is needed first in order to deal with external threats. In particular, the COVID-19 pandemic made clear that affordable, safe, and uncrowded homes are a prerequisite for individual and public health¹⁴ and a protective factor against infectious disease.

A range of housing types, sizes and price points in Fort Collins creates more complete, resilient neighborhoods and allows residents to withstand the impacts of natural and human-made disasters more effectively, regardless of residents’ race, income, household type, age, or ability level.

The LDC revisions also address Fort Collins’ *changing demographics*. Today’s household types increasingly consist of multi-generations, roommates, seniors aging in place, and single people rather than the predominant husband-wife-children type that single-family detached homes were designed to accommodate in the 1950s and 60s. A range of different housing types and sizes (such as duplexes, triplexes and townhouses, known as ‘missing middle housing’) are allowed and incentivized throughout the City with these LDC revisions, with close proximity to jobs, services, transportation, and opportunities for social connectedness.

These LDC revisions are designed to increase housing supply, affordability, density, diversity and location near transit and key goods and services in order to ‘future proof’ Fort Collins residents by reducing inequities due to race, health and economic status and better equip people with stability and resilience in their everyday lives. These LDC revisions achieve multiple co-benefits for climate, health and equity goals as expressed in the *Housing Strategic Plan*, *2020 Strategic Plan*, *Our Climate Future*, *CityPlan*, and the *Livable Larimer County 5-Year Plan*.

¹⁴ [The Affordable Housing Gap Analysis 2021.](#)

Equity Factors and Proposed LDC Revisions MATRIX

Equity Factors	Summary of Changes	How these changes impact equity	Specific examples in LDC	Alignment with Goals in other Plans
Racial Inequity	<ul style="list-style-type: none"> Increased housing supply, diversity and price points Increased mix of for-sale & rental Increased housing types, price points, density in high-opportunity areas ADUs by right in all districts 	<ul style="list-style-type: none"> Reduce wealth disparities by increasing homeownership opportunities Reduce disproportionately higher poverty rates by race with more affordable housing costs 	<ul style="list-style-type: none"> Neighborhood conservation districts (NCs) and Mixed-Use districts (MNs) add duplex, cottage court, triplex, rowhouse, apartment options Density bonuses and reduced parking for affordable housing in NC, MN, C and D districts 	Housing Strategic Plan 2020 Strategic Plan Our Climate Future CityPlan Livable Larimer County 5-Year Plan
Health Inequity	<ul style="list-style-type: none"> Increased housing supply, diversity and price points Increased mixed-use housing Bonus density for affordable housing in TOD zones Increased housing diversity in 'Health Equity Index' priority areas (CityPlan) 	<ul style="list-style-type: none"> Housing that is affordable enables more spending on health care, transportation, other critical needs Being housed can reduce health disparities for BIPOC, low income, disabled residents 	<ul style="list-style-type: none"> Smaller minimum lot sizes in NC and MN districts allows smaller, more affordable housing types Affordable housing bonuses in MN and NC districts incentivize more housing units near basic services and transportation 	Housing Strategic Plan CityPlan Livable Larimer County 5-Year Plan
Gentrification/ Displacement Risk	<ul style="list-style-type: none"> Increased housing diversity and supply in areas of displacement risk AND high-opportunity areas Increased housing options and sizes for ownership Increased smaller and multifamily housing across price points 	<ul style="list-style-type: none"> More for-sale and rental housing options increases ability to stay in neighborhood More affordable housing supply reduces potential for eviction due to rent hikes 	<ul style="list-style-type: none"> Increase in housing density and diversity in high Vulnerability Index areas (MN districts north and south of Mulberry St.) Increase in housing density and diversity in high-opportunity areas for Economy, Mobility, Education 	Housing Strategic Plan CityPlan
Climate Resilience & Environmental Justice	<ul style="list-style-type: none"> More housing supply and diversity for people to withstand climate events and disasters More types and locations of housing with proximity to parks/green space/nature More housing near TOD to reduce vehicle usage 	<ul style="list-style-type: none"> Denser neighborhoods reduce vehicle miles traveled (VMT) and greenhouse gas (GHG) emissions Denser housing development allows more space for parks/green space/tree canopy to mitigate pollution Lower housing costs allow residents to better afford utility costs 	<ul style="list-style-type: none"> Duplexes, triplexes, cottage courts, rowhouses, ADUs in MN and NC districts increases access to yards, green spaces, parks, trails Increased housing density and diversity in MN and NC districts allows proximity to critical services and jobs; reduces driving trips 	Our Climate Future Housing Strategic Plan CityPlan

Access to Opportunity	<ul style="list-style-type: none"> • More zones allow housing diversity in order to access public and private goods (parks, quality schools, healthy food sources, multimodal transportation) in more neighborhoods • More housing diversity and price points reduce 'opportunity hoarding' of public goods 	<ul style="list-style-type: none"> • Increases housing supply, diversity, price points in high-opportunity areas for Economy, Education, Mobility, Environment 	<ul style="list-style-type: none"> • Increased housing diversity and price points in high-opportunity areas in NCL, NCM, NCB districts in downtown and along College Ave. • Increased housing density and diversity in high-opportunity areas in CG, CC, CL, CS, CCN districts. • Increased housing in high-opportunity areas in LMN, MMN, HMN districts 	Housing Strategic Plan CityPlan Livable Larimer County 5-Year Plan
Income and Wealth Inequality	<ul style="list-style-type: none"> • Diverse housing types in high-opportunity areas and near multimodal transportation can increase economic opportunity 	<ul style="list-style-type: none"> • Allows greater access to jobs, education, critical services to improve economic prosperity and reduce poverty 	<ul style="list-style-type: none"> • Increased housing supply, diversity and price points in high-opportunity areas • Density bonuses for affordable housing in MN, NC districts increases access to jobs, services • Affordable housing near TOD reduces transportation spending 	Housing Strategic Plan
Pandemic Response & Recovery	<ul style="list-style-type: none"> • Increased housing diversity and affordability improves ability to shelter and isolate • Diverse housing supply reduces risk of eviction during pandemics and economic downturns 	<ul style="list-style-type: none"> • Increases affordable housing options for essential workers • Density and 'complete neighborhoods' allow access to critical services including medical care and food; reduces impacts of supply chain interruptions 	<ul style="list-style-type: none"> • Duplexes, triplexes, ADUs in MN and NC districts increase access to yards, green spaces and neighborhood parks • Expansion of housing types, density and price points in MN and NC districts facilitates ability to work from home 	Housing Strategic Plan Our Climate Future CityPlan
Community Empowerment / Access to the Political Process	<ul style="list-style-type: none"> • Increased housing supply, diversity, price points increase chance to stay in neighborhood, strengthen social cohesion • Incorporates Home2Health engagement process recommendations • Code is easier to read and understand with many graphics 	<ul style="list-style-type: none"> • Housing stability increases likelihood of political participation and power • Displacement leads to disruption of community voice and power • More transparent, easy to read code builds trust in and access to the development process 	<ul style="list-style-type: none"> • Simplified Zone Districts • More housing diversity and price points throughout Districts • Graphic illustrations within LDC • ADUs by-right everywhere increases access to process of building ADUs 	Housing Strategic Plan

PLANNING AND ZONING COMMISSION

EXCERPT - RECOMMENDATION

TYPE OF MEETING – REGULAR

September 28, 2022 6:00pm – 1:30am

Vice Chair Shepard made a motion that the Fort Collins Planning and Zoning Commission recommend that the City Council approve the proposed rezoning to rename the current Neighborhood Conservation Low Density Zone District, Neighborhood Conservation Medium Density Zone District and Neighborhood Conservation Buffer Zone District to be the Old Town District. This recommendation is based upon the materials and the comments provided to the Commission and Commission's discussion. Member Sass seconded. No discussion. Vote: 6:1.

Chair Katz made a motion that the Fort Collins Planning and Zoning Commission recommend that City Council approve the proposed Land Use Code. This recommendation is based upon the materials and the comments provided to the Commission and the Commission's discussion. This recommendation is with the following changes:

- Change the title of the code to Land Use and Development Code. To more clearly reflect the content of the code.
- Direct staff to reanalyze the old town C zone District with respect to floor area. The Planning and Zoning Commission believes that the proposed code should maintain parity with what is permitted by current code.
- Increase the permitted floor area allowance of detached homes in Old Town A and Old Town B zones from 2,000 square feet to 2,400 square feet.
- Re-evaluate the permitted floor allowance of detached homes in the Old Town C Zone code to ensure parity with the current code which currently permits homes larger than 2,400 square feet. If the Council prefers to retain the 2,400 square feet, the Commission recommends that the effected residents be informed of the potential impact of the proposed changes.
- In the HMN zone, retain the current required set back of 15 feet, which is currently proposed at 10 feet, and retain the current code set-back metrics contained in 4.10(d)(2)(b).
- Enhance the wording regarding the façade articulation to ensure the wording clearly conveys its intent.
- Add additional narrative to row house and duplex building types to specifically prohibit slot houses.
- Add narrative to the row house and duplex building types to provide standards for units that front a green.
- In the cottage court building type permit attached units, throughout the document cross-reference design standards wherever necessary.
- In the detached house suburban building type, eliminate the driveway width requirement of 12 feet.
- With respect to approval authorities ensure the project with a substantial impact in the community are subject to public hearing. Metrics should be utilized to establish approval levels.
- Create a table outlining options for meeting requirements for substantial variation.
- Extend deed restrictions for affordable housing to 99 years.
- Allow duplexes in the RL zone district.
- Adjust measurements of floor area to improve clarity and consistency.

- Allow a detached ADU up to 600 square feet for primary houses that have 1,335 square feet of floor area or less. All others must meet the 45% floor requirement.
- Keep mixed-use dwellings as a use in the Old Town C Zone District.
- Recommend to Council to review new parking standards in 5.9(1)(k)(1)(a) that the Planning and Zoning Commission could not come to a strong majority on the matter with a large concern there will be spill over parking in adjacent communities.
- The commission further recommends Council seek community feed back on the proposed parking requirement.
- Recommendation that Council use the proposed building variation matrix completed by staff as guidance in the new land use code.
- Recommendation that City Council provide ample time for public input at the first reading.

Amendment by Member Haefele, point of clarification, I think that last one you mentioned is there where you said create a table outlining options for meeting requirements for substantial variation. Chair Katz accepted amendment.

Member Stackhouse seconded. Member Shepard asked if the commission wanted to further define or articulate the desire to see City Council use first reading as a public reading and then specifically say that there could be further 1st reading or if the commission wanted to get into that level of detail?

Member Schneider offered an amendment to finish the motion that needs to be per documentation as the motion was not completed, the final statement. Chair Katz responded that he did say that this recommendation is based upon the materials and comments provided to the commission with the following changes.

Vice Chair Shepard is ok with what was stated and wondered if it is stated as clear as it was discussed.

Amendment by Member Stackhouse. She offered an option that does not get into specifically directing the Council on how we would say to recommend. "That the Council provide ample time for public input after the 1st reading. Council's meeting will raise the public's attention to important issues so providing adequate time for comment is critical". Chair Katz accepted the amendment.

Member Hogestad asked if EDR's and the concern about public input was in there. Chair Katz responded that what was not called out was BDR, but it was development review metrics. Member Hogestad would like to see BDR's in there. Member Schneider commented that the commission did include a recommendation that staff would need to look at the size of the project and see if they could come up with a metrics or a threshold. Member Hogestad would like this to be in the motion, that it is predicated on the size, complexity and so on for the proposed project. Member Schneider commented that it was in the list that Meaghen had, and Chair Katz commented that this work as well as staff's work will all be delivered to Council.

Vice Chair Shepard recommend an amendment, "acknowledge the gap between the description of what is called the apartment housing type and the cottage court housing type, recognizing that the gap is significant, and the gap could be filled by acknowledging that there are smaller scale multi-family apartment buildings, could we add another housing type? It would fall between 3.1.2

Apartment and 3.1.3 A Cottage recognizing that there are small apartment buildings. Chair Kat accepted the amendment.

Member Schneider asked if there was really a need to add another housing type? This may be better in round 2. Vice Chair Shepard responded that it is already defined with specifications and parameters. It is in the missing middle housing book By Dan Parolick. Member Haefele would feel less uncomfortable with some kind of different definition than just apartment building. She is not comfortable with adding it at all unless the deference's are defined. Member Stackhouse suggested that rather than say add it, suggest that Council directs staff to determine the benefits of adding it. Vice Chair Shepard agreed. City Attorney Yatabe asked for clarification; Member Stakehouse suggested that the previous amendment be amended to suggest that Council direct staff to look at the benefits of adding this additional housing type. Vice Chair Shepard said that this is acceptable to him. Chair Katz also accepted.

Member Haefele will not be supporting this without caveats about additional public input is sufficient and is more than concerned that public hearings are being dropped and no certainty that Council will take these recommendations from us. Eliminating single family single-family zoning and not including a requirement for affordable housing. This does not achieve the principle for what this set out to be. It is more readable and clear. Member Schneider thanked staff and appreciates the organization and this will be better. Vice Chair Shepard thanked staff. Member Stackhouse said it is phenomenal. Member Hogestad has a fundamental concern with the lack of public input on this item. The BDR is concerning as the public would not have any input, parking has an impact on the communities. He cannot support this. Member Sass thanked staff. Chair Katz thanked the staff and would like to see more public input.

Vote: 5:2 (Haefele, Hogestad nay)

AFFORDABLE HOUSING BOARD (AHB)
CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



October 6th, 2022

From: Affordable Housing Board Chair John Singleton
To: City Council and City Leaders

Re: Affordable Housing Board comments on Land Development Code draft

Purpose: This memorandum serves as the formal opinion of the Affordable Housing Board on the draft of the updated Land Development Code, especially as it affects affordable housing in Fort Collins.

As the body that advises Council on matters concerning affordable housing in Fort Collins, the Affordable Housing Board (AHB) would first like to thank City staff, City Council, and our community for such thorough and diligent work in creating and giving feedback on this code update. This is a massive undertaking, and we're immensely grateful that this update is tied into the Housing Strategic Plan and centers affordable housing. We know that Fort Collins is suffering from a dearth of affordable housing, and we hope that this code update will be an important step toward helping alleviate that inequity.

Broadly speaking, we feel that the proposed changes to the land use code are a very positive step for affordable housing in Fort Collins. We commend, for example, the loosened restrictions on ADU zoning as a straightforward and simple mechanism to grow our inventory of affordable housing. This change alone is worthy of immense celebration, and we're pleased that it's only one of many positive additions to the code. We are also pleased to see the focus on increased density, especially along transit corridors, as well as specific additional incentives for affordable housing, including parking reductions.

Thank you again for your hard work on this update, and we appreciate your consideration of our feedback as you move toward a final decision. We look forward to following the code implementation and offering additional feedback as it's helpful throughout this process.

X

John Singleton
Affordable Housing Board Chair

MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



AFFORDABLE HOUSING BOARD

REGULAR MEETING

October 6, 2022 4:00-6:00pm

Remote/Online via Zoom due to COVID-19

DRAFT

CALL TO ORDER

At 4:01 PM the meeting was called to order by John Singleton

1. ROLL CALL

- a. **Board Members Present:** John Singleton, Bob Pawlikowski, Seth Forwood, Kristin Fritz, Sheila Seaver-Davis and Stefanie Berganini joined in progress.
- b. **Board Members Absent:** Jennifer Bray
- c. **Staff Members Present:**
 - Sue Beck-Ferkiss, Staff Liaison – City of Fort Collins
 - Meaghan Overton, Social Sustainability – City of Fort Collins
 - Emily Olivo, Neighborhood Services – City of Fort Collins
 - Heather Young, Utilities – City of Fort Collins
 - Shannon Ash, Utilities – City of Fort Collins
 - Taylor Reynolds, Minutes – City of Fort Collins
- d. **Guests Present:**
 - Marilyn Heller
 - Lisa Cunningham
 - Maggie, Palace Construction

*****Excerpt Related to this Resolution Begins Below*****

2. NEW BUSINESS

d. Housing Strategic Plan: Land Use Code Phase 1 Updates – Meaghan Overton

- Meaghan Overton reviewed various sections of the Public Review Draft of the Land Use Code Phase 1 Updates about which project staff has received feedback, as well as specific City staff and Planning & Zoning Commission recommendations.
- City staff and Planning & Zoning Commission recommendations will not be incorporated into the draft Land Use Code updates to ensure that Council reviews the Public Review Draft as it was presented to the public, along with the list of recommendations.
- Revisions will be made between 1st and 2nd reading with City Council.

AFFORDABLE HOUSING BOARD

REGULAR MEETING

- DISCUSSION:
 - What regulates the new EV requirements?
 - Electric Vehicle charging infrastructure is addressed in the Building Code, not the Land Use/ Development Code.
 - What are the different types of Electric Vehicle charging infrastructure?
 - There are three types: EV Installed (ready to go), EV Ready (no charger yet), and EV Capable (easily wired for charger installation).
 - The number of parking spaces required for each development are regulated by the Land Use/ Development Code and the Building Code states the percentage that need to be EV Installed, EV Ready and EV Capable.
 - What can this board do to advocate for boosted incentives for EV infrastructure and funding?
 - This board provided a recommendation when City Council previously voted to create a credit to offset the additional requirements included in the City Building Code above what the Colorado Housing and Finance Authority (CHFA) requires for EV at affordable housing developments.
 - Board members discussed whether they would like to provide a motion of support and/or letter of support for the proposed LUC changes and highlighted specific items such as density and parking reductions.

Bob Pawlikowski moved to that the Affordable Housing Board provide support for the general direction of the proposed Land Use/ Development Code changes being presented to Council. Stefanie Berganini seconded. Approved 6-0.

Kristin Fritz moved that the Affordable Housing Board sent the drafted letter regarding the proposed Land Use/ Development Code changes as presented, with any minor, necessary edits. Stefanie Berganini seconded. Approved 6-0.



Community Development & Neighborhood Services
281 North College Avenue
P.O. Box 580
Fort Collins, CO 80522.0580

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fcgov.com

MEMORANDUM

DATE: October 1, 2022
TO: City Council
TH: Caryn Champine, PDT Director; Paul Sizemore, Director of Community Development & Neighborhood Services; Meaghan Overton, Housing Manager
FR: Maren Bzdek, Historic Preservation Manager

RE: **LUC Update – Historic Preservation Commission Recommendation**

This memorandum contains the Historic Preservation Commission’s discussion highlights and motion recommending approval of the proposed Phase 1 changes to the Fort Collins land use code.

At its September 21, 2022 Regular Meeting, the Historic Preservation Commission discussed the proposed changes and adopted the following motion on a vote of 5-0 (four members absent):

“That the Historic Preservation Commission recommend approval of the proposed updates to the City of Fort Collins Land Use Code based on the following finding: the proposed changes will allow for an increase in overall housing capacity and housing affordability while continuing to allow for preservation of historic resources.”

Highlights from the Commission’s discussion:

- Question about why we aren’t requiring mixed use versus encouraging it, per Our Climate Future goals. Noted that Phase 2 may provide further opportunity to consider this issue.
- Concern about some recently constructed buildings that don’t seem to be likely to stand the test of time, whereas a well-design mixed-use building is more likely to meet that standard.
- Noted that the floor area cap of 2,000 s.f. for zones OT-A and OT-C, regardless of lot size, is an important shift from the current code that incentivizes larger houses in those zone districts.
- Question about measures that encourage building conservation versus demolition, e.g. duplex conversions; staff noted building type standards incentivize keeping what is on site.
- Noted it is important to clarify the driveway maximum standard for Old Town zone districts.
- Noted support for densification and increase in walkability, while also highlighting that low-density midtown subdivisions that are just nearing 50 years old are based on endemic development patterns that challenge densification. To avoid treating those patterns as dispensable, important to look at how we can potentially densify them while maintaining their original historic character.

There was no public comment on this item at the HPC meeting.

MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



NATURAL RESOURCES ADVISORY BOARD

TYPE OF MEETING – REGULAR

August 17, 2022 6:00 – 8:00 pm
Via Zoom

CALL TO ORDER

6:02 pm

ROLL CALL

- List of Board Members Present –
 - Barry Noon (arrived 6:10 PM)
 - Dawson Metcalf - Chair
 - Drew Derderian
 - Victoria McKennan (arrived 6:58)
 - Kevin Krause- Vice Chair
 - Danielle Buttke
 - Matt Zoccali
 - Kelly Steward
- List of Board Members Absent – Excused or Unexcused, if no contact with Chair has been made
 - Avneesh Kumar
- List of Staff Members Present
 - Honore Depew, Staff Liaison
 - Meaghan Overton, Housing Manager
 - Noah Beals, Development Review Manager
 - Cortney Geary, Active Modes Manager
 - Eric Potyondy, Assistant City Attorney II
 - Jennifer Shanahan, Senior Specialist, Natural Areas
- List of Guests
 - Gailmarie Kimmel, Rights of Nature
 - Jennifer Sunderland, Right of Nature

1. AGENDA REVIEW

- a. No changes to agenda

2. PUBLIC PARTICIPATION

NATURAL RESOURCES ADVISORY BOARD

TYPE OF MEETING – REGULAR

- Dawson – **Comment** – Thank you so much for your time and all the effort you are putting into this. There is support here and the angle of it is a tad different from what we have done in the past. I think the Board must have more of a conversation about our next steps and making sure we are on the same page instead of speaking for the whole Board at once. I would love to continue this conversation even if it is just me as a citizen.
- Jennifer will keep the Board updated on when they are going to go to Council.
- b. **Land Use Code Update** – Housing Manager, Meaghan Overton and Development Review Manager, Noah Beals provided an overview of proposed changes to the City's Land Use Code (LUC) and welcomed input prior to Council consideration of adoption, scheduled for October 18, 2022. The LUC regulates zoning, building design, and more. It was written in 1997 and has been updated regularly to address specific code issues, but it hasn't been reevaluated comprehensively since adoption. Fort Collins and our community priorities have grown and changed since 1997. This year, the City is beginning updates to the LUC to make sure it supports adopted goals and policies. Phase 1 of these code updates will address several Housing Strategic Plan strategies that seek to improve housing affordability, choice, and capacity. (Discussion)
 - Discussion | Q + A
 - Danielle – **Q** – I was really excited to see a lot of the changes that are moving towards increasing equity and increasing the way in which we use the land in an efficient way. I am interested in the specific incentives that are mentioned, such as a reduction of parking requirement. I am wondering if there are any other such as incentivizing non-Kentucky bluegrass type landscaping or xeriscape landscaping. I know that can get more at the building codes and metro-districts but wondering if there are any other levers where we can incentivize sustainable development. Meaghan – **A** – That is probably in phase two of this, but I think it is an important piece of it. There are sections in the land use code that for right now are essentially unchanged around landscaping. We haven't really attached those in this first phase. We are trying to focus on the housing related changes and housing affordability changes, but we need to tackle the rest of the code too. I think in the context of incentivizing affordability those kinds of big levers are the parking density and the height of buildings. We do provide some limited landscaping incentives for affordable projects. For example, you can use a two-inch caliper tree instead of three-inch. I would be interested in thinking through how we incentivize not just housing in phase two because we will have done that but how to incentivize the types of development that we want to see based on those adopted policies the City has. I think there is a lot of improvement we could make as we keep going into the rest of the code,

NATURAL RESOURCES ADVISORY BOARD

TYPE OF MEETING – REGULAR

especially if this goes well and feel like it has some momentum going in the right direction. I think there is more work that can be done. Noah – **Comment** – It is a basis to conversation and one we hope to do a lot more public outreach on as well. A lot of the public outreach we have already done for this phase was focused on residential and that is why we are really keeping it to the residential pieces here. Our incentives right now for affordable housing as far as landscaping go are probably very minimal. With the three-inch to two-inch change. We are finding two-inch calipers actual survive better and we should probably just allow everyone to do a two inch. It is something we want to look at and dive in deep. Meaghan – **Comment** – Danielle you also brought up the building code a little bit which I think is another lever we are not really touching at all with the land use code because those are separate regulations, but both apply to development. Some of you may have been involved with the building code update that just happened this past year. I know there were some changes there that are requiring more significant insulation and requiring electric vehicle infrastructure. That building code is update about every three years. How we are incentivizing sustainable buildings is another big piece of the building code as it is and the land use code as well.

