

ORDINANCE NO. 059, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING VARIOUS AMENDMENTS TO THE
CITY OF FORT COLLINS LAND USE CODE

WHEREAS, on December 2, 1997, by its adoption of Ordinance No. 190, 1997, the City Council enacted the Fort Collins Land Use Code (the "Land Use Code"); and

WHEREAS, at the time of the adoption of the Land Use Code, it was the understanding of staff and the City Council that the Land Use Code would most likely be subject to future amendments, not only for the purpose of clarification and correction of errors, but also for the purpose of ensuring that the Land Use Code remains a dynamic document capable of responding to issues identified by staff, other land use professionals and citizens of the City; and

WHEREAS, City staff and the Planning and Zoning Board have reviewed the Land Use Code and identified and explored various issues related to the Land Use Code and have made recommendations to the Council regarding such issues; and

WHEREAS, the City Council has determined that the recommended Land Use Code amendments are in the best interests of the City and its citizens.

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 1.5.3 of the Land Use Code is hereby amended to read as follows:

1.5.3 - Abandonment of Use

If active operations are not carried on in a nonconforming use during a period of twenty-four (24) consecutive months, the building, other structure or tract of land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing. A nonconforming home-occupation business activity shall be considered to be abandoned if the occupants of the dwelling who were conducting such nonconforming home occupation business discontinue either their occupancy of the dwelling or the nonconforming home occupation.

Section 3. That Section 1.6.7 of the Land Use Code is hereby amended to read as follows:

1.6.7 - Abandonment of Use

If active operations are not carried on in an existing limited permitted use during a period of twenty-four (24) consecutive months, the building, other structure or tract of land where such existing limited permitted use previously existed shall thereafter be occupied and used only for a permitted use. Intent to resume active operations shall not affect the foregoing.

Section 4. That Section 2.2.10(A) of the Land Use Code is hereby amended to read as follows:

2.2.10 - Step 10: Amendments and Changes of Use

(A) **Minor Amendments and Changes of Use.** (1) Minor amendments to any approved development plan, including any Overall Development Plan or Project Development Plan, any site specific development plan, or the existing condition of a platted property; and (2) Changes of use, either of which meet the applicable criteria of below subsections 2.2.10(A)(1) or 2.2.10(A)(2), may be approved, approved with conditions, or denied administratively by the Director and may be authorized without additional public hearings. Such minor amendments and changes of use may be authorized by the Director as long as the development plan, as so amended, continues to comply with the standards of this Code to the extent reasonably feasible. Minor amendments and changes of use shall only consist of any or all of the following:

(1) Any change to any approved development plan or any site specific development plan which was originally subject only to administrative review and was approved by the Director, or any change of use of any property that was developed pursuant to a basic development review or a use-by-right review under prior law; provided that such change would not have disqualified the original plan from administrative review had it been requested at that time; and provided that the change or change of use complies with all of the following criteria applicable to the particular request for change or change of use:

...

(g) In the case of a change of the change of use results in the site being brought into compliance, to the extent reasonably feasible as such extent may be modified pursuant to below subsection 2.2.10(A)(3), with the applicable general development standards contained in Article 3 and the applicable district standards contained in Article 4 of this Code.

...

(3) **Waiver of Development Standards for Changes of Use.**

(a) **Applicability.** The procedure and standards contained in this Section shall apply only to changes of use reviewed pursuant to Section 2.2.10(A) of this Code.

(b) **Purpose.** In order for a change of use to be granted pursuant to Section 2.2.10(A), the change of use must result in the site being brought into compliance with all applicable general development and zone district standards to the extent reasonably feasible. The purpose of this Section is to allow certain changes of use that do not comply with all general development standards to the extent reasonably feasible to be granted pursuant to Section 2.2.10(A) in order to:

1. Foster the economic feasibility for the use, maintenance and improvement of certain legally constructed buildings and sites which do not comply with certain Land Use Code General Development Standards provided that:

- a. Existing blight conditions have been ameliorated; and
- b. Public and private improvements are made that address essential health and life safety issues that are present on-site.

