

ORDINANCE NO. 021, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING LAND USE CODE SECTION 3.4.1, NATURAL
HABITATS AND FEATURES

WHEREAS, Land Use Code Section 1.2.2, *Purpose*, states that the purpose of the Land Use Code is to improve and protect the public health, safety and welfare by, among other means, minimizing the adverse environmental impacts of development and ensuring that development proposals are sensitive to natural areas and features; and

WHEREAS, Land Use Code Section 3.4.1(B), *Natural Habitats and Features*, further states the purpose of ensuring that when property is developed, the proposed physical elements of the development plan are designed and arranged on the site to protect the natural habitats and features on both the site and in the vicinity of the site; and

WHEREAS, changes in prairie dog colony size and characteristics, best practices, and development patterns within the City have necessitated changes to the existing regulations protecting prairie dogs to continue to fulfill the purposes of the Land Use Code; and

WHEREAS, concurrent with the changes to update the prairie dog regulations, changes to Land Use Code Section 3.4.1 to update general provisions for the protection of natural habitats and features are also necessary to fulfill the purposes of the Land Use Code; and

WHEREAS, the Planning and Zoning Board has considered these text amendments to the Land Use Code and made recommendations to the Council; and

WHEREAS, the changes to Land Use Code Section 3.4.1 set forth by this Ordinance are in the best interests of the citizens of the City and advance the purposes of the Land Use Code.

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

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

Section 2. That Section 3.4.1 of the Land Use Code is hereby amended to read as follows:

3.4.1 - Natural Habitats and Features

(A) *Applicability*. This Section applies if any portion of the development site is within five hundred (500) feet of an area or feature identified as a natural habitat or feature on the City's *Natural Habitats and Features Inventory Map*, or if any portion of the development site contains natural habitats or features that have significant ecological value, and such natural habitats or features are discovered during site evaluation and/or

reconnaissance associated with the development review process. Natural habitats and features considered to have significant ecological value, are as follows:

(1) *Natural Communities or Habitats:*

- (a) Aquatic (e.g., rivers, streams, lakes, ponds);
- (b) Wetland and wet meadow;
- (c) Native grassland;
- (d) Riparian forest;
- (e) Urban plains forest;
- (f) Riparian shrubland;
- (g) Foothills shrubland; and
- (hg) Foothills forest.

(2) *Special Features:*

- (a) Significant remnants of native plant communities;
- (b) Potential habitats and known locations of rare, threatened or endangered species of plants;
- (c) Potential habitats and known locations of rare, threatened or endangered species of wildlife;

...

- (j) Prairie dog colonies one acre or greater in size;

...

(E) ***Establishment of Buffer Zones.*** Buffer zones surrounding natural habitats and features shall be shown on the project development plan for any development that is subject to this Division. The purpose of the buffer zones is to protect the ecological character of natural habitats and features from the impacts of the ongoing activity associated with the development.

- (1) ***Buffer Zone Performance Standards.*** The decision maker shall determine the buffer zones for each natural habitat or feature contained in the project site. The buffer zones may be multiple and noncontiguous. The general buffer zone distance is established according to the buffer zone table

below, but the decision maker shall reduce or enlarge any portion of the general buffer zone distance, if necessary in order to ensure that the performance standards set forth below are achieved. The buffer zone performance standards are as follows:

- (a) The project shall be designed to preserve or enhance the ecological character or function and wildlife use of the natural habitat or feature and to minimize or adequately mitigate the foreseeable impacts of development.
- (b) The project, including, by way of example and not by way of limitation, its fencing, pedestrian/bicycle paths and roadways, shall be designed to preserve or enhance the existence of wildlife movement corridors between natural habitats and features, both within and adjacent to the site.
- (c) The project shall be designed to preserve significant existing trees and other significant existing vegetation on the site.
- (d) The project shall be designed to protect from adverse impact species utilizing special habitat features such as key raptor habitat features, including nest sites, night roosts and key feeding areas as identified by the Colorado Parks and Wildlife Division ("CPW") or the Fort Collins Natural Areas Department ("NAD"); key production areas, wintering areas and migratory feeding areas for waterfowl; heron rookeries; key use areas for wading birds and shorebirds; key use areas for migrant songbirds; key nesting areas for grassland birds; fox and coyote dens; mule deer winter concentration areas as identified by the CPW or NAD; prairie dog colonies one acre or greater in size; key areas for rare, migrant or resident butterflies as identified by the NAD; areas of high terrestrial or aquatic insect diversity as identified by the NAD; remnant native prairie habitat; mixed foothill shrubland; foothill ponderosa pine forest; plains cottonwood riparian woodlands; and wetlands of any size.

BUFFER ZONE TABLE FOR
FORT COLLINS NATURAL HABITATS AND FEATURES ^{1,2}

| <i>Natural Habitat or Feature</i> | <i>Buffer Zone Standard</i> ³ |
|--|--|
| ... | |
| Special Habitat Features/Resources of Special Concern | |
| ... | ... |
| Prairie Dog Colonies | site analysis |

(F) *Protection of Wildlife Habitat and Ecological Character.*

(1) **Rare, Threatened or Endangered Species.** If the ecological characterization report required pursuant to subsection (D)(1) above shows the existence in a natural habitat or feature of a rare, threatened or endangered species of plant or wildlife, then the development plan shall include provisions to ensure that any habitat contained in any such natural habitat or feature or in the adjacent buffer zone which is of importance to the use or survival of any such species shall not be disturbed or diminished and, to the maximum extent feasible, such habitat shall be enhanced. (NOTE: Some studies, e.g., rare plant surveys, are time-limited and can only be performed during certain seasons.)