- Barry – **Comment** – I certainly, like Danielle mentioned, embrace the goal of affordable housing and our contribution to the community to a more equitable society. I will say I don't like your change of Land Use Code to Land Development Code because it embraces development as if that is the objective and not quality of life. I think it fails to recognize fundamental limits to growth. As I have mentioned before I am an ecologist and I build population dynamics models with my students for many species, and I have never built a population dynamics model that fails to include density dependent effects. We are biological organisms, and we have the same sort of ultimate feedback that in that introduce hard constraints on growth. There seems to be a failure to acknowledge those hard constraints and that is an absolute biological reality. I don't like the term Land Development Code as opposed to Land Use Code. I also think something that didn't come up, that effects everyone is mental health issues. Access to nature, environment and open space is another essential constraint that needs to be considered. The reality is that there are hard inflexible environmental constraints to human development. Climate change is the latest signal that that is going on. A lot of people are in denial, but it will ultimately be a driver within the next many years. I greatly appreciate our City and staff is phenomenally progressive. I just keep bouncing up to this no limits to growth issue, whether it involves the river, economics, or social equitability. Meaghan – **Comment** – Barry, I will say you are not alone in your thoughts, and we have heard some of that

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feedback as well. It is important for us to hear a range of perspectives and to be taking in all those comments to be considered. We have to present the code to City Council who will ultimately make the decision on that. We want to have a clear and comprehensive understanding of folks' reactions and opinions about things we should change. I appreciate the comments and I think it is an important part of the conversation.

- Victoria – **Q** – I think it is awesome to see that nexus between land use, density, and transportation opportunities. We talk about transit and have that be such a focal point of these conversations. Kind of along the lines of incentives for some of these things we'd like to see happen as far as affordable housing or sustainable practices in landscaping, have you all considered the review criteria and how development is evaluated? Did it meet the forms we have identified? Did it meet these goals we are trying to achieve with this new code? I am wondering if you can speak to that. Meaghan – **A** – One of the great things about the code being a regulatory document is you don't have an option but to either meet the requirement as it is written or request a formal modification that must be approved alongside development. That is part of why staff reviews it to make sure that it does meet those requirements and if it doesn't, how are we going to get there. I also heard in your question 'how will we know if these code changes are resulting in more of the kinds of development that we want to see?' and I think that is another important piece of both the Building Code and Land Use Code. The built environment shifts slowly so I wouldn't expect that we would see dramatic changes in a year or two years but how are we tracking overtime, the impact that some of these changes are, and are they resulting in more sustainable development or additional inventory of housing. I think that piece of the implementation of the code is making sure that we are tracking with some metrics and building permit data. Some of the information that we have available to use to look back retrospectively and see did it do what we thought it was going to do and if not, how can we adjust. I think neither Noah or I think this is written 100% perfect or that it will stay exactly as it is because our community is dynamic. It is changing and shifting, and our regulations will need to do that as well, so making sure we are tracking that will be important. Noah – **Comment** – That is true and to point out these projections that we are taking about, they are based on capacity, not necessarily what is going to get built. We are just saying you can build this much capacity within the standards of the Land Use Code right now. If we adjust the standards to increase capacity, we will see what gets built with that. We are trying to incentivize what we are hoping gets built with some more affordable residential units.
- Kevin – **Q** – This is great. I think directionally I am excited for this for a lot of

NATURAL RESOURCES ADVISORY BOARD

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reasons, including next up with Cortney's presentation too. I am excited for phase two regarding building efficiency and so forth. As a Board we did a review and provided feedback on the Building Code updates and urged Council to look for ways to push further, get to electrification faster and so on. I look forward to that being possible in part two. Maybe it is too in the weeds, but I haven't gone through a development of a property regarding overall lot sizes. Say you have an existing home, and you are adding ADU that is 40% or 35%. As far as the level of civil requirement does it come into play pervious material and adding impervious material to an otherwise previously pervious lot area to developments must consider that regarding things like ADUs. I asked specifically because we all know that the way precipitation is occurring and change so it is not like there are no affects to adding more impervious material. I'm just curious what triggers that level of development, scrutiny, and questioning as we increase density. Noah – **A** – To answer quickly, yes, the requirements are still there if you need to treat your storm water or if you are increasing your pervious area. That is staying in place because that is really a different code. However, the Land Use Code is really teeing up a lot of conversations for these different codes to happen next. We will see where it takes us but right now, we focus on the Land Use Code and the hurdles we are experiencing in the Land Use Code. We will probably be teeing up with a lot of conversations for different codes to get on the board with what is happening. Kevin – **Comment** – That is helpful, and the answer could be great. Maybe this code says you can do this thing, but you run into this hurdle and because of the configuration of the property or whatever. Meaghan – **Comment** – Yes, it is completely possible that that could happen. Noah's comment about it teeing up other conversations gives us an opportunity, not just staff but the community as well. If we want to see additional density in your transit and we want to see more housing choices and we allow accessory dwelling units now, but we are running into a barrier of storm water criteria, what do we do with that. I think it is not an easy yes or no it needs to change sort of discussion. That is a point for community engagement; what are the potential unattended consequences of making that change and all the ripple effects. We are not proposing wholesale change to the landscaping and storm water criteria, but I think our first step is allowing more kinds of housing in more kinds of places. We can tackle each of those other conversations as they need to happen.

- c. **Active Modes Plan** – Active Modes Manager, Cortney Geary, shared information on the draft Active Modes Plan, which is available for public comment through August 24. The plan is updating and combining the City's 2011 Pedestrian Plan and 2014 Bicycle Plan. The plan incorporates not only pedestrians and bicyclists but also micro mobility

MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



TRANSPORTATION BOARD

TYPE OF MEETING – REGULAR

July 20, 2022, 6:00 p.m.
Virtual Meeting Via Zoom

FOR REFERENCE:

Chair:	Indy Hart
Vice Chair:	Cari Brown
Council Liaison:	Emily Francis
Staff Liaison:	Aaron Iverson

1. CALL TO ORDER

Chair Hart called the meeting to order at 6:02 PM.

2. ROLL CALL

BOARD MEMBERS PRESENT:

Indy Hart, Chair
Cari Brown, Vice Chair
York
Jerry Gavaldon
Nathalie Rachline
Rob Owens
Stephanie Blochowiak

CITY STAFF PRESENT:

Noah Beals
Ryan Mounce
Cortney Geary

PUBLIC PRESENT:

None

BOARD MEMBERS ABSENT:

None

3. AGENDA REVIEW

Geary stated there were no changes to the published agenda.

4. CITIZEN PARTICIPATION

None.

5. APPROVAL OF MINUTES – JUNE 2022

York made a motion, seconded by Rachline, to approve the minutes of the June 2022 meeting as written. The motion was adopted unanimously with Owens abstaining.

TRANSPORTATION BOARD

TYPE OF MEETING – REGULAR

6. UNFINISHED BUSINESS

None.

7. NEW BUSINESS

a. Land Use Code Update – Noah Beals/Ryan Mounce

Ryan Mounce, Planning Department, stated this phase of Land Use Code changes is primarily being driven by the recent update to the Housing Strategic Plan; however, there are changes related to other plans as well, including the Transit Master Plan. He stated this phase of Land Use Code changes will completely reorganize the document and its name will now be the Land Development Code. He detailed the housing related changes, including housing choices and compatibility, housing diversity, housing capacity, and housing affordability.

Mounce noted the current standards do not incentivize capacity in transit corridors and that is proposed to be changed with this phase. Additionally, parking requirement reductions are proposed to be included for certain multi-family units. Mounce discussed the changes that are proposed related to incentivizing affordable housing. He outlined the forthcoming public participation opportunities that will occur after the initial draft is released and stated the plan is to present the changes to Council in the fall.

Gavaldon asked if there will be changes to the minimum lot sizes for allowing carriage houses. Mounce replied in the affirmative and stated staff is looking at allowing additional dwelling units in multiple zone districts with lower minimum lot sizes.

Gavaldon asked how the proposed parking changes would affect on-street parking. Mounce replied the proposed parking reductions relate only to multi-family developments that may or may not be adjacent to on-street parking.

Gavaldon asked if the reduced parking will be offset with landscaping or more units. Mounce replied all parking area landscaping requirements would still apply; however, the hope is that the decreased parking requirements will help to provide additional attainable units and promote housing capacity.

Gavaldon expressed concern about decreasing parking requirements and increasing unit numbers. He asked if shading and shadow studies will be completed for buildings with additional height allotments. Mounce replied the existing shadow analysis and shading requirements will remain.

York suggested a language change may be necessary related to affordable housing on transit corridors. He asked if the 4,300 acres with proposed incentives number includes acreage that is currently under development review. Noah Beals, Planning Department, replied only 670 of those acres are vacant or still considered buildable and the remaining acreage could be redeveloped or include infill projects. York suggested making that information clearer for future presentations.

TRANSPORTATION BOARD

TYPE OF MEETING – REGULAR

Blochowiak asked if the height bonus would only apply to projects proposing affordable units. Mounce replied in the affirmative and stated at least 10% of the units in a project must be affordable in order for the height bonus to be applicable.

Blochowiak asked if the height bonus will make enough of a difference to increase affordable housing unit numbers. Beals replied the analysis completed shows this will be enough of an incentive.

Blochowiak asked if the City ever looks at redeveloping existing multi-family developments for affordable housing. Mounce replied existing affordable developments are usually deed restricted for a certain number of years and as those restrictions fall away, the units are sometimes remodeled and become market-rate housing; therefore, this phase of changes is contemplating increasing the length of deed restrictions. He noted the Housing Strategic Plan also discusses other options that are not necessarily related to the Land Use Code.

Owens asked if there are any incentives to increase density by removing parking. Mounce replied in the affirmative and noted parking is part of the cost of housing.

Owens asked about the reasoning for parking reductions not applying to three- and four-bedroom units. Mounce replied those units, particularly in a college town, tend to draw unrelated residents, each of which is likely to have their own vehicle. Additionally, he noted the units with fewer bedrooms tend to see more parking availability.

Chair Hart supported building up and not out in a sprawl fashion, particularly in the realm of encouraging public transit and walkability. Additionally, he stated that will also help with decreasing the need for parking. He supported adding more development to areas where development already exists.

York asked if the new plan will impact the block-by-block building height plan. Mounce replied the proposed height changes currently do not apply to the Downtown zone district as the Downtown Plan was recently updated and the height map was refined. Additionally, there are policy goals around the preservation and protection of the Downtown historic buildings. He also noted the second phase of Land Use Code updates will be focused on commercial zone districts.

York suggested expanding the height plan to other areas of the city so people would know what to expect.

Vice Chair Brown commented on whether the level of affordability represented is truly affordable. Mounce noted one of the other changes being considered is to have different rates of affordability between for sale and for rent units.

Chair Hart suggested adding information regarding living wage data.

Owens asked if it is fair to say housing capacity is lacking across the price spectrum. Mounce replied in the affirmative.

TRANSPORTATION BOARD

TYPE OF MEETING – REGULAR

Owens asked if the incentive to provide affordable housing is going to be enough to meet the demand or if a better solution would be to allow the market to determine how much capacity there should be. Mounce replied the affordable housing incentives in this phase are targeting having 10% of households as being deed-restricted affordable and that number has remained stuck at 5%. Beals noted this is one step and incentives can always be updated in the future.

Chair Hart commended staff on the proactive approach being used. He stated the market is constrained when it comes to real estate, in certain ways, because of the development standards that are in place, and ensuring plans are ahead of rather than behind trends is important.

Gavaldon commented on changes in technology, products, and methods that will cause plans to be behind. He specifically cited water availability as being a barrier to future development.

Mounce noted a public draft of the phase one changes will be released in the next few weeks.

b. 15 Minute City Analysis Study – Cortney Geary

Cortney Geary, FC Moves, stated there are three simultaneous planning efforts underway that are contributing to supporting active modes of transportation: the Active Modes Plan which looks at improving and expanding the active modes networks, policies, and programs, the 15-Minute City Analysis which is focused on identifying gaps in the active modes network and land use patterns that are barriers to a 15-minute city, and the Vision Zero Action Plan which looks at all modes of transportation and the goal of zero traffic-related fatalities and serious injuries.

Geary stated a 15-minute city is described as a place where everyone can get to the daily goods and services they need to live and thrive within a 15-minute walk, bicycle ride, or transit stop. She discussed the existing City goals that support this effort, noting it is also a Council priority and is referenced in existing plans such as Our Climate Future and Nature in the City.

Geary outlined the steps in the 15-minute city analysis: establishing a definition and goals specific to Fort Collins, conducting the analysis, developing strategies, and issuing a final report. She stated the definition and goals are based on public input received from the Active Modes Plan outreach and the definition for Fort Collins is: a place where every resident can walk, bike, or roll within 15 minutes of their home to their daily needs and services. She stated associated goals include strengthening historically underserved communities, ensuring equity, reducing automobile trips, and enhancing resiliency.

Geary outlined the methodology utilized in the analysis. She noted the walking scores are overall higher than bicycling, likely because there are more high-stress bicycling

YOUTH ADVISORY BOARD

REGULAR MEETING

March 3, 2022 – Presentation and meeting held at Northside Aztlan Center

5:00-5:30pm: Presentation & Discussion with Community Development & Neighborhood Services

- Noah Beal, Development Review Manager and Shawna Van Zee, City Planning Specialist presented on Housing Strategic Plan Implementation and LUC Phase 1 Updates: Approach to Code Drafting (November 2021 presentation to Council).
- YAB response: What are the future opportunities for youth? Connections with City leaders through emails, attendance at meetings, requests for presentations of information. B&C meetings available to attend: Planning & Zoning Commission, Historic Preservation Commission, Building Review Board, Affordable Housing Board, and Land Use Review Commission.
- Noah's contact information: nbeals@fcgov.com
 - Job shadowing opportunities may be available

5:30-6:30pm: Regular meeting

Virtual Option Through Zoom (beginning at 5:30pm):

<https://us06web.zoom.us/j/87898273692?pwd=OForcmhwM2o3dkVBQmNFUXRCTFZpUT09>

Meeting ID: 878 9827 3692

Passcode: YAB2122

1. CALL TO ORDER

- a. The meeting was called to order at 6:04pm.

2. ROLL CALL

- a. **In attendance:** Rahul Goush, Andrew Zuniga, Dmitry Volchansky
- b. **Absent:** Dylan Lindsay, Riya Sajjan

3. COMMUNITY PARTICIPATION

- a. None

4. APPROVAL OF MINUTES

- a. February meeting minutes were unanimously approved by the quorum.

5. NEW BUSINESS

- a. Review Work Plan & Council Calendar for upcoming topics
 - Motion approved to add to Work Plan: Future plans for zoning regulations

6. DISCUSSION ITEMS

- a. Follow-up/take-aways from February meeting

YOUTH ADVISORY BOARD

REGULAR MEETING

- Look into March 1 council meeting recording on equity indicators
- Recruitment efforts – what is best way to set up?
- Add structure to Board for council engagement

b. Planning for April/May meetings

- Invitations to other youth boards/coalitions to join last meeting
 - Youth Sustainability Board, County Youth Action for Health, Loveland Youth Commission, Windsor and/or Tinmath?
- Our Climate Future in April

7. BOARD MEMBER REPORTS (COMMITTEES, EVENT ATTENDANCE, ETC.)

- a. None

8. OTHER BUSINESS

- a. None

9. ADJOURNMENT

- a. The meeting was adjourned at 6:17pm.

NEXT MEETING – Thursday, April 7th

5pm presentation/discussion TBD (Climate Future)

5:30-6:30pm regular meeting at Northside Aztlan Community Center

MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



ECONOMIC ADVISORY BOARD

TYPE OF MEETING – REGULAR

January 19, 2022 4:00 - 6:00 pm
via Zoom

1. CALL TO ORDER

4:00pm

2. ROLL CALL

- List of Board Members Present
 - John Parks
 - Renee Walkup
 - Thierry Dossou
 - Blake Naughton
 - Denny Coleman
 - Aric Light
 - Mistene Nugent
 - Jeff Havens
 - Braulio Rojas
- List of Board Members Absent – Excused or Unexcused, if no contact with Chair has been made.
- List of Staff Members Present
 - Josh Birks
 - Molly Saylor
 - Meaghan Overton
 - Noah Beels (briefly)

3. AGENDA REVIEW

- Ultimately no changes

4. CITIZEN PARTICIPATION

- N/A

5. APPROVAL OF MINUTES

- No changes

6. UNFINISHED BUSINESS

- N/A

7. NEW BUSINESS

ECONOMIC ADVISORY BOARD

TYPE OF MEETING – REGULAR

advice, and runs things behind the scenes.

- d. **Closing remarks:** We serve for the pleasure of City Council - everything we do goes as a suggestion to Council.

e. **Housing Strategic Plan Update – Land Use Code Updates Phase I**

- Presentation – Meaghan Overton – 10 minutes
 - Meaghan Overton – City’s Housing Manager.
 - Goal is to get everyone up to speed on Land Use Code update. Information included in packets.
 - Project involves revamping land use codes, which dictates what can be built where, and the process that it needs to go through to be built. The first phase of this work is focused on housing, and phase two will tackle industrial and commercial uses. The purpose of this project is to align the policies already set in place by various city plans (city plan, transit master plan, our climate future plan, etc.). The plan began with an audit done in 2020.
 - Quick history of Fort Collins: The first zoning code served from 1920’s to mid-1950’s. Old Town is the historic core of the city. It’s walkable, mixed use, has trees and alleys. At the end of this era, the chamber of commerce adopted a mantra: “Fort Collins Expands.”
 - The late-1950’s to the 1980’s involved growing out from the core; the city expanded outward. 27% of the city was built between 1960 and 1980. A lot of expansion was done via annexation of unincorporated parts of Larimer County. In the 1980’s and 1990’s auto-dependence became more pronounced, and a lot of work was done in construction of single, detached houses. In 1997, the code was updated, and many values from the core came back: trees, staying connected, and biking/walking opportunities. We also see a lot more multi-unit development.
 - The plan is now to accommodate the future vision. We want more mobility, more diversity in the kinds of houses we have available, and more focus on sustainability.
 - 5 guiding principles shape the current work:
 - (1) Increase overall housing capacity.
 - (2) Enable more affordability.
 - (3) Allow for more diverse housing choices.

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- (4) Make the code easier to understand.
 - (5) Improve predictability of the development permit review process.
- **Discussion – 20 minutes – Board**
 - **Comment (Jeff):** A flood in Michigan town gave city an opportunity to restructure downtown. Many complaints came from residents when a reduction of 20 parking spaces was suggested. The city advertised that, when visiting a city, no one remembers how great the parking is. Supports removal of parking.
 - **Comment (Denny)** Suggests that there is always a percentage of the population who believes that if they cannot park right in front of a store whenever they want - they think there's not enough parking.
 - **Q (Denny)** His experience with affordable housing is that it's best if there's a percentage of the affordable housing is sold at market rate. Does FC have plans to provide something like that.
 - **A (Meaghan)** Inclusionary policy is not required in Fort Collins (and wasn't allowed in rental housing until last year). They continue to look at inclusionary policy as a potential option, but it would need to be carefully designed to work with whatever densities are allowed in code. Expect more conversation about this after code changes.
 - **Q (Denny)** In SL, historic preservation was important. What's the feeling on historic districts, particularly in old town?
 - **A (Meaghan)** There are a few historic districts in FC (primarily in Old Town area), and Housing works closely with historic preservation staff to balance affordability and historic preservation concerns. Example: use of an existing house is more sustainable than building a new one, but the existing houses wouldn't be as energy efficient.
 - **Q (Jeff)** Asks if there any conversation regarding incentivizing individual property owners (of small apartment complexes or of individual houses) to provide affordable housing.
 - **A (Meaghan)** That's a subject that falls in the Housing Plan, though not the Land Use Code project. The Housing Plan is on a much slower timeline and looks at occupancy, rental licensing, and small landlord incentives. Most of the housing

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that will be available in FC has already been built since there is not enough capacity to build enough to match what already exists. Work needs to be done with what we have and can't necessarily "build our way out of it."

- **Q (John)** FC, and the rest of the country, have a history of redlining and exclusionary practices. Is the commitment to equity tied into some of what you guys are looking at?
 - **A (Meaghan)** The housing plan delves into the history beyond what was mentioned today (e.g., a plan that only allowed certain races or incomes to buy housing). There was also an equity and opportunity assessment that looked at displacement, gentrification, and access to different kinds of opportunity in the community geographically. This allows identification of the most vulnerable communities are located, and where neighborhood change and gentrification are occurring.
- **Q (John)** The City has recently adopted higher efficiency code and wonders whether that's tied in with the Land Use Code, the sustainability, and the cost aspects of new builds.
 - **A (Meaghan)** The city is also updating the building code on February 15th. Energy and sustainability compliance will be dealt with through the building code, not the Land Use Code.
- **Q (Renee)** Since the pandemic, have the numbers of people who are moving in adjust – is there new data on that. And second, has the funding changed for affordable housing?
 - **A (Meaghan)** A lot of the trends that existed before the pandemic are pretty similar to current trends. There is a rapidly growing older population, smaller family sizes, and people doubling up on housing. The city invests 1.5 – 3 million dollars in affordable housing; based on production goals, the required amount is closer to 10-11.5 million dollars per year. There are recovery funds that are beginning to be allocated to projects across the city, so she expects housing to be one of the top priorities. Money from the City is focused towards the lowest-income groups. The city is also getting 2.6 million towards housing from ARPA.
- **Q (Renee)** Developers said that they're not getting incentives to build affordable housing. Have any adjustments been made to that?

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- **A (Noah Beals – Development Review Manager for the City)**
We are only one piece of the puzzle, and we are teeing up that conversation for the future, but we're not incorporating it in our current work.
- **A (Meaghan)** We also have credits that are only for those hard-to-develop units (30% median income or below). It's a flat rate that developers can apply to their fees, but it's a limited program because of funding. With more funding, more money could be applied there. Some additional funding went there in the first round of ARPA.

