

# AGENDA ITEM SUMMARY

May 21, 2019

City Council

## STAFF

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Rick Bachand, Environmental Program Manager  
Jody Hurst, Legal

## SUBJECT

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First Reading of Ordinance No. 068, 2019, Amending Section 23-194 of the Code of the City of Fort Collins Regarding Natural Areas Permits.

## EXECUTIVE SUMMARY

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The purpose of this item is to modify Chapter 23, Section 194(b) of the City Code increasing the time for the Natural Areas Director to review Special Use and Commercial Use permit requests from five business days to fifteen business days.

## STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on First Reading.

## BACKGROUND / DISCUSSION

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Chapter 23 (Public Property), Article IX (Natural Areas), Section 23-194(b) of the City Code authorizes the Natural Areas Director to administer a permit system for uses or activities that are otherwise prohibited under Article IX. The current Code provides further direction that:

*“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 therefore shall be stated in a written notice to the applicant, no later than five (5) business days after receipt of a fully completed application”.*

Due to the increasing number and variety of special use and commercial permit requests, the Natural Areas Department recommends extending the application/administrative permit review period from a five business day period to a fifteen business day review period.

Staff reviews applications to ensure the safety of visitors, prevent visitor conflicts, and protect wildlife, wildlife habitat, and rare plants. In recent years the department has experienced an increasing number and variety of permit requests with a concentration of requests coming in the spring and summer months. Activities such as professional filming, drone flights, and numerous research requests characterize the range of special use permit applications. Research requests can be particularly complex to review and typically require input from multiple staff. To a lesser extent, processing the Department’s Commercial Use Permit can require interdepartmental coordination making additional administrative time necessary.

### Description of Special Use Permits

Special Use Permit applications are traditionally used to permit otherwise prohibited uses, allow access to closed sections of a natural area, or to permit group activities greater than 15 individuals. The most common

permits are issued to conduct ecological research, educational programs, or to permit recreational or other activities that are otherwise generally prohibited in the Code.

### **Description of Commercial Use Permits**

Requests to conduct (third party) commercial activity on a natural area is prohibited per Section 23-193(d)(14) of the City Code. Commercial use permit requests are deserving of attention as they are distinguished (from other prohibited uses) by the exchange of funds or services. Thus, commercial use requests are by reference also subject to the Natural Area permit process outlined in section 23-194(b).

### **CITY FINANCIAL IMPACTS**

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None.

### **BOARD / COMMISSION RECOMMENDATION**

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On April 16, 2019, the Land Conservation & Stewardship Board voted unanimously (9-0) to recommend adoption of the Code amendment.

### **PUBLIC OUTREACH**

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Public outreach was not conducted as the recommended Code change is largely administrative in nature. However, staff consulted with peer open space and park agencies to gauge comparable policies and administrative review periods for special use and commercial use permits.

Staff found that:

1. City of Fort Collins Parks Department requires a 10-day review period for special use permits that include a variety of small and large events hosted within the Park (primarily sports related) and at Park facilities (shelters, sports fields, etc.).
2. Larimer County Parks and Open Lands requires a 60-day review period.
3. Jefferson County Parks and Open Space review permit applications once a year due to their increasing number of requests.
4. City of Boulder Open Space and Mountain Parks requires a 60 to 90-day review period depending on the specific activity requested.

### **ATTACHMENTS**

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1. Land Conservation and Stewardship Board minutes, March 17, 2019 (PDF)

# MINUTES

CITY OF FORT COLLINS • BOARDS AND COMMISSIONS



## Land Conservation & Stewardship Board

### Regular Meeting

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#### ACTION ITEM:

**Proposal to increase Natural Areas Special Use Permit Review period from 7 days (5 business days) to 21 days (15 business days).** Rick Bachand, Ranger Manager, reported to the Board the current review period for Special Use and Commercial Use Permits are five working days. Over the past few years, the number of permit requests have increased, and staff resources are more required. To provide a better customer service, provide the appropriate staff resources for permit application reviews and allow enough time for permits to be reviewed, Rick is requesting City Council to extend the review period to 21 days (15 business days).

Board members supported the change but suggested the proposal clearly lay out why the change is so important.

**Kelly Ohlson made a motion that City Council approve the Board's recommendation to modify the current Fort Collins Municipal Code 23-194, changing the current application review period from five (5) business days to fifteen (15) business days, for Special and Commercial Use permit applications.**

**David Tweedale seconded the motion.**

**The motion was unanimously approved 9-0.**

**Annual Appropriation of Prior Year Reserves, John Stokes, Director** reported on the memo he distributed and the appropriation amount of \$10M. Most of the appropriation is for land conservation along with another handful of items but is typical for the last few years. John would like to take the appropriation to City Council the first part of May for approval.

Kelly inquired about the \$1M in unanticipated revenues. John explained most of the funds were from the County and City Sales Tax. Most of those funds are from the County Sales Tax. Part of the reason for that is City Finance instructs NAD how to receive for city generated revenues, but NAD generates its own estimate of county revenues and it's done conservatively on purpose.

Joe asked about all the new hires and conversions. John reported NAD converted 8 positions. Six of those positions were in Field Services, one was the GIS position that was converted to full time position and the Environmental Planner position (Nature in the City) that is still open.

**David Tweedale made a motion that City Council approve the proposed 2019 Appropriation of Prior Year Reserves for the Natural Areas Department.**

**Edward Reifsnnyder seconded the motion. The motion was unanimously approved 9-0**

ORDINANCE NO. 068, 2019  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING SECTION 23-194 OF THE CODE OF THE CITY OF  
FORT COLLINS REGARDING NATURAL AREAS PERMITS

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 subsequently been updated to address and clarify points of concern related to use by the general public of the City's parks, trails, recreation, and natural areas; and

WHEREAS, the current Code requires staff to respond to a non-routine permit within five business days; and

WHEREAS, since the Code provisions were adopted in 1999, non-routine permits have become more numerous, have increased in complexity, and have become more varied; and

WHEREAS, the City Council has determined that changing the permit response time to fifteen days will ensure staff can appropriately respond to permit requests, for the good of all Fort Collins citizens; and

WHEREAS, the City Council has also 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 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 23-194 of the Code of the City of Fort Collins is hereby amended as follows:

**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 ~~seven~~ **twenty-one** (721) 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 Directors action and the basis therefor shall be stated in a written notice to the applicant, no later than ~~five~~ 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.

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Introduced, considered favorably on first reading, and ordered published this 21st day of May, A.D. 2019, and to be presented for final passage on the 4th day of June, A.D. 2019.

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Mayor

ATTEST:

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Chief Deputy City Clerk

Passed and adopted on final reading on the 4th day of June, A.D. 2019.

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Mayor Pro Tem

ATTEST:

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City Clerk