(2) **Sensitive or Specially Valued Species.** If the ecological characterization report required pursuant to subsection (D)(1) above shows the existence in a natural habitat or feature of a plant or wildlife species identified by the City as a sensitive or specially valued species, excluding threatened or endangered species, then the development plan shall include provisions to protect, enhance, or mitigate impacts to any such natural habitat or feature or in the adjacent buffer zone which is of importance to the use or survival of any such species to the extent reasonably feasible.

(3) **Connections.** If the development site contains existing natural habitats or features that connect to other off-site natural habitats or features, to the maximum extent feasible the development plan shall preserve such natural connections. If natural habitats or features lie adjacent to (meaning in the region immediately round about) the development site, but such natural habitats or features are not presently connected across the development site, then the development plan shall, to the extent reasonably feasible, provide such connection. Such connections shall be designed and constructed to allow for the continuance of existing wildlife

movement between natural habitats or features and to enhance the opportunity for the establishment of new connections between areas for the movement of wildlife.

(4) **Wildlife Conflicts:** If wildlife that may create conflicts for the future occupants of the development (including, but not limited to, prairie dogs, beaver, deer and rattlesnakes) are known to exist in areas adjacent to or on the development site, then the development plan must, to the extent reasonably feasible, include provisions such as barriers, protection mechanisms for landscaping and other site features to minimize conflicts that might otherwise exist between such wildlife and the developed portion of the site.

...

(N) ***Standards for Protection During Construction.*** For every development subject to this Division, the applicant shall propose, and the Director shall establish, measures to be implemented during the actual construction phase of the project to ensure protection of natural habitats and features and their associated buffer zones, as follows.

...

(6) ***Prairie Dog Removal.*** Before the commencement of grading or other construction on the development site, any prairie dogs inhabiting portions of the site within the LOD shall be relocated or eradicated by the developer. Prairie dog relocation shall be accomplished using methods reviewed and approved by the Colorado Parks and Wildlife Division. Following relocation or eradication activities, a report shall be provided to the City that documents when prairie dog removal occurred, the method(s) that were used to remove prairie dogs, measures taken to ensure that prairie dogs will not re-inhabit the site, and confirmation that no threatened or endangered species were harmed by removal activities.

...

Section 3. That the definition of "*Natural area*" contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Natural area shall mean all areas shown as "natural areas" on the City's *Parks and Natural Areas Map* or the *Natural Habitats and Features Inventory Map*. Any land that qualifies as a "wetland" pursuant to the Federal Clean Water Act shall also be deemed a natural area, in addition to the areas designated as wetlands on the City's *Natural Habitats and Features Inventory Map*. Any land area that possesses such characteristics as would have supported its inclusion on the *Natural Habitats and Features Inventory Map*, or contains natural habitats or features which have significant ecological value listed in subparagraph 3.4.1(A), if such area is discovered during site

evaluation and/or reconnaissance associated with the development review process, shall also be deemed a natural area.

Section 4. That the definition of “*Natural area buffer*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Natural area buffer zone shall mean any area described and established pursuant to subsection 3.4.1(E).

Section 5. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition “*Rare, threatened or endangered species*” which reads in its entirety as follows:

Rare, threatened or endangered species shall mean those species of wildlife and plants listed by the Colorado Parks and Wildlife Division, the Colorado Natural Heritage Program, or the U.S. Fish and Wildlife Service as rare, threatened or endangered.

Section 6. That the definition of “*Sensitive or Specially Valued Species*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

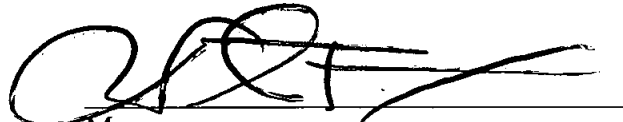
Sensitive or specially valued species shall mean species included on the City of Fort Collins Species of Interest List, as developed and updated by the Natural Areas Department.

Section 7. That the definition of “*Special habitat features*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:


Special habitat features shall mean specially valued and sensitive habitat features including key raptor habitat features; including nest sites, night roosts and key feeding areas as identified by the Colorado Parks and Wildlife Division (“CPW”) or the Fort Collins Natural Areas Department (“NAD”); key production areas, wintering areas and migratory feeding areas for waterfowl; key use areas for wading birds and shorebirds; heron rookeries; key use areas for migrant songbirds; key nesting areas for grassland birds; fox and coyote dens; mule deer winter concentration areas as identified by the CPW or NAD; prairie dog colonies one acre or greater in size; key areas for rare, migrant or resident butterflies as identified by the NAD; areas of high terrestrial or aquatic insect diversity as identified by the NAD; remnant native prairie habitat; mixed foothill shrubland; foothills ponderosa pine forest; plains cottonwood riparian woodlands; and wetlands of any size.

Introduced, considered favorably on first reading, and ordered published this 7th day of February, A.D. 2017, and to be presented for final passage on the 21st day of February, A.D. 2016.

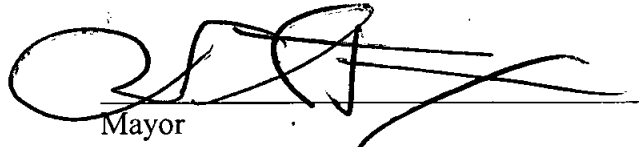



Mayor


ATTEST:


City Clerk

Passed and adopted on final reading on this 21st day of February, A.D. 2016.


Mayor

ATTEST:


City Clerk