- **Meaghan:** Draft is expected to come out around April. She and Noah would love to come back and share the details of the draft, then.

f. Plastic Bag Update

- **Presentation – Molly Saylor – 10 minutes**

- Working on plastic pollution is a city council priority and is in our city's strategic plan. The program is funded by bag fee revenue of about \$120k in 2022. This strategy also supports an Our Climate Future alignment as a move towards zero waste.
- In developing Our Climate Future, we learned that more renewing, recycling, and composting was one of the big priorities of our BIPOC community in FC. So, we know that this is an important place to be working, especially working within equity.
- This work specifically is centering community and equity. It centers community by making the plastic bag fee revenue available for things that the community might want to lead or co-lead with our city. We are also centering equity by partnering with historically underrepresented groups including people living with a disability.
- The Bag Ordinance was passed by City Council in February 2021 and was affirmed by voters in April 2021. It will become effective on May 1, 2022, and ban plastic bags at large grocers (over 10k square feet). Paper bags will then be available for purchase for 12 cents. Half of the 12-cent fee will go to the grocers, and the other half will go to the city. The fee that goes to the city will go to waste reduction measures. Note that participants of federal, state, and local income-qualified programs will be exempt from this fee if they can present a current benefit card.
- Since Council adoption and voter approval, we've seen:

Land Use Code Update Phase 1 -Housing

Working Group Members

- Braulio Rojas
- Russ Lee
- Kristin Fritz
- Kristin Candella
- Angela Milewski
- Mistene Nugent
- Heidi Schuff
- Matthew Robenalt
- Jessica Tuttle

Discussion facilitated by Project Consultants and City Staff.

Land Use Code (Current)
Zone District Abbreviations and Purposes

Residential Districts

- RUL – 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.
- UE – 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 that 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.
- RF – The Residential Foothills District designation is for low density residential areas located near the foothills.
- RL – The Low Density Residential District designation is intended predominantly for single-unit and accessory dwellings located throughout the City which existed prior to the adoption of this Code.
- NCL – The Neighborhood Conservation, Low Density District is intended to preserve the character of areas that have a predominance of developed single-family dwellings and have been given this designation in accordance with an adopted subarea plan.
- MH – The M-H 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.

Mixed-Use Districts

- LMN – 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 multifamily structures.
- MMN – 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 of transit and/or commercial districts.
- HMN – The High Density Mixed-Use Neighborhood District is intended to be a setting for higher density multi-family 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.

- NCM – The Neighborhood Conservation, Medium Density District is intended to preserve the character of areas that have a predominance of developed single-family and low- to medium-density multi-family housing and have been given this designation in accordance with an adopted subarea plan. NCB – Neighborhood Conservation, Buffer
- NCB – The Neighborhood Conservation, Buffer District is intended for areas that are a transition between residential neighborhoods and more intensive commercial-use areas or high traffic zones that have been given this designation in accordance with an adopted subarea plan.
- NC – 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.

Commercial Districts

- D - 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.
- CC – 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.
- CCN – 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.
- CCR – The Community Commercial - Poudre River District (C-C-R) 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.

- CG – 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. Secondly, it can accommodate a wide range of other uses including creative forms of housing.
- CG (CAC) – The General Commercial, I-25/State HWY 392 Interchange Corridor Activity Center 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. Secondly, it can accommodate a wide range of other uses including creative forms of housing.
- CS – 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.
- CL (RA) – The Limited Commercial, Riverside Area 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.
- CL (OA) – The Limited Commercial, Other Areas 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 C-L District
- HC – 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.

Employment and Other Districts

- E – 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.
- I – 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 these Districts 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.

- POL – 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.
- PUD – The Planned Unit Development Overlay guides subsequent Project Development Plans and Final Plans for large or complex developments governed by an approved PUD Master Plan.
- T – 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.

LAND USE CODE

COMMUNITY ENGAGEMENT REPORT



**CENTER FOR
PUBLIC DELIBERATION
COLORADO STATE UNIVERSITY**

**PREPARED FOR THE CITY OF FORT COLLINS BY
THE CSU CENTER FOR PUBLIC DELIBERATION**

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Executive Summary

This report synthesizes the Land Use Code engagement series that took place on Saturday, October 23rd, Monday, October 25th, and Wednesday, October 27th, 2021. It includes data and notes from small group facilitated conversations. These events were designed to allow residents throughout Fort Collins to share their current experiences with housing and discuss changes and updates they would be willing to accept as the City of Fort Collins begins implementing numerous strategies from their Housing Strategic Plan. Residents were also asked to share information about any barriers they could identify to changing or updating land use code, and how current codes may be impacting the affordability of their housing.

Land Use Code Engagement Events

Meeting Design

In order to solicit broader feedback on various land use code related issues, the Center for Public Deliberation, in partnership with the City of Fort Collins, designed a series of three community engagement opportunities that focused on a different neighborhood type for each event. City partners alongside the CPD identified three neighborhood types that would allow various residents throughout the city to react to and provide feedback about land use code. These neighborhood types were chosen to ensure that residents felt they did not need to attend all three events in order to participate in the conversation that most related to the type of housing they currently live in. However, some residents still opted to attend all three of the events. To encourage a wider diversity of participation and to honor the time our community members spent in conversation with one another, we offered \$40 gift cards to King Soopers for each of these engagement events

While each unique event had its own topic, there was overlap in the land use codes and policies that impacted each neighborhood type, which allowed various residents to share feedback about similar codes.

To gather a variety of participants, we created an RSVP survey that was sent to Fort Collins residents through various channels and each resident was able to register for multiple events. This information was used to create small breakout groups for each event. These breakout groups consisted of community members with a variety of expertise on housing issues, some were developers or builders, some were landlords, some worked in local business, and many were community members with context expertise who lived in manufactured housing communities, affordable developments, and a variety of other housing situations. Various groups included both English and Spanish speakers and we utilized Language Justice Interpretation to allow all participants to communicate in the language they were most comfortable with. All participants were provided an informational handout with more detail about each of the neighborhood type they were discussing. These were provided in both English and Spanish. You can find these handouts at the end of this report.

At each event, small groups were facilitated by a student associate at the Center for Public Deliberation. There was also a note-taker in each breakout group tasked with recording all comments, questions, and information shared by participants. City of Fort Collins experts attended each meeting to be available to answer any fact-based questions, but they were not incorporated into small groups to avoid conversations turning into Q&A sessions. Student facilitators guided the conversation by asking a series of questions in two parts. For each event, some questions were changed slightly to make sure they pertained to the neighborhood type being discussed.

Part one discussions focused on building community understanding and consisted of the following questions:

Event One:

1. If you moved to Fort Collins this year with your current salary, what types of housing would you be able to afford?
 - a. How has what you can afford changed over time?
2. How is the current cost of single-family housing impacting you or others you know in the community?
3. If you own a home, what are some things you would like to do, but are currently unable to do because of land use code regulations?

Event Two:

1. If you moved to Fort Collins this year with your current salary, what types of housing would you be able to afford?
 - a. How has what you can afford changed over time?
2. How is the current cost of various types of housing impacting you or others you know in the community?
3. If you currently live in a neighborhood like this, what are some things you would like to see changed or improved?

Event Three:

1. If you moved to Fort Collins this year with your current salary, what types of housing would you be able to afford?
 - a. How has what you can afford changed over time?
2. Do you or someone you know live in a mixed-use neighborhood? What has your/their experience been like?
3. What are some benefits to having mixed-using housing throughout the city?

Part two focused on future visioning and utilized the same questions each night, simply substituting the appropriate neighborhood type:

Event One:

1. What does an ideal suburban (mixed housing, mixed-use) neighborhood look like to you?
2. What are some steps the city can take to increase housing capacity in suburban (mixed housing, mixed use) neighborhoods
3. What changes to code would you be willing to accept in your own neighborhood? What changes would you like to avoid?
4. Can you identify any unintended negative consequences to updating land use codes in suburban (mixed housing, mixed-use) neighborhoods?

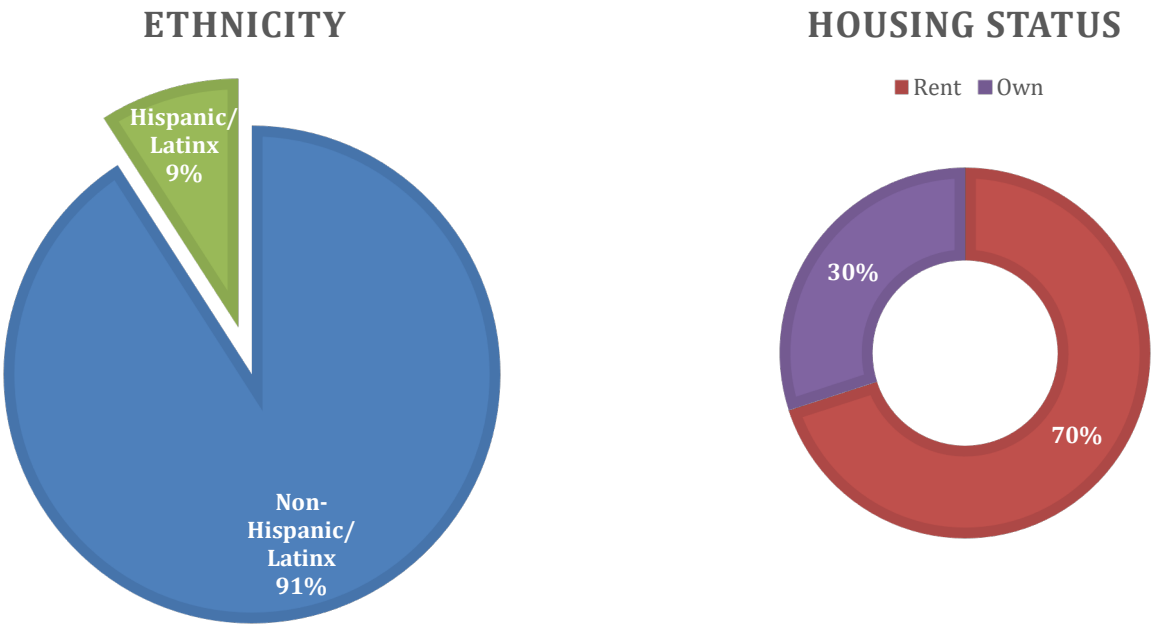
At each engagement event, partners with the City of Fort Collins provided a 10–15-minute introduction about the specific neighborhood type being discussed as well as information about how updating land use code will progress in the coming months and years. After this introductory session, participants were sent to breakout groups and spent 40 minutes in facilitated discussions for part one. After 40 minutes, we provided a 10-minute break, and then participants returned to their original breakout groups to begin part two. Participants then spent an additional 40 minutes focused on future visioning questions before being sent back to the full group for closing remarks.

After the three events were complete, a small team of students compiled notes from all events into one document. Once this was complete, each comment in the notes was thematically coded in two rounds. In the sections below, we share demographic breakdowns for attendance at each engagement event, as well as major themes we identified. These themes are organized roughly according to the frequency with which they appeared in the event notes.

Event One, Saturday, October 23rd

Suburban Neighborhoods

Participant Demographics



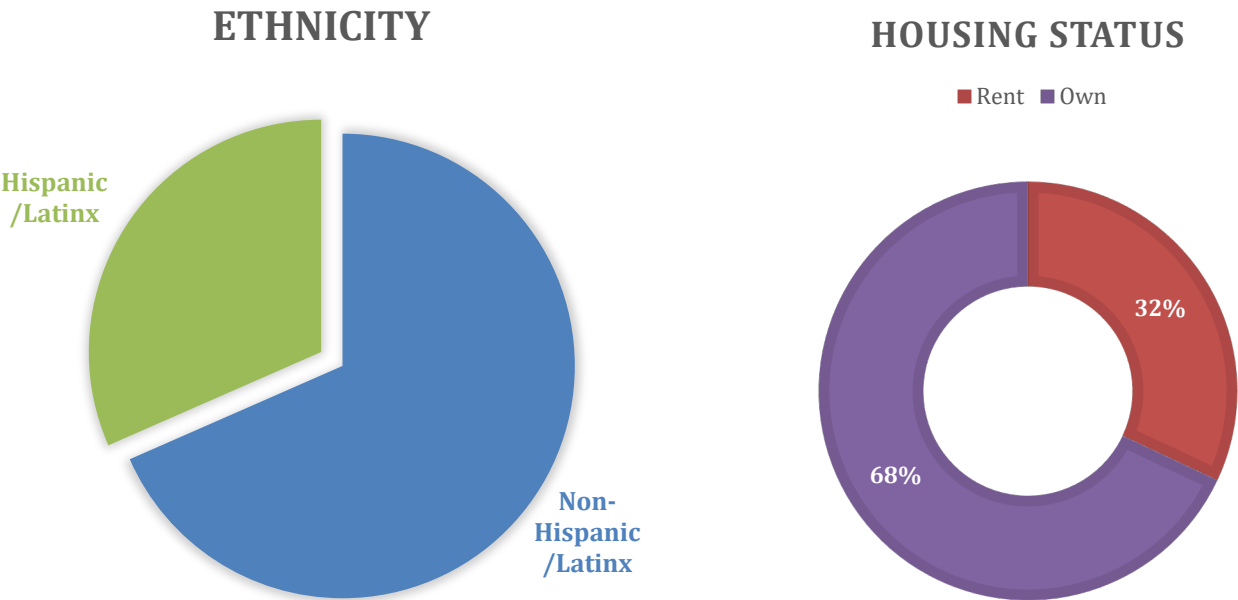
10 residents attended the first event. They ranged in age from 18-64. Most residents at this event declined to specify their income range, which makes it difficult to provide accurate percentages. 80% of event one participants identified as White, 20% identified as Black/African American. 91% of participants were non-Hispanic, and 9% identified as Hispanic/Latinx. 70% were renters and 30% were owners. Breakout groups included a mix of English and Spanish speakers. Low turnout at this event speaks to a larger attrition issue at Saturday events which has been a theme for the duration of the pandemic.

**Where numbers do not equal 100, participants declined to specify.*

Event Two, Monday, October 25th

Mixed-Type Neighborhoods

Participant Demographics



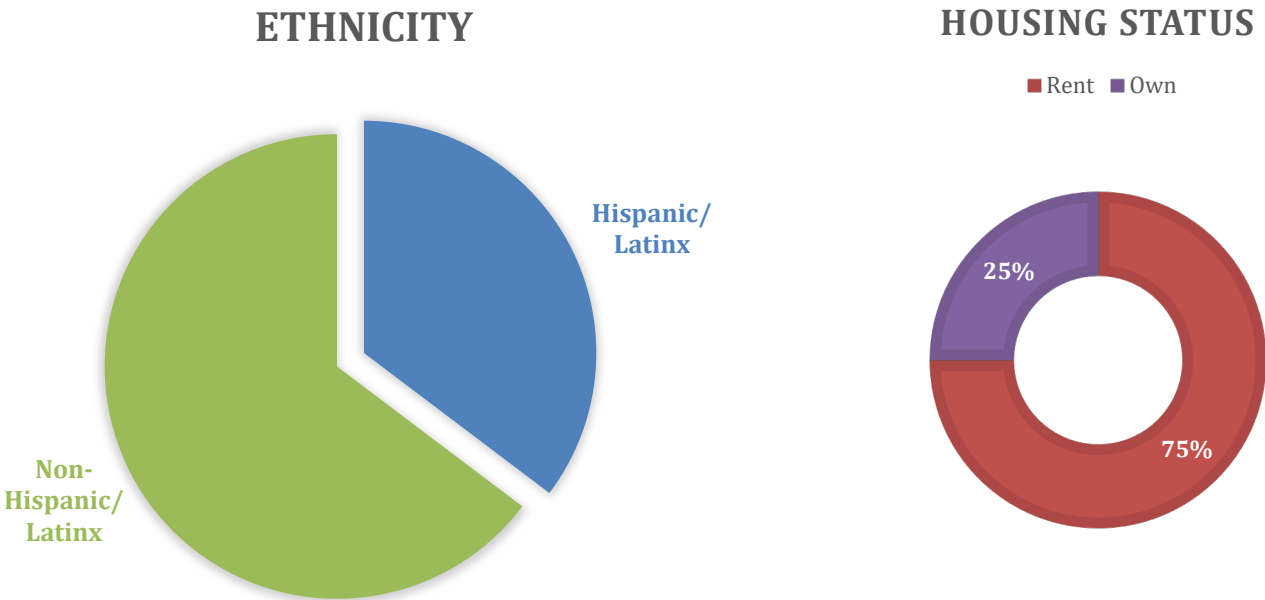
25 residents participated in the second event. They ranged in age from 18-75+ and encompassed income levels from \$24,999 or less to \$199,999. 68% of event two participants identified as White and the remaining number chose not to identify. 52% of participants were non-Hispanic, and 32% identified as Hispanic/Latinx. 32% were renters and 68% were owners. Breakout groups included a mix of English and Spanish speakers.

**Where numbers do not equal 100, participants declined to specify.*

Event Three, Wednesday, October 27th

Mixed-Use Neighborhoods

Participant Demographics



19 residents participated in the third event. They ranged in age from 18-75+ and encompassed income levels from \$24,999 or less to \$199,999. 52% of event three participants identified as White, 10% identified as Asian, and the remaining number chose not to identify. 57% of participants were non-Hispanic, and 31% identified as Hispanic/Latinx. 75% were renters and 25% were owners. Breakout groups included a mix of English and Spanish speakers.

**Where numbers do not equal 100, participants declined to specify.*

Event Themes

Though each event focused on a different neighborhood type, participant notes across all events reflected similar major themes. For this reason, these themes will be compiled into one section rather than identifying themes in each night. Quotes and information about specific neighborhood types will also be identified in the following sections.

Community Concerns

At each event participants began their facilitated conversations by focusing on their current experience with housing and any concerns they would like to share with the city. Across all breakout group, themes tied to concerns of low supply, rising costs of living, and impacts on community were identified.

Low Supply and High Costs.

In several groups, participants continually discussed concerns about the low supply of all types of affordable housing throughout the city, whether the housing was located in suburban, mixed type, or mixed-use neighborhoods. Participants noted that low supply was leading to various issues like needing to rent rather than own a home, having to share a space with family or roommates because there wasn't enough available affordable housing, and a prescient concern that outside investors were buying up all the available housing and turning it into long-term rentals, which was pushing many first-time home buyers out of the market. Participants across breakout groups noted that this issue of low supply was a major driver of the rising cost of housing throughout the city.

One participant shared that, although she had been a lifetime saver, the low supply of housing coupled with large costs in Fort Collins forced her to “settle”:

Having moved around the country to pursue job opportunities and finally settling in Fort Collins, I could not find the house I wanted to buy, but I settled for what I could find. I could not buy anything in Fort Collins if I moved here this year.

In terms of suburban housing, participants noted that because much of this type of housing is low density it required a lot more space than was necessary for most people, especially in back yards. Some noted that building housing more closely and reducing the size of lot lines may be a way to increase capacity in these neighborhood types, though many noted the understanding these neighborhoods were likely not the best places to build new housing because of the associated costs. However, numerous residents also noted concerns about how increasing density especially in suburban neighborhoods may impact their views or the value of their properties. Residents seemed much more willing to have density conversations about the other two neighborhood types where they perceived there was more flexibility to build up.

U+2 was also discussed across all three events as there was a considerable number of Colorado State University students present at each event. While U+2 certainly impacts other groups apart from these students, they are typically more impacted than others. Numerous students noted that their ability to afford housing off campus was hampered by the code. They noted that increasing these capacity restrictions could help alleviate not only cost concerns, but also increase the supply of available units elsewhere in the city.

One student noted:

I have to move into an apartment next year, but it's not affordable with just me and another roommate as minimum wage workers. In order to afford off-campus housing you need at least 3 or 4 roommates but can only have 3 people in a house to conform with city regulations.

However, on the other side of this discussion, many residents also expressed concern that increasing resident capacity in any neighborhood type would just allow landlords to increase their rent prices to account for an additional person on the lease. Many expressed a desire for the city to help make sure this would not happen.

At each event we asked participants if they would be able to afford their current home if they just moved to Fort Collins this year. Many noted that would not be possible as the cost of living has risen almost unsustainably throughout the years. Some participants noted that the pandemic helped keep their rent low, but if they were to move into the same size apartment or home now, they would not be able to afford the monthly mortgage or rent. Additionally, many noted that to afford any housing now would require them to share the rent or mortgage with friends or family members even though many participants were making what they felt was a decent salary at their current job.

In one group, a participant noted that a generational wage gap may also be making housing unaffordable for many younger residents throughout the city:

CSU students independent of parents do not have the wealth to purchase housing until they get older. Especially low-density single-family housing.

Concerns and conversations about generational wealth were echoed a few times throughout these events. Many noted the rising costs were disproportionately impacting students and young families, as well as lower-income earners across the city.

Impacts on community and the environment.

Participants in various breakout groups also expressed concern that the aforementioned issues were having negative impacts on the local community at-large. Many stated their concern that long-term residents are slowly being priced out of their own neighborhoods, again echoing the concern that investors or others from out of state were able to buy up housing more quickly than local residents. Some lamented that the issues of low supply and high prices were making neighborhoods less vibrant, because only certain demographics of residents were able to afford housing especially in suburban type neighborhoods.

One resident shared:

[I worry about] pushing out Native Coloradans. Fort Collins is becoming less and less livable for older populations.

Another stated:

I think it's a shame we're going to lose a fully dimensioned community because our pricing is so high.

Groups also discussed concern around the growing homeless population in the city and how this group would be impacted by building more housing. Participants wondered if people experiencing homelessness would continue to be displaced from their current areas if new housing developments were built where they currently rest or keep their belongings. Many shared a hope that any plans made by the city would take this into account.

In terms of environmental concerns, several participants noted the current cost of housing/lack of supply throughout the city also has unintended climate consequences as more and more residents are forced to purchase homes or rent housing outside of the city and drive in for work or school. This creates a two-fold concern of an increased carbon footprint within the city as well as contributing to growing issues of traffic, which leads us to our next main theme across these events.

Traffic and Infrastructure.

Another major theme across all three events was a concern for how increased density in any neighborhood type would also create more traffic on roads that are already congested throughout the city. In multiple groups at each event, participants had extended discussions about how there are certain areas of the city in consideration for development where there is limited to no public transportation.

As one participant shared:

There is limited bus service in my neighborhood. There are mobile home parks that likely do not have any bus services. It's not just about housing, but if you're increasing density you need to increase transportation.

Additionally, many noted that the areas with limited transportation also do not have the current road infrastructure to support a drastic increase in traffic from personal vehicles. Numerous residents expressed concern that building more housing or increasing more density prior to assessing infrastructure would lead to more headaches getting through the city. We heard stories throughout almost all breakout groups about certain areas of the city residents would already avoid because of increased traffic congestion, as well as extended discussion about how specific drive-thru lines in areas of the city were contributing to these issues. Some participants wondered what the city's role might be in changing traffic patterns for businesses to help ease some of these traffic woes.

Overall, participants recognized that we are currently less focused on utilizing public transportation as we could be in our community, and the increase in personal vehicles was going to create new issues or worsen issues already happening on roads in the city. Many expressed a desire to increase our focus on public transportation and shift community attitudes away from personal vehicles.

Community Hopes

At each event, we also asked residents to share what they need or what changes they'd be willing to accept in their neighborhoods. Participants were able to address what they hoped for in response to the concerns they shared in the previous section.

Increased affordability and diversity.

One of the most prescient themes tied to community need was an increased availability of affordable housing throughout the city. As mentioned in the previous section, numerous residents shared that housing had become unaffordable for a large portion of the local community and that this was creating other issues: limiting neighborhood diversity, pushing out long-term residents, causing people to violate U+2 and other codes, among others. Many residents shared their hopes that the city could provide more affordable housing for people across the income spectrum. Additionally, which was echoed from previous engagement around housing issues, residents continue to express a desire for more information and transparency about how “affordable housing” is defined. Many participants continued to note that even housing in the city currently listed as affordable is still unattainable for numerous residents.

