

**AGENDA ITEM SUMMARY**  
**FORT COLLINS CITY COUNCIL**

**ITEM NUMBER: 10**

**DATE: July 7, 2009**

**STAFF: Ted Shepard**

**SUBJECT**

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Second Reading of Ordinance No. 066, 2009, Making Various Amendments to the City Land Use Code.

**RECOMMENDATION**

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Staff recommends adoption of this Ordinance on Second Reading.

**EXECUTIVE SUMMARY**

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This Ordinance, unanimously adopted on First Reading on June 2, 2009 makes a variety of proposed changes, additions and clarifications in the 2009 annual update of the Land Use Code.

**ATTACHMENTS**

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1. Copy of First Reading Agenda Item Summary - June 2, 2009.  
(w/o original attachments)

**AGENDA ITEM SUMMARY**  
**FORT COLLINS CITY COUNCIL**

ITEM NUMBER: 19  
DATE: June 2, 2009  
STAFF: Ted Shepard

COPY

**SUBJECT**

First Reading of Ordinance No. 066, 2009, Making Various Amendments to the City Land Use Code.

**RECOMMENDATION**

Staff recommends adoption of the Ordinance on First Reading.

On May 21, 2009, the Planning and Zoning Board considered the proposed changes. The Board then made a motion to approve the proposed revisions as a package. The Board voted 6-0 to recommend approval of the proposed changes.

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**EXECUTIVE SUMMARY**

Staff has identified a variety of proposed changes, additions and clarifications in the 2009 annual update of the Land Use Code.

**BACKGROUND**

The Land Use Code was first adopted in March 1997. Subsequent revisions have been recommended on a regular basis to make changes, additions, deletions and clarifications that have been identified since the last update. The proposed changes are offered in order to resolve implementation issues and to continuously improve both the overall quality and "user-friendliness" of the Code.

The one potential Code change related to the buffer distance around wastewater treatment plants has been pulled from this Ordinance for separate consideration on July 7.

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**ATTACHMENTS**

1. Land Use Code Issues.
2. Annotated Ordinance Index.
3. Summary of the Planning and Zoning Board meeting, May 21, 2009.

ORDINANCE NO. 066, 2009  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
MAKING VARIOUS AMENDMENTS  
TO THE CITY LAND USE CODE

WHEREAS, on March 18, 1997, by its adoption of Ordinance No. 051, 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 interest of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the Land Use Code is hereby amended as follows:

Section 1. That Section 1.3.4 of the Land Use Code is hereby amended to read as follows:

**1.3.4 Addition of Permitted Uses**

(A) ***Required Findings.*** In conjunction with an application for approval of an overall development plan, a project development plan, a final plan, or any amendment of the foregoing, and upon the petition of the applicant or on the Director's own initiative, the Director (or the Planning and Zoning Board as specifically authorized in subparagraphs (5) and (6) below) may add to the uses specified in a particular zone district any other similar use which conforms to all of the following conditions:

- (1) Such use is appropriate in the zone district to which it is added;
- (2) Such use conforms to the basic characteristics of the zone district and the other permitted uses in the zone district to which it is added;
- (3) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or any more traffic hazards, traffic generation or attraction, adverse environmental

impacts, adverse impacts on public or quasi-public facilities, utilities or services, adverse effect on public health, safety, morals or aesthetics, or other adverse impacts of development, than the amount normally resulting from the other permitted uses listed in the zone district to which it is added;

- (4) Such use is compatible with the other listed permitted uses in the zone district to which it is added;
- (5) Such use is not specifically listed by name as a prohibited use in the zone district to which it is added, or if such use is prohibited, the proposed use is specific to the proposed site, is not considered for a text amendment under paragraph (B) below, and is specifically found by the Planning and Zoning Board to not be detrimental to the public good and to be in compliance with the requirements and criteria contained in Section 3.5.1;
- (6) Such use is not specifically listed as a "Permitted Use" in Article 4 and the proposed use is specific to the proposed site, is not considered for a text amendment under paragraph (B) below, and is specifically found by the Planning and Zoning Board to not be detrimental to the public good and to be in compliance with the requirements and criteria contained in Section 3.5.1. (See Section 2.9 for the procedures for text amendments.)

(B) ***Codification of New Use.*** When any use has been added by the Director to the list of permitted uses in any zone district in accordance with this Section, such use shall be promptly considered for an amendment to the text of this Land Use Code under Division 2.9. If the text amendment is approved, such use shall be deemed to be permanently listed in the appropriate permitted use list of the appropriate zone district and shall be added to the published text of this Land Use Code at the first convenient opportunity, by ordinance of City Council pursuant to Division 2.9. If the text amendment is not approved, such use shall not be deemed permanently listed in the zone district, except that such use shall continue to be deemed a permitted use in such zone district for only the development proposal for which it was originally approved under (A) above.