2. Encourage the eventual upgrading of nonconforming buildings, uses and sites.

(c) **Review by Director.** As part of the review conducted pursuant to Section 2.2.10(A) for a proposed change of use, the Director may waive, or waive with conditions, any of the development standards set forth in subsection (d) below. In order for the Director to waive, or waive with conditions, any such development standard, the Director must find that such waiver or waiver with conditions would not be detrimental to the public good and that each of the following is satisfied:

1. The site for which the waiver or waiver with conditions is granted satisfies the policies of the applicable Council adopted subarea, corridor or neighborhood plan within which the site is located;
2. The proposed use will function without significant adverse impact upon adjacent properties and the district within which it is located in consideration of the waiver or waiver with conditions;
3. Existing blight conditions on the site are addressed through site clean-up, maintenance, screening, landscaping or some combination thereof; and
4. The site design addresses essential health and public safety concerns found on the site.

(d) **Eligible Development Standards.** The Director may grant a waiver or waiver with conditions for the following general development standards:

1. Sections 3.2.1(4), (5) and (6) related to Parking Lot Perimeter and Interior Landscaping, and connecting walkways.
2. Section 3.2.2 (M) Landscaping Coverage.
3. Section 3.2.4 Site Lighting, except compliance with minimum footcandle levels described in 3.2.4(C).
4. Section 3.2.5 Trash and Recycling Enclosure design.
5. Section 3.3.5 Engineering Design standards related to water quality standard, including Low Impact Development.

(4) **Referral.** In either subsection (1) or (2) above, the Director may refer the amendment or change of use to the Administrative Hearing Officer or Planning and Zoning Board. The referral of minor amendments to development plans or changes of use allowed or approved under the laws of the City for the development of land prior to the adoption of this Code shall be processed as required for the land use or uses proposed for the amendment or change of use as set forth in Article 4 (i.e., Type 1 review or Type 2 review) for the zone district in which the land is located. The referral of minor amendments or changes of use to project development plans or final plans approved under this Code shall be reviewed and processed in the same manner as required for the original development plan for which the amendment or change of use is sought, and, if so referred, the decision of the Hearing Officer or Planning and Zoning Board shall constitute a final decision, subject only to appeal as provided for development plans under Division 2.3, 2.4 or 2.5, as applicable, for the minor amendment or change of use.

(5) **Appeals.** Appeals of the decision of the Director regarding the approval, approval with conditions or denial of, a change of use, or a minor amendment of any approved development plan, site specific development plan, or the existing condition of a platted property, shall be to the Planning and Zoning Board. Any such appeal shall be taken by filing a notice of appeal of the final decision with the Director within fourteen (14) days after the action that is the subject of the appeal. The decision of the Planning and Zoning Board on such appeals shall constitute a final decision appealable pursuant to Section 2.2.12 (Step 12).

Section 5. That Section 2.1.2 (D) and (E) of the Land Use Code are hereby amended to read as follows:

(D) **Who reviews the development application?** Once an applicant has determined the type of development application to be submitted, he or she must determine the

appropriate level of development review required for the development application. To make this determination, the applicant must refer to the provisions of the applicable zone district in Article 4 and the provisions pertaining to the appropriate development application. These provisions will determine whether the permitted uses and the development application are subject to basic development review, administrative review ("Type 1 review") or Planning and Zoning Board review ("Type 2 review"). Identification of the required level of development review will, in turn, determine which decision maker, the Director in the case of administrative review ("Type 1 review"), or the Planning and Zoning Board in the case of Planning and Zoning Board review ("Type 2 review"), will review and make the final decision on the development application. When a development application contains both Type 1 and Type 2 uses, it will be processed as a Type 2 review.

- (E) ***How will the development application be processed?*** The review of overall development plans, project development plans and final plans will each generally follow the same procedural "steps" regardless of the level of review (administrative review or Planning and Zoning Board review). The common development review procedures contained in Division 2.2 establish a twelve-step process equally applicable to all overall development plans, project development plans and final plans.

The twelve (12) steps of the common development review procedures are the same for each type of development application, whether subject to basic development review, administrative review or Planning and Zoning Board review, unless an exception to the common development review procedures is expressly called for in the particular development application requirements of this Land Use Code. In other words, each overall development plan, each project development plan and each final plan will be subject to the twelve-step common procedure. The twelve (12) steps include: (1) conceptual review; (2) neighborhood meeting; (3) development application submittal; (4) determination of sufficiency; (5) staff report; (6) notice; (7) public hearing; (8) standards; (9) conditions of approval; (10) amendments; (11) lapse; and (12) appeals.