Residents also noted they would like to see more diversity of housing types built within the city and shared that in their current state, many land use codes can separate the community into specific sections related to income, race, and other demographic factors either intentionally or unintentionally. They stated that if the city increased development of mixed housing types throughout the city it could serve a two-fold purpose of creating more affordable housing while also encouraging populations in various neighborhoods to become more diverse.

One participant said:

We want places where we can meet different people, and we can't do that if we live in economically different neighborhoods. I wish that zoning could be re-worked. It tends to separate people. Zoning and developing laws that encourage us to be more inclusive should be a higher priority.

In these conversations, participants grappled not only with providing diverse and accessible housing types, but also with how we help our community create vibrant, welcoming neighborhoods where residents of various races, incomes, abilities, and identities would be able to live and thrive. Many residents noted that housing in its current state is certainly a barrier to creating or maintaining these vibrant neighborhoods.

Increased accessibility and improved infrastructure.

Another large theme cutting across all three of these engagement events was a need for increased accessibility in response to concerns about aging or narrow roads, lack of public transportation, and access for aging populations or residents with disabilities. Many participants noted that ideal neighborhoods would have an appropriate amount of parking for all vehicles and be conveniently located near public transportation and other amenities like grocery stores, cultural centers, and outdoor spaces. Most residents seemed to acknowledge that suburban neighborhoods had a decent amount of accessibility in terms of amenities but could often be lacking in matters of physical accessibility with things like sidewalks, steps up to patios or porches, and the inability of homeowners to build ADUs or other dwelling units to help their aging family members.

As traffic was an extended discussion in nearly all the breakout groups at these events, participants also grappled with how the city could work to improve traffic issues and increase access to public transportation

One participant shared:

I think that building near transit centers is convenient but doesn't replace cars. Most people still have cars even if they do live around transit centers. There needs to be adequate parking and bike racks in all new housing...

Residents were hopeful that current bus lines could be extended farther throughout the city and that wait times between busses could be decreased. Many residents noted that a deterrent to using public transportation in its current state is often that waiting an hour or more between busses isn't realistic. Conversations across breakout groups focused on how the city could build a culture that utilized public transportation more often as some noted these long wait times were caused by multiple things within the city's control, but public sentiment was something we needed to address as a full community. Participants acknowledged that lack of use was also a factor in the reduction of transportation hours and routes.

Some felt that if the community itself became more willing to use public transportation, it would allow for decreased wait times and open up the opportunity for extended service. Participants acknowledged that increasing density in any neighborhood was going to create more traffic, so they hoped the city would keep transportation and infrastructure as a central focus, and work to make sure these systems could accommodate more density before moving forward with new developments.

Flexibility of land use codes and increased protection for renters.

Across three events there was a decent mix of renters and owners, which allowed for participants to grapple not only with a need for increased flexibility in land use code for owners, but also focus on ways the city could work to protect renters. Participants who did currently own a home expressed frustration that they were not able to build accessory dwelling units or turn old garages or barns into additional housing on their own property. Additionally, participants noted frustration with policies in HOAs and their inability to have full gardens in their front yards rather than a lawn. These participants also discussed the increased summer costs of being required to water their lawns. These concerns were echoed by owners and renters alike, but many renters noted they often felt intimidated by their landlords or HOAs and could not choose to make more environmentally friendly choices without violating their lease. These participants wondered if codes or requirements could be updated to account for our changing climate and give tenants more flexibility with watering lawns and allowing them to make more creative changes to their yards.

Others noted that rigid land use codes were causing developers to build bigger units than most people need because of the minimum lot size requirements. They stated that houses on smaller lots may be more affordable and could also help with density issues. Additionally, some homeowners expressed a desire for the city to be less restrictive about short-term rentals as these could provide a revenue stream for current residents to rent out detached units on their property and build income to buy housing in the future or provide short-term housing to those in need throughout the city. However, several other residents expressed concern about detached housing or ADUs turning into short-term rentals in their neighborhood.

Addressing this, a participant shared:

It does not increase affordability when we increase units but have them being used for short-term purposes. We need housing for the people who live here, not the people who visit.

Overall, participants seemed to hope for land use codes that were less restrictive and allowed for neighborhoods and residents throughout the city to create change that makes sense for them rather than proposing a one-size-fits-all solution to density-related issues.

As one participant stated:

We need to think in the long term. I don't think anything we do today will increase capacity immediately, but we need to allow people in these neighborhoods to have the flexibility to change to meet capacity.

Maintaining the character of Fort Collins.

Local character was another main theme we identified. Participants acknowledged the need for Fort Collins to grow and change in order to accommodate its residents more effectively. However, many of these same residents also recognized that a fear of change is driving many of our conversations about development. Numerous groups discussed ways to increase the availability of affordable housing while also maintaining and preserving things they love about the city. In conversations about mixed-use housing zones, participants expressed a strong desire to keep the local character of buildings intact, especially in the downtown area. Residents acknowledges that increasing height requirements would likely be necessary to provide more housing, but they hoped any new developments would be designed to match or fit in well with the existing architecture of buildings.

In a conversation about building heights in Old Town, one participant said:

I like the idea of keeping the facades [of existing buildings], but architecture is more than just facades and much more plays into the historical value of many buildings. How can we make progress while having that historical conservation?

Residents in suburban neighborhoods expressed hopes that new flexibilities in land use code wouldn't have unintended impacts on their own homes or yards. Many folks noted they enjoy the privacy their back yard affords them, or the view of the mountains they're able to see from their back porch. Additionally, some residents in suburban areas were hopeful that these changes wouldn't fundamentally alter the overall character of their neighborhood, as earlier conversations noted some of our older suburban neighborhoods are likely not well suited for higher density housing.

Another important aspect of Fort Collins' character identified by our participants was parks and open space. Numerous conversations focused on the tradeoffs related to preserving land for open space while affordable housing is limited, but most of the participants in these groups expressed a desire to keep open space attainable for residents throughout the city. They discussed potential for developments to incorporate small parks or greenbelts into their plans, but also noted again the importance of the transportation piece to make sure residents in all neighborhood types had easy access to nature even if it wasn't right next door. Some residents expressed hopes that open spaces and parks could be made more easily accessible to parts of the city that are lacking in these amenities.

Summary

Conversations and themes during these events largely echoed themes we heard from residents during our community engagement from 2019-2021 for the Home2Health Community Guide Program, and the Home2Health Community Summit. Participants continue to acknowledge the growing costs of housing and how it is impacting the local community. Participants also continued to express a desire for continued engagement around various housing issues: land use code updates, implementation of other strategies in the Housing Strategic Plan, etc. Residents were willing to admit that change is intimidating and many folks throughout the city have legitimate concerns about how changing building codes and our housing mix could change the character and value of their neighborhoods. However, most seemed to acknowledge that change was necessary and hoped the City of Fort Collins would continue to be transparent with residents and continue to seek their feedback.

Most of the participants who filled out the RSVP survey expressed interest in being involved in future conversations about housing policy and development in Fort Collins. Additionally, numerous residents who attended one or more of our engagement events in prior years came back again to share their thoughts about these new topics, which suggests continued interest and concern for these issues. Participants also continued to express gratitude for the inclusion of Language Justice in our community engagement events. Many were impressed by the city's efforts to make many of these events more accessible to residents throughout the city and the city's efforts to make sure as many voices as possible would be heard and considered in these important decisions. Participants felt it was important to keep the community involved in the months and years to come and to continue the work of incorporating a wide variety of residents in these conversations. Overall, these events brought together numerous groups of people who care deeply about the City of Fort Collins and hope to maintain its local character while also make sure it is affordable and accessible.

In response to a question about things residents liked in our city, a participant shared:

I have lived in other places and Fort Collins is great. I am worried that as people come here, we will lose the kindness we have. It has the sense of a small town. I don't want to lose that. I am so happy here. I love it. I love that Spanish speakers were included.

We hope the city will continue to engage these diverse voices and continue building spaces where all residents feel welcome and able to share their experiences.

SUBURBAN NEIGHBORHOODS

Item 16.



RL-LOW DENSITY RESIDENTIAL



24%

OF CITY'S TOTAL LAND AREA

LMN-LOW DENSITY MIXED USE



17%

OF CITY'S TOTAL LAND AREA

Not used for new housing

Housing allowed:
Only single unit detached homes

Lot requirements:
Minimum 6000 sq ft or 3x the size of the house, whichever is larger
60 ft width
20 ft front yard
5 ft side yard

Height Limit:
28 feet

Parking:
1 space per lot required

Wide range of housing types

Height restrictions:
2.5 stories max
3 stories for buildings w/ 4+ units

Density restrictions:
4-9 du/acre

Parking restrictions:
1-2 spaces per lot required
.75-3 spaces per unit in multi-unit buildings

Building design regulations:
Building & color variation
Multiple housing types required
Max size of 12 units per building

VECINDARIOS SUBURBANOS

Item 16.



RL-RESIDENCIAL DE BAJA DENSIDAD



24%

DE LA SUPERFICIE TOTAL DE LA CUIDAD

LMN-USO MIXTO DE BAJA DENSIDAD



17%

DE LA SUPERFICIE TOTAL DE LA CUIDAD

No se utiliza para nuevas viviendas

Viviendas permitidas:
Sólo viviendas unifamiliares

Requisitos del lote:
Mínimo 6000 pies cuadrados o 3 veces el tamaño de la casa, lo que sea mayor
60 pies de ancho
20 pies de patio delantero
5 pies de patio lateral

Límite de altura:
28 pies

Estacionamiento:
Se requiere 1 espacio por lote

Amplia gama de tipos de vivienda

Límite de altura:
Límite de altura
3 pisos para edificios con más de 4 unidades

Restricciones de densidad:
4-9 du/acre

Restricciones de estacionamiento:
1-2 espacios por lote
.75-3 espacios por unidad en edificios de varias unidades

Normas de diseño de edificios:
Variación de edificios y colores
Se requieren múltiples tipos de viviendas
Tamaño máximo de 12 unidades por edificio

MIXED HOUSING NEIGHBORHOODS

Item 16.



ZONE DISTRICTS:

LMN-LOW DENSITY MIXED USE
MMN-MEDIUM DENSITY MIXED USE
RL- LOW DENSITY RESIDENTIAL
E-EMPLOYMENT



35%

OF CITY'S TOTAL LAND AREA



60%

OF HOUSING CAPACITY

Currently has a decent amount of available land. The most available land for any place type.



Housing allowed:

Single-unit detached homes (RL Zone)
Duplexes (LMN, MMN & E Zones)
Triplex/Quadplexes (LMN, MMN & E Zones)
Townhouses (LMN, MMN, & E Zones)
Manufactured Housing (LMN & E Zones)



Restrictions:

Height restrictions
Density restrictions
Parking restrictions
Building design restrictions
Setback restrictions

VECINDARIOS DE VIVIENDA MIXTA

Item 16.



DISTRITOS DE ZONA:

LMN-USO MIXTO DE BAJA DENSIDAD
MMN-USO MIXTO DE DENSIDAD MEDIA
RL- RESIDENCIAL DE BAJA DENSIDAD
E-EMPLEO



35%

DE LA SUPERFICIE TOTAL DE LA CIUDAD



60%

DE LA CAPACIDAD DE LA VIVIENDA

Actualmente tiene una cantidad decente de tierra disponible. La mayor cantidad de tierra disponible para cualquier tipo de lugar.



Vivienda permitida:

Viviendas unifamiliares (RL Zona)
Duplexes (LMN, MMN & E Zonas)
Triplex/Quadplexes (LMN, MMN & E Zonas)
Casas adosadas (LMN, MMN, & E Zonas)
Viviendas prefabricadas (LMN & E Zonas)



Restricciones:

Restricciones de altura
Restricciones de densidad
Restricciones de estacionamiento
Restricciones al diseño de los edificios
Restricciones de alejamiento

MIXED USE NEIGHBORHOODS

Item 16.



ZONE DISTRICTS:

D-DOWNTOWN
E-EMPLOYMENT
HC-HARMONY CORRIDOR
GC-GENERAL COMMERCIAL
LMN-LOW DENSITY MIXED USE
NC-NEIGHBORHOOD COMMERCIAL



32%

OF VACANT LAND



28%

OF HOUSING CAPACITY

Housing allowed:

Single-unit detached homes (HC, E, and LMN Zones)
Duplexes (GC, NC, HC, LMN, & E Zones)
Triplex/Quadplexes (GC, NC, HC, LMN, & E Zones)
Townhouses (GC, NC, HC, LMN, & E Zones)
Multi-Family (All Zones)
Mixed Use Multi-Family (All Zones)
Manufactured Housing (LMN & E Zones)



Restrictions:

3-4 story height limit
No minimum or maximum density requirements
Required to have multiple types of housing
In employment zones (E or HC):
Housing is limited to 25% of overall development



VECINDARIOS DE USO MIXTO

Item 16.



DISTRITOS DE ZONA:

E-EMPLEO
GC-COMERCIAL GENERAL
D-CENTRO DE LA CIUDAD
HC-CORREDOR DE ARMONÍA
NC-COMERCIAL DEL VECINDARIO
LMN-USO MIXTO DE BAJA DENSIDAD



32%

DE TERRENOS VACÍOS



28%

DE LA CAPACIDAD DE LA VIVIENDA



Vivienda permitida:

Viviendas unifamiliares (HC, E, & LMN Zonas)
Duplexes (GC, NC, HC, LMN, & E Zonas)
Triplex/Quadplexes (GC, NC, HC, LMN, & E Zonas)
Casas adosadas (GC, NC, HC, LMN, & E Zonas)
Multifamiliares (Todas las Zonas)
Uso mixto multifamiliar (Todas las Zonas)
Viviendas prefabricadas (LMN & E Zonas)



Restricciones:

3-4 pisos como máximo
Sin requisitos de densidad mínima o máxima
Requerido para tener múltiples tipos de vivienda
En zonas de empleo (E or HC):
La vivienda se limita al 25% del desarrollo general

From: [Susan Beck-Ferkiss](#)
To: [Noah Beals](#)
Cc: [Meaghan Overton](#)
Subject: FW: [EXTERNAL] Fwd: Land Use Code Update Information Sessions - Sat. Oct. 23, 2021
Date: Tuesday, October 19, 2021 11:11:15 AM

Hi Noah,

Just wanted to share with you what my neighbors are saying about the LUC update. Especially please note highlighted paragraph at beginning of stream... Is it likely that HOA covenants can trump a city-wide ADU ordinance? Something to consider.

Sue

SUE BECK-FERKISS

Social Policy and Housing Program Manager
 Social Sustainability Department
[City of Fort Collins](#)
 222 Laporte Ave.
 970-221-6753 office
sbeckferkiss@fcgov.com

From: Michael Ferkiss <ferkiss@gmail.com>
Sent: Tuesday, October 19, 2021 11:00 AM
To: Susan Beck-Ferkiss <sbeckferkiss@fcgov.com>
Subject: [EXTERNAL] Fwd: Land Use Code Update Information Sessions - Sat. Oct. 23, 2021

Begin forwarded message:

From: "Auld,Garry" <Garry.Auld@colostate.edu>
Date: October 19, 2021 at 10:47:58 AM MDT
Subject: FW: Land Use Code Update Information Sessions - Sat. Oct. 23, 2021

From: Colleen Hoffman <cohoff@comcast.net>
Sent: Tuesday, October 19, 2021 8:37 AM
To: Auld,Garry <Garry.Auld@ColoState.EDU>
Cc: 'Dave Dornan' <conflictjujitsu@gmail.com>; 'Larry Paroz' <larry.paroz@gmail.com>; 'Rick Hoffman' <rick-hoffman@comcast.net>
Subject: Land Use Code Update Information Sessions - Sat. Oct. 23, 2021

Hi Garry,

Please forward the information below to our HOA membership from the city. Major changes are coming within the Planning and Zoning sections of the City – i.e. the Land Use Code, Zoning, etc. This is a nation wide trend. Single family zoning may be a thing of the past – ADUs (Additional

Dwelling Units) are the new trend. The city is wanting to inform it's citizens as to these developments. The target areas for these changes are around Campus, Mid-town, etc. due to lot sizes and desire for more density in these areas and will occur by Spring 2022. There is a public information session this Saturday – see below.

Colleen Hoffman
The Home Broker
970-484-8723
cohoff@comcast.net

From: Noah Beals <nbeals@fcgov.com>
Sent: Monday, October 18, 2021 3:58 PM
To: Current_Planning <Planning@fcgov.com>
Subject: Land Use Code Update Information Sessions

Thank you to each of you who have participated in our Land Use Code Update Information Sessions. I wanted to share a few more details with you about where to find the webinar recordings and how to stay involved in the next step.

Want to catch up on a previous webinar? I have include the links below to the video recordings and PowerPoint presentations for each of the completed sessions. Our final information session addressing [Housing Choice](#) will be hosted tonight and the video recording and PowerPoint presentation will be posted to our website (fcgov.com/housing/lucupdates) the following day.

Housing and Demographic Trends: Who is the "everyone" in our housing vision? Learn about who lives in Fort Collins now, and who will likely live here in the future.

- View Recording [HERE](#)
- View PowerPoint Presentation [HERE](#)

Planning 101: How do we use zoning as a tool to connect us rather than divide us? Learn how land use codes evolve over time to meet community needs and goals.

- View Recording [HERE](#)
- View PowerPoint Presentation [HERE](#)

Housing Capacity: How do we know that we don't have enough housing? Learn why it's so hard to build the housing we need.

- View Recording [HERE](#)
- View PowerPoint Presentation [HERE](#)

What to stay involved in the next steps of the process? Join us for an INPUT Session!

Each conversation will focus on a different neighborhood type and the land use regulations that can impact housing capacity, choice, and affordability. During these events you will be able to talk with other community members about your experiences with housing and work together to discuss potential next steps for land use code updates in Fort Collins. [RSVP today](#) to join in the conversation! (Spanish interpretation provided)

Saturday, October 23, 11:00am-1:00pm - RSVP [HERE](#)

- Topic: Suburban Neighborhoods (primarily single-household, detached homes)

Monday, October 25, 6:00pm-8:00pm - RSVP [HERE](#)

- Topic: Neighborhoods with a Mix of Housing Types (neighborhoods with apartments, duplexes, etc)

Wednesday, October 27, 6:00-8:00pm - RSVP [HERE](#)

- Topic: Mixed-Use Neighborhoods (neighborhoods with housing as well as retail/business space)

Still have questions? Feel free to reach out to me directly with any follow-up questions you may have.

NOTE: I've copied an earlier email from Colleen to the HOA board that relates to this and might have an impact on our "new" covenants. Detached structures will likely be allowed in those covenants BUT residential uses will be prohibited – hopefully (in my opinion) blunting the impact of changed land use codes on our neighborhood. Garry

Hi Garry,

I have been attending a series of classes offered by the city on the changes being proposed for the Land Use Code and Zoning. Since the city limits are almost built out – land is at a premium for additional units so the city seems to have decided that ADUs (additional dwelling units) are the way to go to house more people expected in the next 20 years upwards of 70,000+ and gain more revenue via fees, taps, etc. Single family homes and lots are the target – zoning will be changed to allow additional structures on the lot. The biggest use for these additional structures is STRs – Short term rentals. The idea is to provide more affordable housing – but in many places the STRs become a revenue generator for the city with license fees and the owner with additional rents. Tucson is an example of this as a great number of "Casitas" are offered for rent for vacationers. The city always asks for input, but the decision has been made prior to the input. Therefore, as the Covenants come before the membership, these coming changes in the city codes need to be acknowledged. Allowing detached structures in the covenants will open the door for ADUs once the city codes allow for them. The Planning and Zoning department would have the classes, which were being recorded, on their website I believe.

Colleen Hoffman

From: [Jacqueline Kozak-Thiel](#)
To: [Meaghan Overton](#)
Subject: FW: [WARNING: Possible Scam Fraud] [EXTERNAL] Interest Rates and Affordability
Date: Thursday, November 18, 2021 4:18:53 PM
Attachments: [image001.png](#)

Just FYI

From: Kelly DiMartino <KDIMARTINO@fcgov.com>
Date: Thursday, November 18, 2021 at 2:57 PM
To: Lisa <notael02@gmail.com>
Cc: City Leaders <CityLeaders@fcgov.com>
Subject: RE: [WARNING: Possible Scam Fraud] [EXTERNAL] Interest Rates and Affordability

Hello Lisa Eaton,

Thank you for your email to City Leaders. Your email has been received and will be read by each member of City Council.

The council and I appreciate you sharing your thoughts and we will take them into consideration. Due to the high volume of emails received by City Council, you may not receive an additional response, but if Councilmembers have personal thoughts or additional requests based on your email, you may hear from them directly.

Thanks again for writing, we appreciate you taking the time to do so.

Kelly

.....
Kelly DiMartino

Interim City Manager
 City of Fort Collins, CO
 970.416.2028 office
 970.217.3293 cell



From: Lisa <notael02@gmail.com>
Sent: Thursday, November 18, 2021 11:06 AM
To: City Leaders <CityLeaders@fcgov.com>
Subject: [EXTERNAL] Interest Rates and Affordability

Dear City Leaders,

I've watched a couple of Work Sessions recently and think I heard Councilmember Ohlson mention something similar to my example below. I calculated this scenario in 2020 when I was working with Lindsay Ex on input for the Housing Strategic Plan.

I hear people express their frustration about qualifying for a home loan. When my husband and I bought our first home (in the suburbs of Minneapolis) we borrowed the down payment from my parents. This example is based on that purchase:

Housing affordability has many facets and interest rate is key. Let me do a quick comparison:

1995 Single Family House purchase for 99K (3 bedroom, 2 bath, 1700 finished square feet)
 9% interest rate
 30 years
 5% down payment
 \$975.83 PITI (Principal, Interest, Taxes, Insurance)
 not including mortgage insurance

That same home (example created in 2020) is worth approximately \$320,000
 3% interest rate
 30 years
 5% down payment
 \$1,671.85 PITI (I increased taxes and insurance to current levels)
 not including mortgage insurance

What is a dollar worth today as compared to 1995?

\$100 in 1995 is worth \$172 in 2020

Thus if my monthly PITI payment in 1995 was \$1000/month I could expect to pay \$1720/month today for the same house.

Thus my buying power is similar given the current interest rates for the same home.

Yes, housing prices in the Minneapolis area are less than here, but property taxes are higher. Property taxes, HOA dues, etc. are all part of qualifying for a loan. The example above is mainly to show how interest rates affect affordability and to provide some perspective for home buyers.

Lisa Eaton

From: Kelly DiMartino <KDIMARTINO@fcgov.com>
Sent: Friday, November 19, 2021 3:26 PM
To: Lisa <nota02@gmail.com>
Cc: City Leaders <CityLeaders@fcgov.com>; Noah Beals <nbeals@fcgov.com>; Russell Hovland <RHovland@fcgov.com>
Subject: RE: [EXTERNAL] "ADUs"

Hello Lisa,

Thank you for the email. We certainly understand the confusion that arises when different terms are used interchangeably.

Attached is table that may provide clarification for all involved. Your input will be included as part of the Phase 1 Land Use Code Update.