(C) ***Conditions.*** When any use has been added to the list of permitted uses in any zone district in accordance with this Section, the Director (or the Planning and Zoning Board, if applicable) may impose such conditions and requirements on such use as are necessary or desirable to accomplish the purposes and intent of this Land Use Code, to ensure consistency with City Plan and its adopted components and associated sub-area plans, to prevent or minimize adverse effects and impacts upon the public and neighborhoods, and to ensure compatibility of uses.

Section 2. That Section 2.2.11(D)(4) of the Land Use Code of the City of Fort Collins is hereby amended to read as follows:

- (4) *Extensions.* Extensions for two (2) successive periods of one (1) year each may be granted by the Director, upon a finding that the plan complies with all general development standards as contained in Article 3 and Zone District Standards as contained in Article 4 at the time of the application for the extension. Any additional one-year extensions shall be approved, if at all, only by the Planning and Zoning Board, upon a finding that the plan complies with all applicable general development standards as contained in Article 3 and Zone District Standards as contained in Article 4 at the time of the application for the extension, and that (a) the applicant has been diligent in constructing the engineering improvements required pursuant to paragraph (3) above, though such improvements have not been fully constructed, or (b) due to other extraordinary and exceptional situations unique to the property, completing all engineering improvements would result in unusual and exceptional practical difficulties or undue hardship upon the applicant, and granting the extension would not be detrimental to the public good. A request for an extension of the term of vested right under this Section must be submitted to the Director in writing at least thirty (30) days prior to the date of expiration. Time is of the essence. The granting of extensions by the Director under this Section may, at the discretion of the Director, be referred to the Planning and Zoning Board.

Section 3. That Section 2.12.4 of the Land Use Code is hereby amended to read as follows:

#### **2.12.4 Annexation of Uses Not Legally Permitted**

Except as provided below, any use that exists on a separately owned parcel outside the city and that is not legally permitted by the county must cease and be discontinued before the City Council adopts, on second reading, an annexation ordinance annexing any such property except as provided herein. In the event that a property containing a use that is not legal pursuant to county regulations is proposed to be annexed into the city and placed into a zone district wherein such use is a permitted use, said use must be reviewed and processed as set forth in Article 4 (i.e., Type 1 review or Type 2 review) for the zone district in which the land is proposed to be located, and shall comply with the applicable standards contained in Articles 3 and 4. A development application for such review must be filed with the city within sixty (60) days following the date of second reading of the annexation ordinance. Such use shall be temporarily permitted for a period not to exceed six (6) months following the date of second reading of the annexation ordinance. In the event that the development application is not approved within said six-month period, then the use shall be discontinued within thirty (30) days following the date of the decision of denial or expiration of said

six-month period, whichever first occurs, except that the Director may grant one (1) extension of the foregoing six-month requirement, which extension may not exceed three (3) months in length. In the event that the development application is approved, then such use shall be brought into full compliance with this Land Use Code and the decision made thereunder by the decision maker within sixty (60) days following the date of final plan approval.

In the event that a use which is not permitted by the county exists on any property that is included in an enclave annexation consisting of more than one (1) separately owned parcel, the above-described development process shall apply only if such property is placed in a zone district wherein such use is a permitted use. If a property which contains a use that is not permitted by the county is included in such multi-parcel enclave annexation, and such property is placed in a zone district that does not allow the use within the city, such illegal use must be discontinued within (A) two (2) years from the date of the second reading of the annexation ordinance; (B) if such illegal use is the subject of a county-initiated zoning or nuisance enforcement action, then within the time established by the court as a result of such enforcement action; or (C) if such illegal use is the subject of a zoning or nuisance complaint filed with the county and determined by the Director to be bona fide (but which has not become the subject of an enforcement action under (B) above or, if it has become the subject of an enforcement action, such action has been dismissed by the court for lack of county jurisdiction because the property has been annexed into the city), then ninety (90) days from the date of second reading of the annexation ordinance, whichever comes first. With respect to the time limit established in (C) above, the Director may extend said time for an additional duration not to exceed one hundred eighty (180) days if necessary to prevent or mitigate undue hardship or manifest injustice.

Section 4. That Section 2.13.10 of the Land Use Code is hereby amended to read as follows:

#### **2.13.10 Criteria for Vested Rights**

- (A) This section is intended to strictly adhere to and implement existing case law and statutory law controlling in the State of Colorado as they relate to the doctrine of vested rights and equitable estoppel as applied to a home rule municipality exercising its authority and powers in land use planning, zoning, the provisions of adequate public facilities concurrent with development (APF), subdivision, site development, land development regulations, and related matters addressed in this Land Use Code. It is the express intent of the city to require application of the provisions of this Division 2.13 to as much development and property in the city as is legally possible without violating the legally vested rights of an owner developer under case law or statutory law. The criteria herein provided shall be considered in rendering a Vested Rights Determination hereunder. It is intended that each case be decided on a case-by-case factual analysis. An

applicant shall be entitled to a positive Vested Rights Determination only if such applicant demonstrates, by clear and convincing evidence, entitlement to complete his or her development without regard to the otherwise applicable provisions of this Land Use Code by reason of: (A) the provisions of Title 24, Article 68, C.R.S.; (B) Section 2.2.11 (Lapse) of this Land Use Code; or (C) the existence of all three (3) of the following requirements:

- (1) some authorized act of the city;
- (2) reasonable good faith reliance upon such act by the applicant; and
- (3) such a substantial change in position or expenditure by the applicant that it would be highly inequitable or unjust to destroy the rights acquired.