However, Step 1, conceptual review, applies only to the initial development application submittal for a development project (i.e., overall development plan when required, or project development plan when an overall development plan is not required). Subsequent development applications for the same development project are not subject to Step 1, conceptual review.

Moreover, Step 2, neighborhood meeting, applies only to certain development applications subject to Planning and Zoning Board review. Step 2, neighborhood meeting, does not apply to development applications subject to basic development review or administrative review. Step 3, application submittal requirements, applies to all development applications. Applicants shall submit items and documents in accordance with a master list of submittal requirements as

established by the City Manager. Overall development plans must comply with only certain identified items on the master list, while project development plans must include different items from the master list and final plans must include different items as well. This master list is intended to assure consistency among submittals by using a “building block” approach, with each successive development application building upon the previous one for that project. City staff is available to discuss the common procedures with the applicant.

Section 6. That Section 3.2.2(C)(6) and (7) of the Land Use Code is hereby amended to read as follows:

- (6) *Direct On-Site Access to Pedestrian and Bicycle Destinations.* The on-site pedestrian and bicycle circulation system must be designed to provide, or allow for, direct connections to major pedestrian and bicycle destinations including, but not limited to, trails, parks, schools, Neighborhood Centers, Neighborhood Commercial Districts and transit stops that are located either within the development or adjacent to the development as required, to the maximum extent feasible. The on-site pedestrian and bicycle circulation system must also provide, or allow for, on-site connections to existing or planned off-site pedestrian and bicycle facilities at points necessary to provide direct and convenient pedestrian and bicycle travel from the development to major pedestrian destinations located within the neighborhood. In order to provide direct pedestrian connections to these destinations, additional sidewalks or walkways not associated with a street, or the extension of street sidewalks, such as from the end of a cul-de-sac, or other walkways within the development, to another street or walkway, may be required as necessary to provide for safety, efficiency and convenience for bicycles and pedestrians both within the development and to and from surrounding areas.
- (7) *Off-Site Access to Pedestrian and Bicycle Destinations.* Off-site pedestrian or bicycle facility improvements may be required in order to comply with the requirements of Section 3.2.2(E)(1) (Parking Lot Layout), Section 3.6.4 (Transportation Level of Service Requirements), or as necessary to provide for safety, efficiency and convenience for bicycles and pedestrians both within the development and to and from surrounding areas.

Section 7. That the table contained in Section 3.2.2(K)(1)(a)1.a is hereby amended to read as follows:

- a. Multi-family dwellings and mixed-use dwellings within the Transit-Oriented Development (TOD) Overlay Zone may reduce the required minimum number of parking spaces by providing demand mitigation elements as shown in the following table:

<i>Demand Mitigation Strategy**</i>	<i>Parking Requirement Reduction***</i>
...	...
Participation in the City's Bike Share Program	Based on Approved Alternative Compliance
...	

...

Section 8. That Section 3.4.8(C) of the Land Use Code is hereby amended to read as follows:

3.4.8 Parks and Trails

...

(C) **General Standard**. All development plans shall provide for, accommodate or otherwise connect to, either on-site or off-site, the parks and trails identified in the Parks and Recreation Policy Plan Master Plan that are associated with the development plan.

Section 9. That Section 3.5.2(G)(1)(a) of the Land Use Code is hereby amended to read as follows:

(G) **Rear Walls of Multi-Family Garages**. To add visual interest and avoid the effect of a long blank wall with no relation to human size, accessibility needs or internal divisions within the building, the following standards for minimum wall articulation shall apply:

(1) **Perimeter Garages**.

(a) **Length**. Any garage located with its rear wall along the perimeter of a development and within sixty-five (65) feet of a public right-of-way or the property line of the development site shall not exceed sixty (60) feet in length. A minimum of seven (7) feet of landscaping must be provided between any two (2) such perimeter garages.