Best Regards,

Kelly

.....
Kelly DiMartino

Interim City Manager
 City of Fort Collins, CO
 970.416.2028 office
 970.217.3293 cell



From: Lisa <nota02@gmail.com>
Sent: Tuesday, November 09, 2021 7:53 PM
To: City Leaders <CityLeaders@fcgov.com>
Cc: Noah Beals <nbeals@fcgov.com>; Russell Hovland <RHovland@fcgov.com>
Subject: [EXTERNAL] "ADUs"

City Leaders,

Please create a SARS and request City Staff to educate City Council members and the citizens of Fort Collins as to the difference between Accessory Buildings and "ADUs". And whether Fort Collins actually uses the term ADU in any of its codes or whether ADU is a generic term, such as the way people say Kleenex for tissue.

Furthermore, please request City Staff to educate City Council members and the citizens of Fort Collins as to the difference between Accessory Buildings and carriage houses. Legal

carriage houses pay significantly more in fees, are allowed to have a cooking appliance, and actually have a Certificate of Occupancy (vs. a "Letter of Completion" which is what Accessory Buildings receive).

I know for a fact that permits for Accessory Buildings skyrocketed after the adoption of the STR Ordinance in 2017, after more than 2 grueling years of regulation discussions. And permits for carriage houses plummeted.

It doesn't take a rocket scientist to know why property owners chose to go the Accessory Building route over the Carriage House with a CO/ADU route.

Cheaper. Easier. Fewer Fees. Able to operate as an STR if the Zone allows.

It is my understanding that Accessory Buildings are not allowed to have any type of cooking appliance inside the unit. Thus, Accessory Buildings CANNOT be used as long term rentals, only short term rentals. At least legally.

In addition, city code dictates that anything 30+ nights is a long term rental. Unless the City Council is going to require every rental in the city to be for a minimum of 12 months, this avenue for creating dwelling units for locals to live in is short sighted - you do not have all of the information you need to have to make these decisions.

IMO what needs to change is the Building Code needs to remove Cooking Appliance as the problem area to target and instead disallow plumbing in an Accessory Building. Any unit with plumbing would have to pay for and receive a CO as a dwelling unit.

This is because people can live without a kitchen. They can eat out, eat pre-packaged food, etc. Not everyone likes to cook. But most people need a toilet, etc. within a 24 hour period. Harder to live without in your rental space. And, do not allow any plumbing. A powder room can easily add a 3/4 shower.

I have been fighting with City Staff for 8 years on this issue. I demand clarification for myself, City Council Members, and citizens at large. I am so tired of people who know nothing about ADUs continually raising them as an affordable rental option.

Carriage houses are very expensive to build and build out. Especially with the fees. We paid almost \$19,000 in city permits and fees in 2014. It was highway robbery then and is highway robbery now. If the city wants this kind of money then that carriage house has to have some value beyond the value an Accessory Building adds to a property.

I am both a long term and STR landlord. I want to be involved in this conversation and I want

resolution to it once and for all. I've been asking City Staff about this for years and not getting anywhere.

If Accessory Buildings are allowed to be used as STRs then Carriage Houses, who paid more and followed the rules, get to do at least that, if not more. Furthermore, I can make about the same amount of money renting my carriage house long term vs. short term so while I am actually not against a rule being created against using ADUs/Carriage Houses as STRs let me be very clear - you had better include Accessory Buildings in that requirement as well.

There are also benefits to leases between one month and 12 months. Locals do use monthly, 3 month, 6 month leases to bridge gaps in housing for themselves and loved ones. A variety of rentals is a benefit to our community. One size does not fit all.

Everyone needs to get educated and everyone needs to use the same language/lingo/jargon so we're all talking about the same thing.

Sincerely,

Lisa Eaton

Comparison of Types of Accessory Structures					
	Accessory Dwelling Unit	Carriage House	Single-Family detached dwellings when there is more than one (1) principal building	Accessory Building with Habitable Space	Accessory Building without Habitable Space
Term Appears in the Land Use Code	No	Yes	Yes	Yes	Yes
Includes as Defined by the Land Use Code a Kitchen	Yes	Yes	Yes	No	No
Allows for Plumbing (sinks, showers and toilets)	Yes	Yes	Yes	Yes	No
Allows for Short Term Rental (Both Primary and Non-Primary)	Yes/Dependent on Zone District	Yes/Dependent on Zone District	Yes/ Dependent on Zone District	Yes/Dependent on Zone District	No
	May have two short term rentals licenses, one in each the building	May have two short term rentals license, one in each the building	May have two short term rental licenses, one in each the building	May be included as space for the Short Term Rental license for the principal building	No
Allows for Long Term Rental	Yes	Yes	Yes	Yes	No
	May have two long term rentals in both buildings	May have two long term rentals in both buildings	May have two long term rentals in both buildings	Provide compliance with occupancy limits with all residents of both the principal and accessory building	No
Requires Development Review	Yes	Yes	Yes	No	No
Allowed in all Zone Districts	No	No	No	Yes	Yes
Requires a Building Permit	Yes	Yes	Yes	Yes	Yes
	Certificate of Occupancy as a dwelling unit	Certificate of Occupancy as a dwelling unit	Certificate of Occupancy as a dwelling unit	Letter of Completion as an accesory building	Letter of Completion as an accessory building

From: [Jacqueline Kozak-Thiel](#)
To: [Meaghan Overton](#)
Subject: FW: [EXTERNAL] Re: "ADUs"
Date: Monday, November 22, 2021 2:36:50 PM
Attachments: [image001.png](#)

FYI too

From: Lisa <notael02@gmail.com>
Date: Monday, November 22, 2021 at 2:21 PM
To: Kelly DiMartino <KDIMARTINO@fcgov.com>
Cc: City Leaders <CityLeaders@fcgov.com>, Noah Beals <nbeals@fcgov.com>, Russell Hovland <RHovland@fcgov.com>, "Paul S. Sizemore" <psizemore@fcgov.com>
Subject: [EXTERNAL] Re: "ADUs"

Dear Interim City Manager, City Leaders, and City Staff,

Thank you for the chart - that is a great start. In the effort to educate myself, the general public, and the City Leaders who vote I am requesting further clarification on the following:

1) Please provide a key or some way to differentiate/define what "Dwelling" vs. "Habitable" mean from the City's point of view. If you look up definitions on the internet they are pretty similar and this may be adding to the confusion - why does the City use two terms? Is it to mean two different things even though the definitions of these words in common everyday usage is pretty much the same?

I realize I am splitting hairs and honestly that is what it is like to deal with City Staff regarding such matters as Carriage Houses and Accessory Buildings.

2) Please create a separate chart outlining Fees for all and any types of ADUs/carriage houses, Accessory Buildings, etc. City Staff should have enough history with all of the above to show averages or ranges citizens were charged by the City. I suggest columns with the following date ranges: 2009 and Prior/2010-2014/2015-2019/2020-present. Also note on the chart when the STR Ordinance went into effect in 2017.

Please answer the question: why is something so similar charged so differently?

If City Staff says they do not know the total fees for each citizen who created a structure with a Certificate of Occupancy or Letter of Completion then that unfortunately proves my point. City Staff and Citizens and City Leaders need this info - at a glance. Guessing a range like City Staff did to me in 2013 of 10K-15K was not sufficient. I need the ability to go into a phone call or Conceptual Review, or at least come out of one, with more accurate numbers from the City. It's called budgeting. I need to know what my project is going to cost me so I know whether it's worth it to me to do it. Citizens and City Leaders also deserve this transparency from their City so they can make informed decisions. Carriage Houses cost more than Accessory Buildings. Show it. Be transparent.

I realize it means City Staff will have to take each project over the last 10+ years and add A LOT of numbers together. Welcome to my world. The City made me figure this out on my own in 2013. I was considered a "Developer". I was finishing off unfinished attic space above our existing garage - very similar to finishing off a basement, which we had experience doing. We did not build our carriage house from the ground up - it was already existing. You still charged me almost \$19,000 in city permits and fees and made me go through the arduous DRC process. I protested then and I'm protesting now. Stop the insanity.

I am not a Developer. Change Code to reflect that Primary Homeowners who want to create a Carriage House are not Developers - better yet, don't put us through the DRC.

Consider the pros/cons of changing code so that only primary homeowners can create a Carriage House or Accessory Building. Better yet - only allow one type that is legal for *sleeping*.

Accessory Buildings do NOT have to go through the Development Review Center (DRC) process per the chart, but I did?! Lucky them - and they got to pay less. I am not the crazy one here. I should have been paid to go through that process. That's how painful it was. I've talked with General Contractors who say they have clients who are scared away by the City's

processes. I totally get it.

3) Please create a separate chart to show how many permits were granted for Carriage Houses and Accessory Buildings for the same date ranges listed above. Also note on the chart when the STR Ordinance went into effect in 2017.

4) Please answer the question: Why does the City of Fort Collins have both Carriage Houses and Accessory Buildings with Habitable Space that can both be used for both STR as well as Long Term Rentals?

If that is the case, why have Carriage Houses? I'm not seeing the benefit. I'm not seeing the benefit of why I had to go through the DRC and pay more.

I believe City Staff interpretation and what they have been telling citizens has changed. And I was not the beneficiary of that information. It is common knowledge that different citizens in Fort Collins will get different answers based on City Staff interpretation of Codes. Codes should not be subject to interpretation. Codes should be easy to understand by all.

Public perception is that ADUs are the overall term for any type of carriage house or accessory building. Realtors don't understand the difference. Buyers don't understand the difference. And really there doesn't seem to be much difference according to your chart, other than putting people through DRC hell and charging them astronomical fees.

So, again, why did I have to go through the DRC and pay more? I was given the impression by City Staff in 2013 that it was required in order to be totally legal and to be able to offer long term leases, while those who did not go this route were considered "illegal" and not allowed to offer long term leases. I now see from your chart that this is not the case. What?!

5) When the STR Ordinance went into effect in 2017, City Staff said they would track and report to City Leaders regarding STRs. Has there been a formal report to City Leaders by City Staff in regard to STRs?

Next time City Staff reports to City Leaders re: STRs please create a chart tracking by year and separate out the different types of STRs. Not just Primary vs. Non-Primary - but also Single Family Home, Duplex+, Apartment/Condo building, Carriage House, Accessory Building (and differentiate these two).

6) Please clarify the "cooking appliance" debacle. No City can list out every type of cooking appliance and whether it is allowed. Nor is it particularly enforceable. It is past time to get real about what it is we are trying to achieve with Carriage Houses and Accessory Buildings and update the Code accordingly.

Noah Beals emailed me the following once and I'm still trying to understand this: "Kitchen shall mean a portion of a dwelling unit used for the purposes of cooking, preserving, or otherwise preparing food and contains a stove. An area of a dwelling unit with a cooking appliance less than a stove is not a kitchen such as a microwave or hot-plate." Can it be any more confusing? Do note that this quote references "dwelling" unit and not "habitable" space.

It's just ridiculous. What is the problem the City is trying to solve?

7) Please clarify the following on the chart - Column "Accessory Building with Habitable Space" and Row "Allows for Short Term Rental (Primary and Non-Primary)": "May be included as space for the STR license for the principal building". What does that mean?

8) And as for enforceability - City Leaders - please, you can create all the regulations and ordinances you want. The ability for City Staff to enforce them is limited. Be reasonable. Add Staffing in the budget. I recently heard either City Staff or City Leaders comment about U+2 and enforcement. My sense is, and I hope I am wrong, that most of the "offenders" are students or multi-family households trying to make ends meet. While I realize students are not a protected class I am wondering if the City is tracking enforcement demographics. I would hope all illegal or suspect structures, including carriage houses and accessory buildings, would have a column in enforcement tracking. I'm a little concerned they may be getting overlooked and other demographics may be bearing the brunt of enforcement.

9) To top it off, according to this latest chart, Accessory Buildings are allowed to be used as STRs in all Zone Districts?! So basically, if someone creates an Accessory Building anywhere in Fort Collins they can use it as an STR and probably as a long term rental. And yet Accessory Buildings are not allowed a "cooking appliance"?

This is just a mess.

I will be following the topic of "ADUs" and STRs closely throughout this Land Use Code update. Not because I don't have anything better to do - because we need to get this right. And we can't get this right if the 7 people voting on it aren't educated on it.

Thank you all for your work on this!

Lisa Eaton

On Fri, Nov 19, 2021 at 3:26 PM Kelly DiMartino <KDIMARTINO@fcgov.com> wrote:

Hello Lisa,

Thank you for the email. We certainly understand the confusion that arises when different terms are used interchangeably.

Attached is table that may provide clarification for all involved. Your input will be included as part of the Phase 1 Land Use Code Update.

Best Regards,

Kelly

.....
Kelly DiMartino

Interim City Manager
City of Fort Collins, CO
970.416.2028 office
970.217.3293 cell



From: Lisa <nota02@gmail.com>

Sent: Tuesday, November 09, 2021 7:53 PM

To: City Leaders <CityLeaders@fcgov.com>

Cc: Noah Beals <nbeals@fcgov.com>; Russell Hovland <RHovland@fcgov.com>

Subject: [EXTERNAL] "ADUs"

City Leaders,

Please create a SARS and request City Staff to educate City Council members and the citizens of Fort Collins as to the difference between Accessory Buildings and "ADUs". And whether Fort Collins actually uses the term ADU in any of its codes or whether ADU is a generic term, such as the way people say Kleenex for tissue.

Furthermore, please request City Staff to educate City Council members and the citizens of Fort Collins as to the difference between Accessory Buildings and carriage houses. Legal carriage houses pay significantly more in fees, are allowed to have a cooking appliance, and actually have a Certificate of Occupancy (vs. a "Letter of Completion" which is what Accessory Buildings receive).

I know for a fact that permits for Accessory Buildings skyrocketed after the adoption of the STR Ordinance in 2017, after more than 2 grueling years of regulation discussions. And permits for carriage houses plummeted.

It doesn't take a rocket scientist to know why property owners chose to go the Accessory Building route over the Carriage House with a CO/ADU route.

Cheaper. Easier. Fewer Fees. Able to operate as an STR if the Zone allows.

It is my understanding that Accessory Buildings are not allowed to have any type of cooking appliance inside the unit. Thus, Accessory Buildings CANNOT be used as long term rentals, only short term rentals. At least legally.

In addition, city code dictates that anything 30+ nights is a long term rental. Unless the City Council is going to require every rental in the city to be for a minimum of 12 months, this avenue for creating dwelling units for locals to live in is short sighted - you do not have all of the information you need to have to make these decisions.

IMO what needs to change is the Building Code needs to remove Cooking Appliance as the problem area to target and instead disallow plumbing in an Accessory Building. Any unit with plumbing would have to pay for and receive a CO as a dwelling unit.

This is because people can live without a kitchen. They can eat out, eat pre-packaged food, etc. Not everyone likes to cook. But most people need a toilet, etc. within a 24 hour period. Harder to live without in your rental space. And, do not allow any plumbing. A powder room can easily add a 3/4 shower.

I have been fighting with City Staff for 8 years on this issue. I demand clarification for myself, City Council Members, and citizens at large. I am so tired of people who know nothing about ADUs continually raising them as an affordable rental option.

Carriage houses are very expensive to build and build out. Especially with the fees. We paid almost \$19,000 in city permits and fees in 2014. It was highway robbery then and is highway robbery now. If the city wants this kind of money then that carriage house has to have some value beyond the value an Accessory Building adds to a property.

I am both a long term and STR landlord. I want to be involved in this conversation and I want resolution to it once and for all. I've been asking City Staff about this for years and not getting anywhere.

If Accessory Buildings are allowed to be used as STRs then Carriage Houses, who paid more and followed the rules, get to do at least that, if not more. Furthermore, I can make about the same amount of money renting my carriage house long term vs. short term so while I am actually not against a rule being created against using ADUs/Carriage Houses as STRs let me be very clear - you had better include Accessory Buildings in that requirement as well.

There are also benefits to leases between one month and 12 months. Locals do use monthly, 3 month, 6 month leases to bridge gaps in housing for themselves and loved ones. A variety of rentals is a benefit to our community. One size does not fit all.

Everyone needs to get educated and everyone needs to use the same language/lingo/jargon so we're all talking about the same thing.

Sincerely,

Lisa Eaton

From: [FCGov Contact Form](#)
To: [Meaghan Overton](#)
Subject: Land Use Code Phase 1 Comments
Date: Wednesday, December 29, 2021 8:44:47 AM

Name

Torey Lenocho

Email

toreylenoch@gmail.com

Phone

19702190823

Comments

I am a builder/ remodeler in Old Town (primarily) and somewhat concerned about the future of affordable housing in our city. I speak with hundreds of people per year about the future of Old Town, typically from 2 distinct, unique groups- home buyers with a desire for a change in structure, and all the trades people who cannot afford to live in FC.

I would like to be involved in finding the middle ground!

Would you like to be contacted by a member of the Land Use Code Phase 1 team? (Y/N)

Yes

From: [FCGov Contact Form](#)
To: [Meaghan Overton](#)
Subject: Land Use Code Phase 1 Comments
Date: Wednesday, December 29, 2021 9:55:22 AM

Name

Steven Rothwell

Email

srothwe1@icloud.com

Phone

3072869257

Comments

I am curious about whether or not Accessory Dwellings are being considered in the Low-Density Residential district with the updated Land Use Code. I am technically within the Low-Density Residential but am adjacent to an arterial and an apartment complex and would like to pursue an ADU one day. Curious if these options are being discussed. Thanks!

From: [Nick Haws](#)
To: [Noah Beals](#)
Cc: [Meaghan Overton](#)
Subject: [EXTERNAL] RE: Land Use Code changes to support Housing Strategic Plan
Date: Monday, January 10, 2022 4:45:08 PM
Attachments: [image001.png](#)

Thanks, Noah. I've provided some additional thought below in red.

From: Noah Beals <nbeals@fcgov.com>
Sent: Wednesday, January 5, 2022 3:44 PM
To: Nick Haws <nick@northernengineering.com>; Meaghan Overton <moverton@fcgov.com>
Subject: RE: Land Use Code changes to support Housing Strategic Plan

Hello Nick,

Thanks for the email. Yes, the consultants have been getting the Chamber's Task Force redlines. We will make sure they see this email as well, highlighting the issues. Early on in our discussions with the consultants we pointed out this code section as one that frequently gets a modification request. Your notes certainly frame the discussion.

I would ask are there any additional thoughts on why this section seems to cause such a stir at times.

- Is it problematic when combined with parking requirements? **Parking requirements certainly compound the challenge. Streets and street-like private drives are expensive to build, take up a fair amount of area that doesn't generate any revenue, and are fairly inefficient in terms of parking.**
- The cost of building streets? **Yes, per above.**
- The lack of public alleys? **In certain locations, particularly when trying to force new urbanist and downtown-like concepts into areas where that design approach may not be the best solution.**
- Or something completely different? **It's hard to pinpoint a single item...it all adds up. 3.5.2(D) becomes particularly challenging on parcels less than 10 acres and on most infill and redevelopment sites. It can also (intentionally or not) place emphasis on vehicles over pedestrians by forcing streets and street-like private drives. What is detrimental to the public good with units facing courtyards, greenbelts, or other such areas that may not be "Major Walkway Spines" or may extend beyond 350 feet? I understand the issues with utility services and emergency access, but we don't need 3.5.2(D) imposing additional challenges.**

I will admit that I've lived at The Arbors at Sweetgrass Apartments with two small children and a dog. This community was obviously developed under the old LDGS, and may very well be the type of development the architects of the current LUC were trying to prevent from happening again. While I don't disagree entirely when it comes to wayfinding, emergency access, and that Stuart and Riverside should have been extended as public streets, I found it to be extremely pleasant from a livability standpoint. With some of the adjustments alluded to, why would we force additional internal streets at the detriment green spaces? Let's at least free up some

options for the people that build and occupy the already stressed housing units in our city.

Kind Regards,

Noah Beals
Development Review Manager | City of Fort Collins
970 416-2313

From: Nick Haws <nick@northernengineering.com>
Sent: Wednesday, January 5, 2022 11:21 AM
To: Meaghan Overton <moverton@fcgov.com>; Noah Beals <nbeals@fcgov.com>
Subject: [EXTERNAL] Land Use Code changes to support Housing Strategic Plan

Megan & Noah,

In the consultant work and stakeholder engagement conducted to date, has there been much discussion around current LUC Section 3.5.2(D)? I know the concerns and feedback provided by the Chamber of Commerce's Task Force, but I'm not sure if it has received any attention from the consultant team or other stakeholders?

A few things that come to my mind specifically:

1. Can we clarify the origin, purpose, and intent of this section?
 - a. I realize there are stated exceptions, but perhaps other creative approaches or *equal-to-or-better* than solutions could deliver the intended outcomes if the outcomes were better defined.
2. Conversely, it would be helpful to articulate what the adverse impacts are when not fully meeting the current code.
 - a. Might there be a certain percentage of dwelling units, entries, buildings, etc. that would be "good enough" in the grand scheme of providing a viable housing development?
3. Should there be flexibility/variation given to site specific conditions (beyond traditional 'hardship')?
 - a. Urban vs. suburban, infill/redevelopment, ODP/Master Plan (larger context and adjacent land uses), what is achieved on-site (micro) vs. neighborhood (macro) scale, etc.
 - b. Does parcel size itself play a role? Perhaps parcels greater than 10 acres lend themselves to meeting the prescriptive standards easier than those less than 10 acres.
4. Somewhat related to #1 above, are there graphics/examples from a bird's-eye site planning perspective, as well as what humans on the ground will actually experience, to bring better clarity around the pros and cons of meeting or not meeting 3.5.2(D)?

I don't necessarily expect special consideration or responses ahead of the work session or overall process. I just wanted to get these comments in that may not have been as explicit previously. Also, this first round of LUC changes is intended to support the overall Housing Strategic Plan, not just "affordable" ($\leq 80\%$ AMI) housing, correct?

Thanks!

Nick Haws, PE, LEED AP
President, CEO



301 N. Howes Street, Suite 100 | Fort Collins, CO 80521

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Improving the quality of life in our communities.

From: Bobowski.col
To: [Meaghan Overton](mailto:Meaghan.Overton)
Subject: [EXTERNAL] Re: Housing Updates January 2022
Date: Tuesday, January 25, 2022 5:57:14 PM

Meaghan, the Diagnostic study of the LUC is an amazing piece of work. And the recommendation to consider form based vs maximum density standards is super - and something I'd mentioned at one of the community discussions - which was sorta shut down by whoever (can't recall) from city staff who were monitoring/assisting in the particular breakout room I was in. So WONDERFUL! Some of the communities for which my last planning consulting firm worked with - many eons ago had started considering that transition from their more Euclidean-based zoning standards. I wasn't involved with such thinking/advising then, rather being the special projects researcher doing market studies and special bits of master plans, so I never learned much about the concept. But that recommendation along with many more in the diagnostic review are really super.

I'm especially glad about the consideration of more use types that could be approved through straight administrative reviews - that'd reduce time/costs for developers - and such things are \$\$\$ in nature, further impacting their ability to reduce pricing.

I hope that setback and parking standards within the lower density zones can also be re-examined such that even in fully developed neighborhoods, there might be more ways that ADUs could be achieved. It sure was crazy to primarily assign that type of use to areas of the city with the smaller lot sizes - making achievement of ADUs far more unlikely. And reduction in on-site parking requirements when more than one dwelling/lot when dealing with ADU potential also will be very helpful - possibly based on factors such as size or unit or # of bedrooms - things that more reliably translate into # of people and # of cars.