Section 10. That Section 3.8.1 of the Land Use Code is hereby amended to read as follows:

3.8.1 - Accessory Buildings, Structures and Uses

Accessory buildings, structures and uses (when the facts, circumstances and context of such uses reasonably so indicate) may include but are not limited to the following:

- ...
- (14) garage sales, wherein property which was not originally purchased for the purpose of resale is sold, provided that such sales are limited to no more than five (5) weekend periods (as defined in Section 15-316 of the City Code) in one (1) calendar year;
- (15) hoop houses;
- (16) community based shelter services.

Section 11. That Section 3.8.25(A) of the Land Use Code is hereby amended to read as follows:

3.8.25 - Permitted Uses: Abandonment Period/Reconstruction of Permitted Uses

- (A) If, after June 25, 1999 (the effective date of the ordinance adopting this Section), active operations are not carried on in a permitted use during a period of twenty-four (24) consecutive months, or with respect to seasonal overflow shelters sixty (60) consecutive months, the building, other structure or tract of land where such permitted use previously existed shall thereafter be re-occupied and used only after the building or other structure, as well as the tract of land upon which such building or other structure is located, have, to the extent reasonably feasible, been brought into compliance with the applicable general development standards contained in Article 3 and the applicable district standards contained Article 4 of this Code as determined by the Director. This requirement shall not apply to any permitted use conducted in a building that was less than ten (10) years old at the time that active operations ceased. Intent to resume active operations shall not affect the foregoing.
- ...

Section 12. That Section 3.8.30 of the Land Use Code is hereby amended to read as follows:

3.8.30 - Multi-Family Dwelling Development Standards

- (A) **Purpose/Applicability.** The following standards apply to all multi-family development projects that contain at least four (4) dwelling units. These standards are intended to promote variety in building form and product, visual interest, access to parks, pedestrian-oriented streets and compatibility with surrounding neighborhoods.
- ...

(C) **Access to a Park, Central Feature or Gathering Place.** At least ninety (90) percent of the dwellings in all development projects containing two (2) or more acres shall be located within one thousand three hundred twenty (1,320) feet (one-quarter [¹/₄] mile) of either a neighborhood park, a privately owned park or a central feature or gathering place that is located either within the project or within adjacent development, which distance shall be measured along street frontage without crossing an arterial street. Such parks, central features or gathering places shall contain one (1) or more of the following uses:

- (1) Public parks, recreation areas or other open lands.
- (2) Privately owned parks, meeting the following criteria:
 - (a) For projects between two (2) and five (5) acres, the development is required to provide sufficient outdoor gathering areas or site amenities, either public or private, to sustain the activities associated with multi-family residential development, to adequately serve the occupants of the development as set forth below. Such outdoor gathering areas may include, without limitation, small parks, playgrounds, pools, sports courts, picnic facilities, passive open space, recreational areas, plazas, courtyards, or naturalistic features.

For projects greater than five (5) acres and less than ten (10) acres, the private park must be a minimum of five thousand (5,000) square feet.

For projects greater than ten (10) acres, the private park must be a minimum of ten thousand (10,000) square feet.

...
(E) **Buildings.**
...

- (3) Minimum setback from the right-of-way along an arterial street shall be fifteen (15) feet and along a nonarterial street shall be nine (9) feet.
 - (a) Exceptions to the setback standards are permitted if one (1) of the following is met:

...
5. A project is within an area in the Downtown that is designated in the Downtown Plan as allowing "main street storefront" buildings with zero or minimal setback.

Section 13. That Section 4.5(B)(2)(a) of the Land Use Code is hereby amended to read as follows:

(2) The following uses are permitted in the L-M-N District, subject to administrative review:

(a) **Residential Uses:**

1. Single-family detached dwellings.
2. Two-family dwellings.
3. Single-family attached dwellings.
4. Two-family attached dwellings.
5. Any residential use consisting in whole or in part of multi-family dwellings (limited to eight [8] or less dwelling units per building) that contain fifty (50) dwelling units or less, and seventy-five (75) bedrooms or less.
6. Group homes for up to eight (8) developmentally disabled or elderly persons.
7. Mixed-use dwellings.
8. Extra occupancy rental houses with four (4) or more tenants.