Thanks for routing all this information to me. I know that some of my Affordable Housing Team folks at the League of Women Voters will likely be more excited to learn the info in the Eviction Prevention Workshop - but that's not my bent - which is more toward planning/zoning as it relates to increasing housing diversity and decreasing barriers to affordability.

Deb Bobowski

On Tue, Jan 25, 2022 at 9:30 AM Meaghan Overton, City of Fort Collins Housing Manager <moverton@fcgov.com> wrote:



Housing Updates



Latest on Land Use Code Phase 1 Update



The City's [Land Use Code \(LUC\)](#) regulates zoning, building design, and lots more. The City's Consultants have just published a Diagnostic Report that evaluates the current LUC, identifies existing regulatory barriers to housing supply and affordability, and outlines key findings and recommendations for Phase 1 LUC updates to address these barriers. The analysis and recommendations from the Diagnostic Report will be used alongside information gathered through community engagement to shape the content of draft code changes.

[Read the Diagnostic Report](#)

COVID-19 Eviction Prevention Workshop



On Thursday, January 27 at 6:00pm, Colorado Legal Services will present a free webinar offering guidance about eviction prevention, best practices and emergency rental assistance. Spanish interpretation will be available (as well as other languages upon request). Join 10 minutes early to register and download software.

[Register for Webinar](#)

Resilient Recovery



Although we are still undoubtedly in the midst of pandemic response, the City has begun to plan the road to recovery. To guide long-term efforts, the City is developing a Fort Collins Recovery Plan.

We want to hear your feedback about the key themes and outcomes in the Draft Plan to ensure they accurately reflect what our community needs most to build back better. Share your comments and reactions to the draft plan [here](#).

[Take the Survey](#)

Competitive Funding Process - Affordable Housing & Human Services



Applications for the FY 2022 Competitive Funding Process to support human service and affordable housing programs are now open. Intent to Apply submissions are due January 26 and full applications are due February 14. For an eligibility quiz and more information, visit:

<https://www.fcgov.com/socialsustainability/competitive-process>

[More about Competitive Process](#)

On the Horizon - What's coming up?

[Fort Collins City Council](#) will be busy this year with many projects directly or indirectly related to Housing Plan implementation. You can always find out what's on Council's agenda by checking their [6 month calendar](#). Here are a few dates you might want to note:

- February 8 - Work Session on Housing Strategic Plan Implementation: Land Use Code Phase 1 Updates
- February 15 - Regular Session will include Pre-Application on Straus Metro District and 2021 Building Code Adoption
- March 1 - Regular Session to consider an Ordinance adopting the City Recovery Plan
- April 12 - Work Session on Sustainable Funding Plan (includes parks, transit and housing)

[Participate in Council Meetings](#)

From: [Jacqueline Kozak-Thiel](#)
To: [Meaghan Overton](#)
Subject: Fwd: [EXTERNAL] Support for land use, transit, and active transportation initiatives
Date: Tuesday, February 8, 2022 6:51:18 PM

Sent from my iPhone

Begin forwarded message:

From: Ian Taylor <ian@iantaylor.org>
Date: February 8, 2022 at 3:18:06 PM MST
To: City Leaders <CityLeaders@fcgov.com>
Subject: [EXTERNAL] Support for land use, transit, and active transportation initiatives

Dear Mayor Arndt, Interim City Manager DiMartino, and City Councilmembers,

I am a resident of Fort Collins writing to express my support for several items related to the agenda of the Council work session for today, Tuesday, February 8th. Specifically, these are five recommendations or plans from the agenda that I support:

- **Increasing allowed densities of housing and commercial space by right** everywhere in the city. Fort Collins is a growing city, the needs of its residents are changing, and our land use code should have the flexibility for uses to adapt to that growth and change. Fort Collins also needs to more efficiently use the space it has to provide housing.
- **Removing or drastically reducing parking minimums** everywhere in the city. This change would make better use of our available land, support local small businesses, and make accessing stores and homes by transit or active transportation easier.
- **Allowing compatible mixed uses in more areas** to provide convenient access to essentials such as groceries, or even entertainment and dining within walking distance of as many people as possible. I also support form-based codes to let commercial and residential uses coexist.
- **Increasing transit frequency and routes**, specifically routes with 15 minute frequencies or better, to accommodate diverse transportation needs and meet climate goals.
- **Expanding the low stress active transportation network** until all daily destinations in Fort Collins can be reached without a car. Active

transportation should be a safe and comfortable option for people of all ages and abilities to get around our city.

Thank you for listening to input from citizens on these issues. These are all very important, interrelated issues and I am excited to follow the progress of the city's land use, transit, and active transportation plans.

Sincerely,

Ian Taylor
Fort Collins resident, district 2

From: [Jacqueline Kozak-Thiel](#)
To: [Meaghan Overton](#)
Subject: Fwd: [EXTERNAL] Thought on Land Use Work Session
Date: Monday, February 14, 2022 9:56:35 PM
Attachments: [Land-Use Code Thoughts.pdf](#)

Sent from my iPhone

Begin forwarded message:

From: Adam Eggleston <adameggleston.realtor@gmail.com>
Date: February 14, 2022 at 4:12:54 PM MST
To: City Leaders <CityLeaders@fcgov.com>
Subject: [EXTERNAL] Thought on Land Use Work Session

Good Afternoon City Leaders,
This is Adam Eggleston, and I want to share some thoughts about last week's work session. I got a little long-winded, so I have attached a document with what I think. Also, I have attached a few links to pocket neighborhood concepts and a short video of a type of cluster-style home in Johnstown. Please let me know if you have any questions. I will be speaking on this tomorrow as well.

Pocket Neighborhood examples
<https://rosschapin.com/projects/pocket-neighborhoods/>

Cluster Housing
<https://youtu.be/m-9CI72Qato>

Have a good evening,
Adam

--



Good Afternoon City Council, Mayor Arndt, and Staff,

After watching the work session last week about the land-use code changes and diagnostic, I wanted to reach out to you all before speaking at the regular meeting on the 15th. I appreciated the context that Meaghan and Noah provided with the historical reference and that our land-use code has not been updated since 1997. As with everything in life, nearly everything has evolved with time, and so does the land-use code. The number of changes in building design, materials, and desires from consumers has changed so much that the current land-use code does more harm to the liveability, city economics, and our current residents. Below are some of my thoughts on questions asked or statements made by you'll.

I agree with Mayor Arndt's question or concern that the international building codes and climate action plan impact the cost of housing. It may not seem like a lot, but adding 1% to the building cost of a house is equal to over \$5,000 before counting interest from the builder loan or calculating the entirety of all of the other increases like Capital Improvement Fees increases, water tap increases, permit fees. I understand the need to adopt green EV codes, but with the average price of EV brought so high the average lower-income to upper medium-income earner can afford it, are we just adding costs with tangible benefit to our residents?

(side note I am 100% on for EV, having ordered a KIA EV6. But with finding out that my payment would be nearly 1,300 a month, there is no way most people or I could afford that)

I appreciated council members Peel and Pignataro about the ADU being complicated and confusing to build. Being so restrictive on locations and lot size makes them extremely hard to place, plus the full additional water tap and permit time/cost makes them nearly impossible to build. I think taking an approach like Windsor, where there have no restrictions on lot size or location. Still, It must safely meet simple build style, quality, and fit on the site, plus not charge an additional water tap fee for ADU under 900sqft saves a lot of money. This has not caused a land rush of folks building ADU's but has allowed more options for homeowners to use their property and add potential possibilities.

I agree with the need to visualize what increases in density look like and why it's important and needed. It is hard enough to figure out the room dimension for a couch, let alone a 5-acre multiple unit development. I have provided a website about pocket neighborhoods that I think have good ideas from what medium density looks like and a short video of the Cluster house idea that is happening in Johnstown.

Finally, I must address some false or misguide pretense from Councilmember Ohlson. If you think that we will slow growth now, even though you have been trying for 30 years with no success is just nonsense. We are growing as fast as possible, and in fact, Fort Collins is growing at a slower rate than most of our neighboring communities. Making the statement that you represent current residents and not residents in 15 years is just short-sighted. With the medium price in Fort Collins sitting at 500K as of last month and a projected price of over a million dollars by the end of the decade(using the 5-year average apparition of 8.35%).

What are you telling the parents of the 30,000 kids in the PSD school system that their kids wouldn't be able to live in the city they grew up in, or tell the fixed income retirees that can't afford their property tax increases? Also, the more people live in the same city where they work, the more they can commute from outside the city—reducing the carbon output from vehicles helping us to reach our climate action goals. At the same time, having the additional benefit of increasing the tax to invest in more mass transit opportunities and create a more inclusive community.

In conclusion, Fort Collins and communities throughout the nation are in a housing emergency. We have land-use codes that are decades old have not allowed for the housing type diversity needed to meet the needs of our citizens. It is no longer just a discussion about low-income Affordable projects but the real possibility of losing the American dream of homeownership. We need real change to save the inclusiveness of our city. Our City has never stopped growing and never will, and we are better for it. Adopting a new land-use code and reviewing it every 5-10 years will help us be more nimble and adjust to current trends in design and better suit our residents, both current and future.



February 21, 2022

Ms. Meghan Overton and Mr. Noah Beals, City of Fort Collins

Dear Ms. Overton and Mr. Beals:

Please allow us to introduce ourselves. We are volunteer members of the Housing Priority Group of the Partnership for Age-Friendly Communities in Larimer County (PAFC) <https://www.pafclarimer.org/> and we are interested in having a conversation about *missing middle housing* in your community. We would like to learn from your experience about the challenges and benefits to missing middle housing and what innovative tools you have used that we can pass along to other towns and cities in Larimer County.

The term missing middle is two-fold in that it refers to a middle type of building form and scale as well as providing a choice at the middle-income level to suit a variety of lifestyles. As you know, *missing middle housing* is not new and refers to house-scaled buildings with multiple units in walkable neighborhoods. This housing type was popular pre-World War II and is specifically designed to blend in with single family neighborhoods, transition and mid-rise areas.

The Partnership for Age-Friendly Communities advocates for more types of housing to allow older adults to either age in place or move to avoid a crisis situation. Research demonstrates that today 30% of households are single persons and by 2025, 75 – 85% of all households will not have children. Also, by 2030, one in five Americans will be over 65. Further, less than 10% of all housing units produced between 1990 and 2013 were at the missing middle scale. Finally, the issues around housing affordability in Larimer County are well-documented.

We look forward to meeting with you or your team to learn about various approaches regarding *missing middle housing* within your city. As a little incentive, we have gift for you – Missing Middle Housing – Thinking Big and Building Small to Respond to Today's Housing Crisis by Daniel Parolek that we believe will be informative and practical for both your team and Planning Commission.

We will be following up to schedule a time that works for you. We very much look forward to meeting with you to discuss these critical issues facing Larimer County.

Sincerely,

Ted Shepard
Volunteer, Partnership for Age Friendly Communities

From: [Jacqueline Kozak-Thiel](#)
To: [Meaghan Overton](#)
Subject: Fwd: [EXTERNAL] Housing Affordability
Date: Tuesday, February 22, 2022 7:18:20 AM

FYI

Sent from my iPhone

Begin forwarded message:

From: Caleb Rustad <calebrustad@gmail.com>
Date: February 19, 2022 at 10:02:07 PM MST
To: City Leaders <CityLeaders@fcgov.com>
Subject: [EXTERNAL] Housing Affordability

Attention City Council Members,

My name is Caleb Rustad. I am a concerned resident of Fort Collins. I have lived here for a few years now, and have noticed as many others have both in Fort Collins and around the state of Colorado that the price of housing has skyrocketed to unmanageable prices. Which has exacerbated issues of persons experiencing homelessness, increased drug use, and reduced child birth rates. All of which are significant issues not only in the state, but in the country. I would like to see this housing crisis which affects so many and touches so many other issues addressed.

The listed median price of a single family home in Fort Collins is \$484,000, up 4.1% YoY. The listed price of a mid-tier stand alone single family home in Fort Collins is \$546,000, and 56% of these have sold above the listing price in the past year according to Zillow.com. This has led many, including myself, to feel that owning either a townhome or stand alone home is no longer a feasible option. Which is purely unacceptable. While owning a home would be a dream for myself and my peers, it is a lofty goal which many millenials and gen-z's will never achieve. Which leaves us with renting as our only option. This however, is becoming extremely unaffordable as well. With the average single bedroom apartment in Fort Collins being rented at \$1,285 a month and the average apartment going for \$1,735 a month. These prices have gone up at an even faster rate YoY than single family homes, at a rate of 11.3% in the past year according to Point2Homes.com.

The US HUD describes housing as becoming a "cost burden" once it reaches above your 30% of your monthly income and "severely burdened" at 50% of your monthly income. Since the median HOUSEHOLD income in Fort Collins is \$55,647 pre-tax per year, that means if you make the median income and live in a median apartment in Fort Collins your living status is described as a cost burden. With many being severely burdened. This needs to be addressed urgently. These are some of the solutions I propose.

One of the most important things a local government such as the one you represent and operate can do is to change zoning laws. Undoing zoning restrictions against multifamily units in residential neighborhoods throughout the city would provide opportunities to create much more housing than is possible under current zoning restrictions. Also allowing for so called 5 over 1's is one great option in so called "business sectors." Allowing people to reside close to busy business sectors in dense multifamily buildings. Another useful tool you have at your disposal as city council members is the ability to create tax incentives for businesses creating low-income housing, while maintaining and enforcing housing regulations to ensure standards of living for your citizens. The final option I will mention here is to reduce mandatory parking standards for apartment buildings, this is one of the most beneficial things a city government can do to lower housing prices. This is because you reduce the amount of space needed per building allowing more housing in a smaller area, and you lower building and maintenance costs. This initiative would also promote walkability and use of public transportation in the city which is a great green initiative as well.

I would be happy to discuss this topic or any other at greater lengths if any one of you would be willing to reach out to me.

Thank you,
Caleb Rustad

B.A. Political Science/International Relations

From: [FCGov Contact Form](#)
To: [Meaghan Overton](#)
Subject: Land Use Code Phase 1 Comments
Date: Sunday, July 10, 2022 3:07:02 PM

Name

Jeff shinn

Email

jeff.shinn@utexas.edu

Phone

512-574-2113

Comments

I moved here about a year and a half ago from Austin Texas. Over a 40 year period Austin grew from 300,000 to 2.3 million people. In my opinion, wholesale urban core density and infill development made the quality of life in Austin degrade so much that my wife and I had to leave and moved here to retire. So I would caution against the idea of wholesale urban density and infill at the expense of quality of life. The quality of life (i.e. traffic, affordable water, utilities, property tax) is so much better here. As a result of the Austin City Council deciding on creating an inner urban dense core, I saw the city become an unaffordable, gentrified city similar to San Francisco. Traffic is horrible and so many variances were given to developers that I feel that making a profit for development overrode any sensible infill. My suggestion is to do modest infill with more density coupled with a requirement that all new apartments or any type of rental unit have a certain percentage of low income housing assistance available. Also, allow central home owners add garage apartments or small housing units on their lots if done in the style and construction of existing homes. Please balance the quality of life for residents over the pressure of developers to make this a dense urban city.

Would you like to be contacted by a member of the Land Use Code Phase 1 team? (Y/N)

N

Dear Mayor Arndt and City Council Members,

We are writing to you in hope that Fort Collins will prioritize the triple bottom line interests impacted by housing affordability by:

1. Moving forward the proposed land use code updates that promote housing choice and incentivize housing affordability
2. Implementing policy that will help bring down the cost to build housing

Fort Collins slid to Number 54 on the US News and World Report "150 Best Places to Live in the U.S." and this is not a reflection of how great the place is to live – but rather it has to do with the escalating cost of housing. It is becoming exclusionary.

You can't build a healthy community – or life – on an unstable foundation. Everyone needs a safe & stable place to call home to realize their full potential. But for too many of our hardworking neighbors, a secure place to live is simply becoming out of reach. Fortunately, Fort Collins is just the pioneering place to innovate new policies, financing products, and housing designs to support healthy, connected communities.

To secure the foundation of our community and what we all love about living here, we must ensure everyone has fair access to a place to call HOME.


When we think of getting "back" to the quaint, welcoming accessible place we once knew we have to think about moving forward in the ways we expand our definitions of home. We can and should support policies that include, make room, and nurture all members of our community, from children to college students to aspiring professionals, people with disabilities, to teachers and nurses and shop workers, to parents, business owners and executives, all the way to seniors who want to remain here supported. Providing housing options across the spectrum for ages and stages of life requires an updated perspective on land use policy that focuses on housing choice and capacity

The way we hold true to the values and character we hold most dear in our City is to release our insistence that the built environment and exclusionary housing rules remain cast in amber.

The way to make room for all our citizens to flourish and contribute is to literally make room. The alternative is to refuse to expand our offerings of homes, and allow this supply / demand imbalance to ratchet up home costs to the point that we lose entire groups of our community - seniors, service workers, young adults, all priced out and thrown out of the community where they work, enjoy close family ties, and want so desperately to remain.

Thank you for considering this request,

CARE Housing


Steve Kueneman

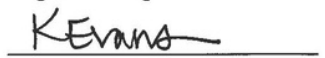
Fort Collins Habitat for Humanity


Kristin Candella

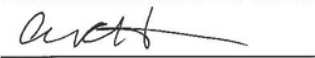
Fort Collins Board of Realtors


Suzan Koren

Neighbor to Neighbor


Kelly Evans

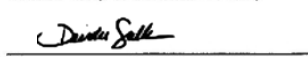
Fort Collins Area Chamber of Commerce


Ann Hutchison

Hartford Homes


Landon Hoover

United Way of Larimer County


Deirdre Sullivan

Housing Catalyst


Michele Christensen

From: [FCGov Contact Form](#)
To: [Meaghan Overton](#)
Subject: Land Use Code Phase 1 Comments
Date: Friday, August 12, 2022 10:15:32 AM

Name

Steven Rothwell

Email

srothwe1@icloud.com

Phone

3072869257

Comments

I currently live in the Low-Density Residential zoning district. I see that ADUs were added to the allowable uses in RL. Does this have to be a detached structure or can an existing basement be renovated into an ADU with a separate entrance, kitchen, parking, etc.?

Would you like to be contacted by a member of the project team? (Y/N)

Yes, please. Thank you so much.

From: [FCGov Contact Form](#)
To: [Meaghan Overton](#)
Subject: Land Use Code Phase 1 Comments
Date: Tuesday, August 16, 2022 9:44:50 AM

Name

Ryan McBreen

Email

rmcbreen@norris-design.com

Phone

9704093414

Comments

Hey all - Just starting to dig into the revisions. Quick question that I had a developer ask. Will there be any changes/relief in impact fees associated with building affordable housing?

Would you like to be contacted by a member of the project team? (Y/N)

Yes please e-mail or phone works. Thank you!

September 1, 2022

Dear Mayor Arndt and Fort Collins City Council Members:

United Way of Larimer County's Board of Directors would like to express its support for proposed updates to the City of Fort Collins residential Land Use Code phase one that addresses housing.

The United Way of Larimer County believes in investing in communities to accelerate the economic mobility and financial stability of all community members. On behalf of our local nonprofits, UWLC plays a vital role in engaging and collaborating with civic leaders, community members, and business partners to address the needs of today and reduce the needs of tomorrow. One of the most effective ways to reduce the needs of tomorrow is to be an active participant in our local, state, and federal policy making process. We support programs, partnerships, and policies that address the root causes of poverty and eliminate barriers for all. Within this focus on financial stability, housing policies that support a diverse work force is a key priority. Living in a safe, affordable home is the bedrock of not only surviving but thriving in our community.

If we want to reduce tomorrow's human service needs, we as a community need to create regulations, priorities, and programs to include a robust path to housing stability through expanded availability of affordable and attainable homes and policies that support equitable housing. We agree with the 2021 Housing Strategic Plan's vision that "everyone in Fort Collins has healthy, stable housing they can afford" and strongly urge City Council to adopt the proposed Land Use Code updates.

Sincerely,

United Way of Larimer County Board of Directors

Katie Claypool

From: Rebecca Everette
Sent: Monday, September 26, 2022 7:48 AM
To: Development Review Comments; Noah Beals; Meaghan Overton; Katie Claypool
Subject: Fwd: [EXTERNAL] 2000 SF maximum -- land use code

Categories: P&Z

For P&Z packet.

Rebecca Everette
 Planning Manager | City of Fort Collins
 reverette@fcgov.com | 970-416-2626

----- Forwarded message -----

From: Barry Schram <barry@lamarvalleycraftsman.com>
 Date: Sep 26, 2022 6:47 AM
 Subject: [EXTERNAL] 2000 SF maximum -- land use code
 To: Rebecca Everette <reverette@fcgov.com>
 Cc:

To City of Fort Collins Planning Commission It has come to my attention that the Land Use Code is currently being updated by the City of Fort Collins. From my research it seems that many of the items being amended will expand building options within the city which is probably needed.

The item that I **STRONGLY OPPOSE** is the provision for only allowing a maximum of 2000 square foot of home. This is not at all realistic in the year 2022 we live. While I don't believe we should be allowing people to build 7000-8000 square foot homes in the core of the city, restricting homes to 2000 square feet does not work.

What about families that want to live in the old town core and

- Have a large family of 4 to 5 children and additionally what if they home school
- Have a multigenerational family with parents living with them
- Need a caretakers quarters to help care for aging or disabled parents and want this space to be separate in the main home
- Need one or two professional office spaces if one or both of the parents work from home
- What if they home someone owns is already over 2000 square foot in size and they want to add an addition to accommodate the above

These are just a few of the examples that would need space and square footage above the 2000 proposed maximum limit. 3500 square feet would be a much more workable square footage for the lifestyle many families balance today.

This restriction will also only increase the cost of housing in the old town core. Anytime you place restrictions there are consequential efforts to be dealt with. I thought one of the agenda's of City Council was affordable housing? Properties in the old town core will only increase more in value and create even a greater barrier to families wanting to purchase a home in the old town core.

Regards,

Barry Schram
 Owner / Project Manager
 Lamar Valley Craftsman

Katie Claypool

From: Rebecca Everette
Sent: Monday, September 26, 2022 9:39 PM
To: Development Review Comments; Katie Claypool; Noah Beals; Meaghan Overton
Subject: FW: [EXTERNAL] Proposed Changes to the Fort Collins Land Use Code

Categories: P&Z

For the P&Z packet

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Rebecca Everette, AICP
Pronouns: [she/her/hers](#)
Planning Manager | City of Fort Collins
reverette@fcgov.com | 970.416.2625 direct

From: Janet Oliver <oliver1953@gmail.com>
Sent: Monday, September 26, 2022 1:59 PM
To: Rebecca Everette <reverette@fcgov.com>
Subject: [EXTERNAL] Proposed Changes to the Fort Collins Land Use Code

Ms. Everette,

The builder of my new home, Barry Schram—owner and project manager of Lamar Valley Craftsman—has made me aware that the Land Use Code is currently being updated by the City of Fort Collins. His research indicates that many of the items being amended will expand building options within the city, an update which is likely needed.

The item that he **strongly opposes** is one I oppose as well: it is the provision to set a floor area maximum of 2,000 square feet for a single-united detached home in the historic core, namely, Neighborhood Conservation Districts.

Barry argues, and I agree, that this is not at all realistic in the year 2022. There is probably no place for 7,000-8,000 square foot homes in the core of the city, but restricting homes to 2,000 square feet does not work, and will likely have consequences other than your stated one, which is to “Allow more diverse housing choices.” The requirement to *build small* could result in unimaginative, cookie-cutter style homes. Not exactly the best fit for a conservation district.

There are many reasons and many different types of families who would love to live in the Old Town core, and who need more than 2,000 square feet. For example:

- They have a large family of 4 to 5 children. Perhaps the children are home schooled.
- They are a multigenerational family whose parents live with them.
- They need caretaker quarters to help care for aging or disabled parents and want this space to be separate in the main home.
- The parents work from home and need one or more professional office spaces.
- They already own a home of over 2,000 square feet but are contemplating adding on to accommodate any of the above options.
- They may not **need** over 2,000 square feet. They may just **want** it. This is their right as property owners.

I see that you further plan to restrict the property size by reducing it from 6,000 square feet to 4,500. Is the point of a 2,000 square foot house on a 4,500 square foot lot one of aesthetics? What if the owners don't want 2,500 square feet of property? What if they want to maximize their *interior* living area?

One alternative to limiting the square footage of a new home in a historic district (although it is still intrusive to owners' property rights), is the notion of floor area ratio: the ratio of square footage divided by the lot size. In practice, this ratio is constant for a zone. A floor area ratio of 1.0 means that floor area may equal the lot area. FAR 5.0 means that the floor area may be up to five times as large as the lot area; and FAR 0.5 means that it may be no more than half the lot area. Though a floor area ratio affects volume, shape, and spacing of buildings on the land, it does not determine a *particular* shape or spacing. Rather, it permits a *choice*.

For instance, a 4,500 square foot lot could have a FAR of 1.0, which means that the square footage of the home would equal the lot size. This does not necessarily mean that the house takes up the entire lot. The home could be situated on half the lot, or 2,250 square feet, with a basement, middle floor, and upper floor consisting of 1,500 square feet each.

By limiting both floor area square footage **and** property square footage, you are not offering choice to new homebuilders. You are restricting it.

I agree with Barry when he says: *This restriction will also only increase the cost of housing in the old town core. Anytime you place restrictions there are (usually unintended) consequential efforts to be dealt with. I thought one of the agendas of City Council was affordable housing? Properties in the old town core will only increase more in value and create even a greater barrier to families wanting to purchase a home in the old town core.*

Regards,
Janet Oliver

Katie Claypool

From: Rebecca Everette
Sent: Tuesday, September 27, 2022 10:03 AM
To: Moses Horner
Cc: Katie Claypool; Development Review Comments; Noah Beals; Meaghan Overton
Subject: RE: [EXTERNAL] 2000 SF maximum -- Land Use Change

Hi Moses,

Thank you for these comments. They will be added to the packet for the Planning & Zoning Commission (9/28 meeting) and City Council (10/18 meeting).

Rebecca

.....

Rebecca Everette, AICP

Pronouns: [she/her/hers](#)

Planning Manager | City of Fort Collins

reverette@fcgov.com | 970.416.2625 direct

From: Moses Horner <moses@hornerpainting.com>
Sent: Tuesday, September 27, 2022 9:00 AM
To: City Leaders <CityLeaders@fcgov.com>; Sarah Kane <SKane@fcgov.com>; Rebecca Everette <reverette@fcgov.com>
Subject: [EXTERNAL] 2000 SF maximum -- Land Use Change

I **STRONGLY OPPOSE** the provision for only allowing a maximum of 2000 square feet of home. This is not at all realistic in the year 2022 we live. While I don't believe we should be allowing people to build 7000-8000 square foot homes in the core of the city, restricting homes to 2000 square feet does not work.

What about families that want to live in the old town core and

- Have a large family of 4 to 5 children and additionally what if they homeschool
- Have a multigenerational family with parents living with them
- Need a caretakers quarters to help care for aging or disabled parents and want this space to be separate in the main home
- Need one or two professional office spaces if one or both of the parents work from home
- What if the home someone owns is already over 2000 square feet in size and they want to add an addition to accommodate the above

Thank you for all you do for our city

--

Moses Horner

Katie Claypool

From: Development Review Comments
Sent: Wednesday, September 28, 2022 11:24 AM
To: Katie Claypool
Subject: Fw: [EXTERNAL] Re: Complaint about housing strategic plan
Attachments: floorarea22.pdf

Categories: P&Z

From: Noah Beals <nbeals@fcgov.com>
Sent: Wednesday, September 28, 2022 4:53 PM
To: Development Review Comments <devreviewcomments@fcgov.com>
Subject: FW: [EXTERNAL] Re: Complaint about housing strategic plan

Forwarded message -----

From: Rachel Pries <rachelpries@gmail.com>
Date: Sep 27, 2022 11:09 PM
Subject: [EXTERNAL] Re: Complaint about housing strategic plan
To: Jeni Arndt <jarndt@fcgov.com>
Cc: "Caryn M. Champine" <cchampine@fcgov.com>, Meaghan Overton <moverton@fcgov.com>, Jeff Achter <jachter@gmail.com>, Emily Francis <efrancis@fcgov.com>

Dear Ms Arndt, thanks for your response. Jeff and I had the chance to meet with Noah Beals and Ryan Mounce, who were very helpful. We had an in-depth and thoughtful conversation about the floor plan proposals for old town. I am including a letter that describes the negative impact of the proposed floor area limit when combined with the definition of floor area in old town. We will try to attend the meeting on Oct 18. Thanks for your consideration and best wishes, Rachel Pries

On Thu, Sep 15, 2022 at 8:23 PM Jeni Arndt <jarndt@fcgov.com> wrote:

Hi Rachel,

Thanks for writing to us. We are considering some elements of the Housing Strategic Plan.

I am unaware of the changes you describe here. So, I will copy our head of Planning and also Housing. I know eight Caryn or Meaghan can help with a detailed answer.

Kindly,

Jeni

Jeni Arndt, Mayor of Fort Collins
970-413-3146

With limited exceptions, emails and any files transmitted with them are subject to public disclosure under the Colorado

Open Records Act (CORA). To promote transparency, emails will be visible in an online archive, unless the sender puts #PRIVATE in the subject line of the email. However, the City of Fort Collins can't guarantee that any email to or from Council will remain private under CORA

On Sep 15, 2022, at 5:18 PM, Rachel Pries <rachelpries@gmail.com> wrote:

Hello Ms Arndt and Ms Fisher,

I am writing to you as my mayor and district 6 representative. I like a lot of the values that are motivating the new housing strategic plan but I have serious concerns about their implementation. I just found out about this yesterday and need some time to write up the details of my complaint but in the meantime I would like to bring this to your attention right away.

When I bought my house in 2005, its floor area was 1472 square feet.

An architect told me that the city is currently defining the floor area of my house as 1648 square feet, with the difference being that the new assessment includes parts of the second floor where the head height is between 1 and 7 feet. This would be easy to laugh about, except that now the city wants to put a cap of 2000 square feet on the primary dwellings in old town, making it very difficult to make reasonable additions on my home in the future.

At a basic level, I don't understand why old town residents are subject to different rules from people in other neighborhoods in town. But even if that is justified, it is crucial for the new rules to be both reasonable and precise. I spent some time looking at the definition of floor area for houses in old town found in Article 7 (see attached link).

My request is for this definition of floor area to be fixed and improved. The most obvious problem is that the floor area includes parts of the primary residence that are above the roof. In addition, the system of including area from accessory units is both complicated and poorly articulated. It is easy to describe reasonable plans that are excluded by these rules and awful plans that are permitted by them.

On a more positive note, I like the direction the city is going with accessory dwelling units but the document does not contain enough detail on the rules for these.

I will join the future workshops on this topic and continue to reach out to the task force writing the proposal but I am feeling pretty annoyed about the time this will take.

Thanks for your consideration, best wishes, Rachel
723 W. Mountain Ave. Fort Collins

<https://www.fcgov.com/housing/lucupdates>

--

Rachel Pries,
Professor of Math at CSU

from 'The Hill We Climb' by Amanda Gorman:

The new dawn blooms as we free it. For there is always light.
If only we're brave enough to see it. If only we're brave enough to be it.

Rachel Pries and Jeff Achter
723 W. Mountain Ave.
Fort Collins, Colorado 80521
Telephone: 970-310-7180, 970-690-4261
rachelpries@gmail.com, jachter@gmail.com

To whom it may concern on the city council and the housing strategic plan committee,

Thank you for the time and attention you are giving to the city land use codes. This is an important project and we like many of the values that are motivating the new housing strategic plan. We would also like to thank Noah Beals and Ryan Mounce for meeting with us to explain the code revisions. We like the proposal for allowing accessory dwelling units in old town.

However, we have serious concerns about how the floor area restrictions in old town will impact us. **We think that the limit of 2000 square feet on the primary residence is too restrictive, because it does not allow residents to make modest additions on their homes.** Also, we think that the city does not have a good understanding of this proposed limit. **Due to problems in the definition of floor area, we think that the city does not have accurate data about how residents of old town will be affected by the 2000 square foot limit.**

For this reason, we would like to encourage you to:

(1) Increase the maximum floor area allowed for a detached house in old town: for example, from 2000 to 2500 square feet.

(2) Write a better definition of floor area in old town.

The definition should align with the Colorado building standards for head height. It should separate the floor area of the primary building from that of its accessory structures.

Items (1) and (2) are closely linked, because it is necessary to define floor area before it can be restricted.

Here are more details about why the proposed change would negatively impact us. We are hoping to make a one room addition on the back of our house. This is a modest change that will make our house more livable and environmentally sustainable. However, the limit of 2000 square feet will make it impossible for us to do this, as explained below.

The definition of floor area for old town has some significant issues. First, it is out of alignment with Colorado building standards and the Larimer county accessor's office. For example, our primary house is assessed at 1472 square feet by Larimer county, but

it is 1648 square feet by the old town definition of floor area, which includes parts of the second floor of the primary residence which have a head height of between 0 and 7 feet.¹

Secondly, the current definition of floor area has a complicated relationship between the primary dwelling and the accessory structures. It is not good policy to define the floor area of the primary structure in terms of the floor area of accessory structures, especially if each is limited in size by the other. For example, on our property, a historic carriage house has the potential to add an additional 215 square feet to the floor area of the primary building simply because of its proximity to the main structure, giving us even less opportunity to build a modest addition.

We hope these details make it clear that the proposed limit on floor area in old town is more restrictive than it appears. We hope that the city will be careful in implementing limits whose advantages and disadvantages have not been clearly evaluated. We would be happy to discuss any of these issues with you in greater depth.

Thank you for reading this letter.

Best wishes, Rachel Pries and Jeff Achter

¹By the building code, spaces where the head height is less than 5 feet cannot be included in a room and there are restrictions on rooms where the head height is less than 7 feet.

From: [FCGov Contact Form](#)
To: [Meaghan Overton](#)
Subject: Land Use Code Phase 1 Comments
Date: Saturday, September 24, 2022 7:21:38 PM

Name

Holger Kley

Email

holger31@comcast.net

Phone

970.218.1488

Comments

Dear Members of City Staff,

While there are many commendable elements of the draft LUC updates to encourage infill and affordable housing, the proposed changes to the allowable square footage of detached houses in the Old Town Zones (OT-A and OT-B) fall outside the scope of the prioritized Housing Strategic Plan strategies (#7 & #13--#16). Rather than incentivizing desired types of development (which is the unambiguous content of the prioritized strategies), these changes take the approach of outright prohibition against other types of development. They will eliminate heretofore allowed options from almost all properties in the OT-A and OT-B zones, reducing allowed square footage for a detached home by over 50% for some properties, by over 30% for the common 50'x190' lots, and by 23% for the average 8000 sq ft. lot in OT-A.

Furthermore, this heavy-handed proposal has not been broadly presented to Old Town property owners. At two public presentations of the draft LUC this week, staff did not even mention the dramatic proposal until it was brought up during the Q&A. Old Town property owners who stand to lose the ability to expand their existing homes (or to sell to those who might want to) have not been notified, even though a first vote by City Council is less than a month away.

Honestly, the proposal smacks of social engineering. Under the new rules, duplexes are allowed and can have square footage up to 40% of lot size, which represents an increase in allowed floor space over the current rules for all lots above 5000 sq ft in OT-A, and all lots above 6700 sq ft in OT-B. Thus, this code change is clearly not about reducing floor area ratio in Old Town. It does seem to be about telling Fort Collins residents who want to have 5 or 6 kids, or Thanksgiving dinner for 20, or a Super Bowl party for 50, or aging parents living with them, that they can't do that in Old Town.

For all of the above reasons, I strongly urge you to remove the changes to allowed square footage for detached homes in OT zones from the proposed LUC update, and leave the current formulas in place.

Would you like to be contacted by a member of the project team? (Y/N)

Y

Change or Edit Requested	Comment or additional detail
Extend affordability term for affordable housing projects to 99 years	At work session, several Councilmembers suggested that we extend the affordability term to 99 years from the proposed 50 years. Staff agreed to do additional outreach to affordable housing developers to explore this potential change and any implications.
Consider allowing duplexes in RL	Consider allowing duplexes in RL
Consider fourplexes instead of duplexes in some places	Consider fourplexes instead of duplexes in some places
Do we need to limit density in LMN to 12? Other ways to address this?	Do we need to limit density in LMN to 12? Other ways to address this?
Require affordable set-aside, modest infill/density increases, allow adus	I moved here about a year and a half ago from Austin Texas. Over a 40 year period Austin grew from 300,000 to 2.3 million people. In my opinion, wholesale urban core density and infill development made the quality of life in Austin degrade so much that my wife and I had to leave and moved here to retire. So I would caution against the idea of wholesale urban density and infill at the expense of quality of life. The quality of life (i.e. traffic, affordable water, utilities, property tax) is so much better here. As a result of the Austin City Council deciding on creating an inner urban dense core, I saw the city become an unaffordable, gentrified city similar to San Francisco. Traffic is horrible and so many variances were given to developers that I feel that making a profit for development overrode any sensible infill. My suggestion is to do modest infill with more density coupled with a requirement that all new apartments or any type of rental unit have a certain percentage of low income housing assistance available. Also, allow central home owners add garage apartments or small housing units on their lots if done in the style and construction of existing homes. Please balance the quality of life for residents over the pressure of developers to make this a dense urban city.
Modification to Article 5.8.1(B) language	5.8.1(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 first ultimately meet the requirements of Chapter 14 of the City Code. This includes jurisdiction over properties inside a Landmarked District or Landmarked properties. Once The Code of the City for Fort Collins Chapter 14 standards must be have been met, as the proposed development project may then proceeds through this Code's review procedures to ensure compliance with the criteria herein.

<p>I am just confused by one thing. Starting on page 12 of Article 4, it says “are these being added”. It continues through the rest of the document.</p>	
<p>Light standards that did not get updated</p>	<p><u>Parking Lot Lighting. Parking lot lighting, if used at all, shall conform to the requirements contained in Section 3.2.4, and shall be further restricted such that (a) the lighting is of high pressure sodium only and does not exceed seventy (70) watts and one hundred twenty (120) volts; and (b) the fixture does not exceed a height of fourteen (14) feet above ground level.</u></p>
<p>For those of us who aren’t deeply familiar with the Code, you might want to define each of these acronyms on this page. I know each one gets defined later, but seeing them all together when a term is used can be very helpful, too!</p>	<p>Article 2 Cover Page the list of zone district acronyms.</p>
<p>Section 1 references the Housing Strategic Plan and Our Climate Future. (References are in both 1.2.2 and 1.3.3) You might want to consider using generic names for these plans, rather than formal names, in case the names of the plans change in the future. Perhaps something like “the city’s current housing strategic plan” and “the city’s current climate plan.”</p>	
<p>Section 1.2.1 (Title) has unused white space in the first line.</p>	

Will there be an index for this article — or perhaps the whole document. Given this article’s length and comprehensive content, it would be easier to locate provisions with an index.	
6.1.1 - At least on my PDF version, “Residential Foothills District” is not aligned with the other bullets	
6.2.3e2 - Just want to confirm that the bolded text was intended.	
6.3.2. Step 2 - Just recalling the issues we have had with some neighborhood meetings occurring so early in the process that neighbors were confused with the final plan. Should another meeting be required if material changes are made to the plan?	
6.3.6 Step 6 - Need a double space between items (c) and (d)	
Article 6 Page 17, item (E) - The text needs to be consistently aligned under the heading to match the rest of the page.	
Article 6 Pages 28, 29, 33, 44 and 58 - There are inconsistencies in text alignment. A good cleanup might be in order.	

Article 6 Page 45 - Reasonable Accommodation Process - Just my personal view, but it seems more logical to me that the Reasonable Accommodation Decision be made by the same party that will be acting on the proposal.	
Article 6 Page 50 - there are extra spaces after the ADU Exemption and the start of Division 6.18	
Article 6 Page 61 - In 6.24.3, there should be a double space between (A) and (B)	
Article 6 Page 64 - Need to double space between (F) and (G), and (J) and (K)	
Article 6 Page 65 - There should be one space after each "step". List is inconsistent.	
Article 7 Page 7 - there is an extra line between "lot line, rear" and "Lot line, side"	
Article 7 Page 12, affordable housing development - I am being lazy here, but just want to confirm that the 10 percent figure is the figure currently in use.	
If Duplex Building Type is allowed in NCL (OT-A) why not in the R-L?	
N/A - question only	Hey all - Just starting to dig into the revisions. Quick question that I had a developer ask. Will there be any changes/relief in impact fees associated with building affordable housing?
N/A - question only	I currently live in the Low-Density Residential zoning district. I see that ADUs were added to the allowable uses in RL. Does this have to be a detached structure or can an existing basement be renovated into an ADU with a separate entrance, kitchen, parking, etc.?

Suggestions for further changes to parking (count on-street spaces), roofs (reduce articulation requirements if solar is provided), and building footprint variation/architecture requirements (reduce/eliminate footprint variation requirement)	<p>*Would be helpful to be able to count on-street spaces toward parking requirements - clarify what is "internal" for projects</p> <p>*Roofs - primary roofline articulation can be issue w PV, consider lifting if there is solar</p> <p>*Concern about building footprint variation and multifamily architecture requirements; consider an OR?</p> <p>*Overall good direction with code, like the changes proposed for both market rate and affordable.</p> <p>*Like change to BDR and think a checklist is a good idea for each round.</p>
Entry/doorway towards street	Provide clarity that it applies to all streets.
N/A - question only	Question about utility requirements for ADUs both inside FC utility district and outside. Can utilities be pulled from main/primary structure? Is this different for detached/attached ADUs and if so, why?
N/A - question only	Are there stock plans for ADUs? Is that something you would consider? Plus general questions about ADU requirements in RL zone.
N/A - comment	Important to keep compatibility standards as density and heights are increased. It's going to be very important to transition from existing lower density neighborhoods to new LMN or commercial developments with much higher intensity and building heights.
N/A - comment	ADU suggestions: City should also be looking at utilities for ADUs and if possible permit them to run from the existing house, which will reduce costs and expenses. Additionally, a maximum separation distance between an ADU and the primary unit should also be considered for very large lots; if an ADU can go anywhere on the lot it may feel less like a subordinate unit.
N/A - comment	Appreciate the City exploring more administrative reviews for housing projects and would appreciate a similar review for commercial projects when Phase 2 updates are being considered.
N/A - comment	Fort Collins has typically been less prescriptive when it comes to design and allowing many different types of architectural expression; some concern about the appearance of new prescriptive standards for 6:12 roof slopes which could be quite limiting for future projects.
N/A - comment	As more compatibility standards are added or they become more prominent with higher intensity projects, the City should explore defining what context compatibility will be measured against. One example could be the same radius as the notification area for a project.

Comments about water resources, climate change, and impact of density	<p>With a background in Natural Resources, I am very concerned with the tack City Council is taking in trying to change the Land Use Code. The western United States is in the middle of a drought (20 years so far) that has surpassed any in recent history. We are looking at the possibility of a drought severity that rivals the 50 - 80 year drought that collapsed thriving Native American civilizations throughout the Southwest region in 1130 A.D.. We are seeing massive climate changes due to global warming and more dense housing will cause more water concerns in an already arid climate. Look at issues arising with water levels in the Colorado River and water needed for agriculture on the Eastern plains. By increasing density and sanctioning high density housing you will be perpetuating more severe water conflicts between urban uses and agriculture/food uses. This is a region/state wide issue that is coming readily apparent, but it really comes down to individual municipalities making decisions with eyes toward the future of more scarce resources, especially water.</p>
Consider specific zoning for a new class of multi-family housing where owners are allowed to rent rooms in their units.	<p>Zoning for a new class of multi-family housing, with an owner for each unit also allowed to rent a room in the unit. The ideal use would be multi-generation, with an older person and a younger person, not necessarily related. Property management could facilitate matching interested renters with compatible owners. Some smaller units could be rental only, for a potential renter on a waiting list to be matched with an owner/unit when available.</p>
Do not make changes to the code	<p>I'd like to expound, but to start with I'll try to keep this brief. This is a terrible idea all around and a gift to developers instead of residents. Neither Denver nor New York City have been able to build their way to affordability. The idea is inherently flawed. I know recent council members think they were elected to fix housing affordability, but the fact is that isn't really your job or under your control. Nice places will be more expensive to live once word gets out. Period. Our infrastructure and limited outdoor recreation is already over capacity. Please keep Fort Collins great instead and stick with the plan. We'll all be glad you did.</p>

Increase the 2000sf floor area max in OT zone, perhaps to 2500sf or make some consideration for main floor living/aging in place	In early stages of planning a renovation to a local landmark home in the OT-B zone. Wanted to understand how the regulations impact their options, and expressed concern about the 2000 sf floor area requirement. Impossible to do. Under the current code, 2,750sf would have been allowed. Agree with intent of changes to add infill, invisible/gentle density. Have a second half story but want to live on main floor. Also wondering if a basement needs to be finished or if it can be roughed in/designed to meet building code and finished at a later time. Want clarity about what counts toward floor area.
Consider saying "all lot sizes" or "no minimum" for ADUs allowed instead of N/A - N/A makes it seem like it's not allowed when it is.	
What is the 45% based on for ADUs?	Outside wall to outside wall, does not include below-grade floor area.
Consider increasing floor area in OT zone to 2500 sf	<p>Thanks so much for overseeing what I am certain has been an enormous lift... revising portions of the Land Use Code for the City of Fort Collins.</p> <p>My overall response is BRAVO, as the proposed updates are thoughtful and address both city and resident desires.</p> <p>My ONE comment / suggestion: As I understand, the OT-A zone reflects a proposed decrease in allowable above grade square footage of a primary dwelling to 2000 sq ft, and I strongly believe that this should be revised upward to at least 2500 sq ft. Many of the lots in OT-A exceed 10,000 sq ft, so even a new upward limit of 2,500 sq ft, for example, represents a significant reduction in primary residence size as compared to the prior zoning of NCL. As the owner of a deteriorating home on a lot in the OT-A zone, I genuinely believe that a upward revision of primary dwelling square footage is warranted for lot sizes above 10,000 sq ft.</p> <p>THANK YOU again, with great appreciation....</p>
Definition of truck	
Mid-block pedestrian connection requirement in LMN - add back in	
Update dates for existing limited permitted use definition	
Definition of occupant - update reference	

N/A - Comment only	Love, love, love UE zoning allowing ADUs!! Makes it possible for us future retirees to stay on our small acreages!
Does modification requests require a higher level of review for BDR projects	It does not require a greater level of review.