Section 14. That Section 4.5(D)(1)(b) of the Land Use Code is hereby amended to read as follows:

(D) ***Land Use Standards.***

(1) *Density.*

...

- (b) The maximum density of any development plan taken as a whole shall be nine (9) dwelling units per gross acre of residential land, except that affordable housing projects (whether approved pursuant to overall development plans or project development plans) containing ten (10) acres or less may attain a maximum density, taken as a whole, of twelve (12) dwelling units per gross acre of residential land.

Additionally, affordable housing projects containing more than ten (10) acres but no more than twenty (20) acres may attain a maximum density, taken as a whole, of twelve (12) dwelling units per gross acre of residential land so long as the term of lease or sale of all of the dwelling units associated with the acreage exceeding ten (10) acres, but no more than twenty (20) acres, are available on terms that would be affordable to households earning sixty (60) percent or less, on average, of the area median income for the applicable household size in the Fort Collins-Loveland metropolitan statistical area, as published by the Department of Housing and Urban Development. The dwelling units associated with the acreage exceeding ten (10) acres, but no more than twenty (20) acres, shall not be counted as contributing to the required percentage of affordable housing units necessary to qualify as an affordable housing project. The number of dwelling units that must be available to those earning sixty (60) percent or less, on average, of the area median income shall be calculated as follows:

Number of Dwelling Units That Must Be Made Available to Households Earning Sixty (60) Percent Or Less of the Area Median Income, Rounded to the Nearest Whole Number = (Number of Total Dwelling Units Constructed ÷ Number of Total Gross Acres of Residential Land) X Number of Acres Over Ten (10) Acres, Up To A Limit of Twenty (20) Acres

...
Section 15. That Section 4.5(D)(2)(c) of the Land Use Code is hereby amended to read as follows:

(c) The following list of housing types shall be used to satisfy this requirement:

- ...
6. Two-family attached dwellings, the placement of which shall be limited to no more than two (2) dwellings per two (2) consecutive individual lots.
 7. Mixed-use dwelling units.
 8. Multi-family dwellings containing more than three (3) to four (4) units per building;
 9. Multi-family dwellings containing five (5) to seven (7) units per building.

10. Multi-family dwellings containing more than seven (7) units per building (limited to twelve [12] dwelling units per building).
11. Mobile home parks.

Section 16. That Section 4.6(B)(2)(a) of the Land Use Code is hereby amended to read as follows:

(2) The following uses are permitted in the M-M-N District, subject to administrative review:

(a) **Residential Uses:**

...

4. Two-family attached dwellings.
5. Any residential use consisting in whole or in part of multi-family dwellings that contain fifty (50) dwelling units or less, and seventy-five (75) bedrooms or less.
6. Mixed-use dwellings.
7. Group homes for up to eight (8) developmentally disabled or elderly persons.
8. Extra occupancy rental houses with more than five (5) tenants.

Section 17. That Section 4.10(D)(2) of the Land Use Code is hereby amended to read as follows:

(2) *Dimensional Standards.*

- (a) Maximum building height shall be five (5) stories.
- (b) For all setback standards, building walls over thirty-five (35) feet in height shall be set back an additional one (1) foot beyond the minimum required, for each two (2) feet or fraction thereof of wall or building that exceeds thirty-five (35) feet in height. Terracing or stepping back the mass of large buildings is encouraged.
- (c) Building setbacks shall be fifteen (15) feet from arterial streets and nine (9) feet from non-arterial streets, five (5) feet from the side property line and eight (8) feet from the rear property line.

Section 18. That Section 4.16(D)(5)(e) of the Land Use Code is hereby amended to read as follows:

(5) *Building Character and Facades.*

- (e) **Canyon Avenue and Civic Center: Exterior facade materials.** All street-facing facades shall be constructed of high quality exterior materials for the full height of the building. Such materials, with the exception of glazing, shall include stone, brick, clay units, terra cotta, architectural pre-cast concrete, cast stone, prefabricated brick panels, architectural metals, architectural fiber cement siding or any combination thereof. Except for windows, material modules shall not exceed either five (5) feet horizontally or three (3) feet vertically without the clear expression of a joint. For the purposes of this provision, *architectural metals* shall mean metal panel systems that are either coated or anodized; metal sheets with expressed seams; metal framing systems; or cut, stamped or cast ornamental metal panels. *Architectural metals* shall not include ribbed or corrugated metal panel systems.