Land Use Code Phase 1 Updates: First Reading

Noah Beals | Development Review Manager
Meaghan Overton | Housing Manager

October 18, 2022

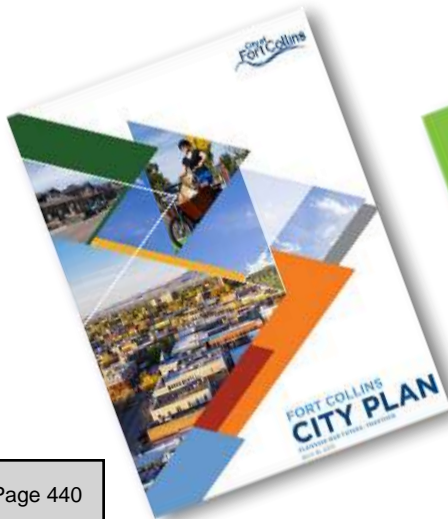
Does Council wish to adopt Ordinance XX-2022 for the proposed Land Development Code on First Reading?

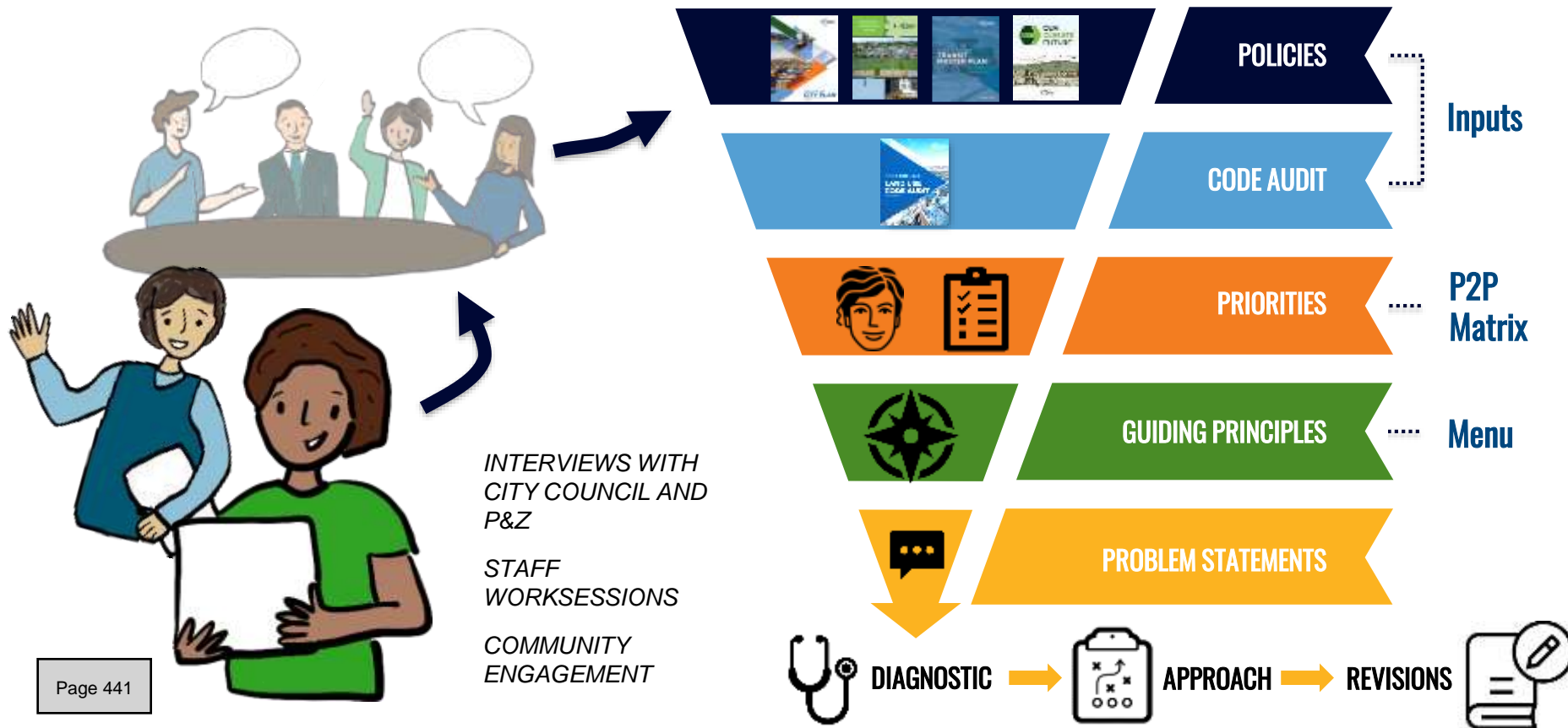


Purpose of the Land Use Code Updates:

To Align the LUC with Adopted City Plans and Policies with a focus on:

- Housing-related changes
- Code Organization
- Equity





FIVE GUIDING PRINCIPLES

**These Guiding Principles
(presented to City Council
on November 9, 2021)
provide the foundation for
the LUC Updates
Diagnostic and Approach
and will inform all
proposed code changes
with emphasis on Equity.**

1. *Increase overall housing capacity*
(market rate and affordable)
and calibrate market-feasible incentives for
Affordable (subsidized/deed restricted)
housing
2. *Enable more affordability*
especially near high frequency/capacity
transit and priority growth areas
3. *Allow for more diverse housing choices*
that fit in with the existing context and/or
future priority place types
4. *Make the code easier to use*
and understand
5. *Improve predictability*
of the development permit review
process, especially for housing

Make the code easier to use and understand

Improve predictability of the development review process, especially for housing

Key Proposals:

- Change name to “Land Development Code” (Recommendation 14)
- Reorganize content so the most used information is first in the Code
- Reformat zone districts with consistent graphics, tables, and illustrations (Recommendation 12)
- Consolidate form standards in new *Article 3 – Building Types* (Recommendation 11)
- Consolidate use standards into table in new *Article 4 – Use Standards* (Recommendation 13)
- Update definitions and rules of measurement for consistency (Recommendation 13)
- Rename some zones and create subdistricts to consolidate standards (Recommendation 15)

Allow for more diverse housing choices
that fit in with the existing context and/or future priority place types

Key Proposals:

- Allow ADUs in all residential and mixed-use zones (Recommendation 1)
- Create a menu of building types and form standards to guide compatibility (Recommendation 1)
- Update Land Use Table to permit more housing types through BDR (Recommendation 1)
- Adjust standards to enable more small-lot infill development and “missing middle” housing types. (Recommendation 2)
- Update use standards, rules of measurement, and definitions to align with new building types and standards. (Recommendation 3)

*Increase overall housing capacity
(market rate and affordable)*


*Enable more affordability, especially
near high frequency transit and
priority growth areas*

Key Proposals:

- Target increases in housing capacity to zones in transit corridors and zones with the greatest amount of buildable land (Recommendation 8)
- Increase maximum density in the LMN zone from 9 to approximately 12 dwelling units per acre (Recommendations 4, 5, and 8)
- Reduce parking requirements for studio, one- and two-bedroom units in multi-unit developments (Recommendations 4, 9, and 10)
- Regulate building size through maximum floor area and form standards instead of units per building (Recommendation 5)

HOUSING CAPACITY REPORT CARD

Item 16.

PERFORMANCE METRIC	EXISTING CODE	PROPOSED CODE	% CHANGE
 <div>Total Housing Capacity Estimated number of units possible to build under zoning standards</div>	25,959 dwelling units	39,725 dwelling units	
 <div>Housing Capacity as Percent of Projected 20-Year Housing Need Estimated capacity compared to total projected housing demand through 2040.¹</div>	85% of 30,480 units	130% of 30,480 units	↑ 53%
 <div>Housing Capacity in Transit Corridors Estimated number of units possible to build under zoning standards within 5 minute walk of existing and future transit corridors.</div>	5,104 dwelling units	8,299 dwelling units	↑ 63%

¹Source: City Plan Trends and Forces Report (2017)

Calibrate market-feasible incentives for affordable housing

Enable more affordability, especially near high frequency transit and priority growth areas

Key Proposals:

- Expand affordable housing incentives (Recommendations 6 and 9)
- Modify income criteria to address the most critical shortages (Recommendations 6 and 9)
- Raise the density bonus incentive in the LMN zone (Recommendations 6 and 9)
- Create height bonus and parking reduction incentives (Recommendations 6 and 9)
- Require 50-60 years of deed restriction instead of the current 20 years
- Continue to require a minimum 10% of units to be affordable for development seeking incentives

HOUSING AFFORDABILITY REPORT CARD

Item 16.

PERFORMANCE METRIC	EXISTING CODE	PROPOSED CODE	% CHANGE
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Capacity for Affordable Units with Bonus Incentives

Estimated number of deed-restricted affordable units possible to build if bonus incentives are used in all projects.

1,590
dwelling units
(LMN Zone)

4,677
dwelling units
(multiple zones)

↑ 194%



Capacity as Percent of Affordable Rental Unit Shortage

Estimated capacity compared to total estimated shortage of rental units affordable to households earning less than 60% of AMI.¹

23%
of 6,787 units

68%
of 6,787 units



Total Housing Capacity with Bonus Incentives

Estimated number of total units (market rate and affordable) possible to build if bonus incentives are used in all projects.

32,394
dwelling units

53,106
dwelling units

↑ 64%

¹Source: Housing Strategic Plan (2021)

Priorities + Guiding Principles (inform)

- Synthesize previous plan engagement (City Plan, Housing Strategic Plan, Our Climate Future)
- Info Sessions
- Advisory Group meetings
- Council briefings

Diagnostic Report (inform/consult)

- Input Sessions
- Community Presentations
- Boards and Commissions
- Advisory Group meetings
- Council briefings
- Council Work Sessions Nov. 2021, Feb. 2022

Public Draft (consult)

- 3-hour Council Work Session June 2022
- Public Workshops
- Office Hours
- Community Presentations
- Boards and Commissions
- Advisory Group meetings

Summer 2021

Fall 2021

Spring 2022

Fall 2022

Since the Public Review Draft was released in early August, the project team has...

- Offered office hours 2-3 times per week
- Hosted 4 virtual public workshops
- Held a workshop with development review staff
- Met with community groups, Boards & Commissions including:
 - Affordable Housing Board – recommended approval (unanimous)
 - Historic Preservation Commission – recommended approval (unanimous)
 - Planning and Zoning Board – recommended approval (5-2)
 - Transportation Board
 - Natural Resources Advisory Board
 - Technical advisory group
 - Fort Collins Chamber of Commerce (housing task force)
 - Affordable Housing Providers group

Change #	Feedback	Public Review Draft	Recommendation	
			Staff	P&Z
Article 1				
1	Name change portrays pro-development stance and not preservation as well.	Name proposed to change to the Land Development Code	Change was intended to be inclusive of all that definition of development contains.	Proposed "Land Use and Development Code"
Article 2				
2	The proposed floor area allowance (2,000 sf) in OT zone is overly restrictive. Excludes larger lots from having a bigger house	Floor area for primary structure in OT zone limited to 2,000 sf	Supports 2,400 sf floor area for the primary building in the OT-A and OT-B	Supports 2,400 sf floor area for the primary building in the OT-A and OT-B
3	In the NCB Floor Area is not currently limited. In the new OT-C (name change from NCB) a limit of 2,000 or 2,400 is being proposed	Floor area for primary structure in OT zone limited to 2,000 sf	Consider increase in floor area allowance in OT zone for primary structure to 2,400 sf	Remove limit on primary structure size in the OT-C or permit larger structures on large lots as a % of lot size
4	A 10' setback in the HMN is too small, results in taller buildings shadowing the street	A 10' front setback is a change from the existing code 15' setback	Supports keeping the 15' front setback in the HMN zone district	Supports keeping the 15' front setback in the HMN zone district
5	The stepback standard in the HMN zone district helps reduce the impact of taller buildings	A similar setback standard is required for all zone districts, but the existing stepback was not included	Supports keeping the existing stepback standard in the HMN zone district	Supports keeping the existing stepback standard in the HMN zone district

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Change #	Feedback	Public Review Draft	Recommendation	
			Staff	P&Z
6	Façade articulation wording appears to allow a building color change to count as significant change	This is existing language in the code that was carried over	Supports clarifying color change does not create required façade articulation	Supports clarifying color change does not create required façade articulation
Article 3				
7	The Row House allows parking in the rear of the building, but not clear if the parking can be visible from the public right of way	Parking spaces tucked under the building may still be visible.	Supports eliminating tuck under parking visible from the public right of way	Supports eliminating tuck under parking visible from the public right of way
8	Clarify that the cottage court building type not allow parking within the court.	The proposed code language and graphic shows required parking being behind the houses and not in court.	Supports clarifying parking is not allowed in the court	Supports clarifying parking is not allowed in the court
9	12' maximum driveway entrance in the RL zone district is small for a two-car driveway	The detached suburban house limits the width of a driveway entrance to 12'. This does not limit it from flaring out behind the sidewalk	Supports expanding the maximum driveway width to accommodate two-car driveway	Supports expanding the maximum driveway width to accommodate two-car driveway
10	Unclear if an Accessory Dwelling Unit (ADU) can be built over a garage	The proposed code does not prohibit a combined ADU and garage, but does not explicitly say it is a possibility	Supports clarifying ADU building type can be built with a garage	Supports clarifying ADU building type can be built with a garage

Change #	Feedback	Public Review Draft	Recommendation	
			Staff	P&Z
11	Consider allowing more than 45% of primary structure for detached ADUs. Current proposal penalizes those with small houses.	Detached ADU size is limited to 45% of the floor area of the primary structure or 1,000 sf, whichever is smaller	Allow a detached ADU of up to 600 sf. for primary houses that have 1,335 sf of floor area or less. All others must meet the 45% floor area requirement	Supports more floor area for an ADU accessory to smaller houses of 1,335 or less
12	Suggested another building type to highlight missing middle housing.	The proposed building type apartment covers everything from a 3 unit, 4 unit, 5 unit and more	Agreed exploring another building type in the next phase after seeing how the proposed code change is being used	Encourages exploring the benefits of adding another housing type between apartment and duplex
Article 4				
13	If ADUs are allowed in RL, why not duplexes?	Duplexes are not allowed in RL zone	Support creating the same list of uses in the OT-A district and the RL zone district	Support creating the same list of uses in the OT-A district and the RL zone district
14	In the NCB zone district the use Mixed-use dwelling is permitted, this should continue to be allowed in the OT-C	The proposed use table inadvertently did not include mixed-use dwelling in the OT-C	Supports correction to continue to allow mixed-use dwelling in the OT-C	Supports correction to continue to allow mixed-use dwelling in the OT-C
15	The proposed code moving Type 1 and Type 2 reviews for residential projects to a BDR, eliminates a public hearing	This change is part of the goals of this phase to reduce hurdles in the review process for residential projects. At the same time there is a concern that reduced public hearings may reduce neighborhood input	Support change to require a neighborhood meeting early in the BDR process and determine metrics for when a neighborhood meeting would be required. This will allow comments to received and be addressed during the design process	Not supportive of all residential projects being moved to a BDR process. Supportive for council to direct city staff to adding metrics for requiring a public hearing

Change #	Feedback	Public Review Draft	Recommendation	
			Staff	P&Z
Article 5				
16	Extend deed restriction for affordable housing (50 years)	50-year deed restriction	Supports the increase deed restriction to 99 years	Supports the increase deed restriction to 99 years
17	Make the requirements for “substantially varied” building design clearer and more objective	No change from current code	Create table outlining options for meeting requirement for “substantial variation”	Supports the table created.
18	Will parking reductions create impacts to existing neighborhoods?	Incentive for both multi-unit and affordable housing developments include reduction in parking requirements	Would not recommend a change. Reductions were calibrated to create an incentive to provide additional dwellings and affordable dwellings	Encourage Council to consider the impacts of spill over parking vs. the need for additional dwelling units
Article 6				
No additional recommendations				
Article 7				
19	The way “floor area” is measured is very confusing	The new code reduced the number of times it appears but did not change from current code	Adjust measurement of floor area to improve clarity and consistency with new building types	Supports the clarification on how to measure floor area.

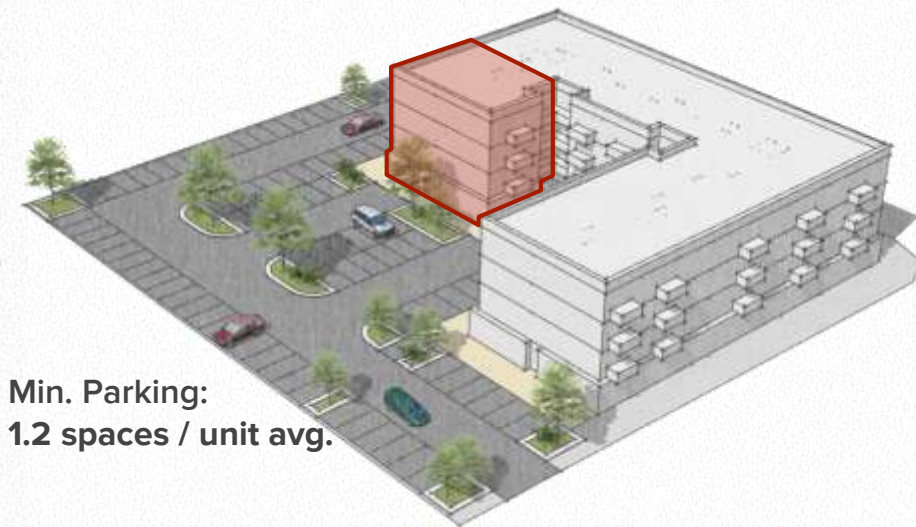
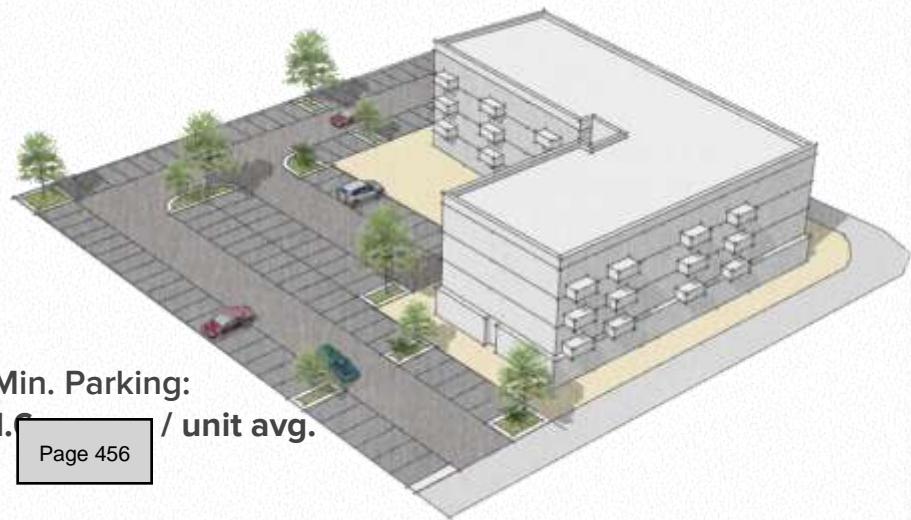
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Minimum off-street parking requirements for multi-unit projects




































































UNIT SIZE	EXISTING CODE REQUIREMENT	PROPOSED CODE REQUIREMENT	PROPOSED PARKING REDUCTION INCENTIVE
1 or less bedrooms	1.5 spaces per unit 	1 space per unit 	0.75 spaces per unit 
2 bedrooms	1.75 spaces per unit 	1.5 spaces per unit 	1 space per unit 
3 bedrooms (no change)	2 spaces per unit 	2 spaces per unit 	1.25 spaces per unit 
4 or more bedrooms (no change)	3 spaces per unit 	3 spaces per unit 	1.5 spaces per unit 

Reducing parking requirements for smaller units would typically enable 25% increase in the number of units on a site.


















































































This change would enable **16 additional units** on the example site below because less of the site is occupied by parking and more building floor area for housing can be added to the site without generating the need for a larger parking lot.



Residential Uses Review Changes

RESIDENTIAL USES	RESIDENTIAL DISTRICTS													
	RUL		UE		RF		RL		OT-A		OT-B		MH	
	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed
Single Unit Dwelling														
Single Unit Attached Dwelling									Not Allowed		Not Allowed			
Two Unit Dwelling/Duplex							Not Allowed		Not Allowed					
Multi-Unit Dwelling														
Mixed-Use Dwelling Units														
Accessory Dwelling Unit	Not Allowed		Not Allowed		Not Allowed		Not Allowed						Not Allowed	
Short Term Primary Rentals														
Short Term Non-Primary Rentals														
Extra Occupancy Rental Houses														
Manufactured Housing														
Group Homes														
Shelter for victims of domestic violence														

Residential Uses Review Changes

RESIDENTIAL USES	MIXED-USE DISTRICTS									
	LMN		MMN		HMN		OT-C		NC	
	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed
Single Unit Dwelling										
Single Unit Attached Dwelling										
Two Unit Dwelling/Duplex										
Multi-Unit Dwelling										
Mixed-Use Dwelling Units										
Accessory Dwelling Unit	Not Allowed		Not Allowed		Not Allowed		Not Allowed		Not Allowed	
Short Term Primary Rentals										
Short Term Non-Primary Rentals										
Extra Occupancy Rental Houses										
Manufactured Housing										
Group Homes										
for victims of domestic violence										

Residential Uses Review Changes

	COMMERCIAL DISTRICTS									
	CC		CCN		CCR		CG		CG-CAC	
RESIDENTIAL USES	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed
Single Unit Dwelling				■	■	■	■	■		
Single Unit Attached Dwelling	■	■	■	■	■	■	■	■		
Two Unit Dwelling/Duplex	■	■	■	■	■	■	■	■		
Multi-Unit Dwelling	■	■	■	■	■	■	■	■		
Mixed-Use Dwelling Units	■	■	■	■	■	■	■	■	■	■
Accessory Dwelling Unit	Not Allowed	■	Not Allowed	■	Not Allowed	■	Not Allowed	■	Not Allowed	■
Short Term Primary Rentals	■	■	■	■	■	■	■	■	■	■
Short Term Non-Primary Rentals			■	■						
Extra Occupancy Rental Houses	■	■	■	■	■	■	■	■		
Manufactured Housing										
Group Homes	■	■	■	■	■	■	■	■	■	■
Shelter for victims of domestic violence	■	■	■	■	■	■	■	■		

Residential Uses Review Changes

RESIDENTIAL USES	COMMERCIAL DISTRICTS									
	CS		NC		CL (RA)		CL (OA)		HC	
	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed
Single Unit Dwelling	■	■					■	■	■	■
Single Unit Attached Dwelling	■	■	■	■	■	■	■	■	■	■
Two Unit Dwelling/Duplex	■	■	■	■			■	■	■	■
Multi-Unit Dwelling	■	■					■	■		
Mixed-Use Dwelling Units	■	■	■	■	■	■	■	■	■	■
Accessory Dwelling Unit	Not Allowed	■	Not Allowed	■	Not Allowed	■	Not Allowed	■	Not Allowed	■
Short Term Primary Rentals	■	■			■	■	■	■		
Short Term Non-Primary Rentals										
Extra Occupancy Rental Houses	■	■	■	■			■	■		
Manufactured Housing										
Group Homes	■	■	■	■			■	■	■	■
Shelter for victims of domestic violence							■	■	■	■

Does Council wish to adopt Ordinance XX-2022 for the proposed Land Development Code on First Reading?