Section 19. That the table contained in Section 4.24(B)(2) of the Land Use Code is hereby amended to read as follows:

<i>Land Use</i>	<i>Riverside Area</i>	<i>All Other Areas</i>
...		
D. INDUSTRIAL		
...
Light industrial uses*	Type 1	Type 2
Research laboratories*	Type 1	Type 1
...

Section 20. That the definition of “*Change of use*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Change of use shall mean the act of changing the occupancy of a building or land to a different use that is specifically listed as a "Permitted Use" in Article 4. A change of use occurs whenever:

- (1) the occupancy of a single-tenant building or of a parcel of land changes from the most recent previously existing use to a different use;
- (2) the occupancy of a tenant space in a multi-tenant building changes to a use that is not currently existing in another tenant space of the building or that did not previously exist in any tenant space of the building within the last twenty-four (24) months; or
- (3) the most recent previously existing use of a building or land has been abandoned, by cessation of active and continuous operations during a period of twenty-four (24) consecutive months, and either the same type of use is proposed to be reestablished or a different use that did not exist on the property is proposed to be established.

Section 21. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition "*Community based shelter services*" which reads in its entirety as follows:

Community based shelter services shall mean an accessory use to a facility owned and operated by a place of worship, public benefit corporation as defined by the Colorado Revised Statutes, or a tax exempt corporation as defined by Section 503 of the U.S. Internal Revenue Code, that provides overnight accommodations on a temporary basis for a maximum of 15 persons.

Section 22. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition "*Dwelling, two-family attached*" which reads in its entirety as follows:

Dwelling, two-family attached shall mean a two-family dwelling attached to one other two-family dwelling with each such two-family dwelling located on its own separate lot.

Section 23. That the definition of "*Group home*" contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Group home shall mean either of the following:

- (1) Residential group home shall mean a residence operated as a single dwelling, licensed by or operated by a governmental agency, or by an organization that is as equally qualified as a government agency and having a demonstrated capacity for oversight as determined by the Director, for the purpose of providing special care or rehabilitation due to homelessness, physical condition or illness, mental condition or illness,

elderly age or social, behavioral or disciplinary problems, provided that authorized supervisory personnel are present on the premises.

- (2) Large group care facility shall mean a residential facility that is planned, organized, operated and maintained to offer facilities and services to a specified population and is licensed by or operated by a governmental agency, or by an organization that is as equally qualified as a government agency and having a demonstrated capacity for oversight as determined by the Director, for the purpose of providing special care or rehabilitation due to homelessness, physical condition or illness, mental condition or illness, elderly age or social, behavioral or disciplinary problems, provided that authorized supervisory personnel are present on the premises.

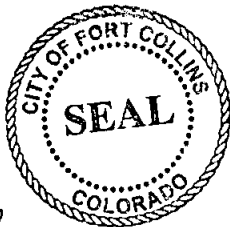
Section 24. That the definition of "*Homeless shelters*" contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:


Homeless shelters shall mean a fully enclosed building other than a hotel, motel, or lodging establishment that is suitable for habitation and that provides residency only for homeless persons at no charge at any time during the year. Community based shelter services are exempt from this definition.

Section 25. That the definition of "*Seasonal overflow shelters*" contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Seasonal overflow shelters shall mean a homeless shelter that allows homeless persons to stay on its premises overnight from the beginning of November through the end of April, unless, because of inclement weather, specific and limited exceptions to such seasonal limitations are granted by the Director. Community based shelter services are exempt from this definition.

Introduced, considered favorably on first reading, and ordered published this 18th day of April, A.D. 2017, and to be presented for final passage on the 2nd day of May, A.D. 2017.



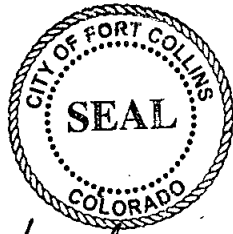

Mayor

ATTEST:



City Clerk

Passed and adopted on final reading on this 2nd day of May, A.D. 2017.



Mayor

ATTEST:



City Clerk