(B) In evaluating whether an applicant (property owner, developer or the successor in interest of either) has met the requirements as set forth in (C) above, the Hearing Officer shall consider and give weight to the following factual matters:

- (1) the total investment made in the project, including all costs incurred subsequent to the act of the city relied upon by the applicant, which costs may include, without limitation, the costs of land acquisition, architectural and engineering fees and the costs of on-site and off-site infrastructure improvements to service the project;
- (2) any dedication of property made to public entities in accordance with the approved overall development plan for the project or the approved project development plan or plat for the project;
- (3) whether infrastructure improvements which have been installed have been sized to accommodate uses approved in the approved overall development plan or the approved project development plan or plat for the project;
- (4) the acreage of the approved overall development plan or the approved project development plan or plat for the project and the number of phases within the overall development plan or the approved project development plan or plat and their respective acreages which have received final approval;
- (5) whether the completion of the project has been timely and diligently pursued; and
- (6) the effect of the applicant's existing development loans on the application of this Land Use Code to the project.

Section 5. That Section 3.2.1(B) of the Land Use Code is hereby amended to read as follows:

- (B) **Purpose.** The intent of this Section is to require preparation of landscape and tree protection plans that ensure significant canopy shading to reduce glare and heat build-up, contribute to visual quality and continuity within and between developments, provide screening and mitigation of potential conflicts between activity areas and site elements, enhance outdoor spaces, reduce erosion and stormwater runoff, encourage water conservation and mitigate air pollution.

Section 6. That Section 3.2.1(C) of the Land Use Code is hereby amended to read as follows:

- (C) **General Standard.** All developments shall submit a landscape and tree protection plan, and, if receiving water service from the City, an irrigation plan, that: (1) reinforces and extends any existing patterns of outdoor spaces and vegetation where practicable, (2) supports functional purposes such as spatial definition, visual screening, creation of privacy, management of microclimate or drainage, (3) enhances the appearance of the development and neighborhood, (4) protects significant trees, natural systems and habitat, (5) enhances the pedestrian environment, (6) identifies all landscape areas, (7) identifies all landscaping elements within each landscape area, and (8) meets or exceeds the standards of this Section.

Section 7. That Section 3.2.1(E)(3) of the Land Use Code is hereby amended to read as follows:

- (3) **Water Conservation.** To the extent reasonably feasible, all landscape plans shall be designed to incorporate water conservation materials and techniques in order to comply with each of the Xeriscape landscaping principles listed below. Xeriscape landscaping principles do not include or allow artificial turf or plants, mulched (including gravel) beds or areas without landscape plant material, paving of areas not required for walkways, plazas or parking lots, bare ground, weed covered or infested surfaces or any landscaping that does not comply with the standards of this section.

- (a) Xeriscape landscaping principles are as follows:

- 1. Design. Identify zones of different water requirements and groups plants together that have similar water needs;
- 2. Appropriate Use of Turf. Limit high-irrigation turf and plantings to appropriate high-use areas with high visibility and functional needs;

3. Low Water-using Plants. Choose low-water demanding plants and turf where practicable;
4. Irrigation. Design, operate and maintain an efficient irrigation system;
5. Soil Preparation. Incorporate soil amendments before planting;
6. Mulch. Add mulch to planting beds to a minimum depth of three (3) inches;
7. Maintenance. Provide regular and attentive maintenance.

(b) Landscape plans submitted shall include:

1. Accurate and clear identification of all applicable hydrozones using the following categories:

High Hydrozone: eighteen (18) gallons/s.f./season

Moderate Hydrozone: ten (10) gallons/s.f./season

Low Hydrozone: three (3) gallons/s.f./season

Very Low Hydrozone: zero (0) gallons/s.f./season

2. A water budget chart that shows the total annual water use, which shall not exceed fifteen (15) gallons/square foot over the site, including all hydrozones used on the landscape plan.

Section 8. That Section 3.2.1(I)(2) of the Land Use Code is hereby amended to read as follows:

- (2) *Plant Materials.* Plant materials shall be selected from a list of native plants and other plants determined to be appropriate for and well adapted to local environmental conditions, as such list is established and updated from time to time by the Director and entitled the City of Fort Collins Plant List. Additional plants may be added to the Plant List upon a determination by the Director that such plants are appropriate for inclusion consistent with the above standard.

Section 9. That Section 3.2.1(J) of the Land Use Code is hereby amended to read as follows:

(J) ***Irrigation.***

(1) Provision shall be made for permanent, automatic irrigation of all plant material, with the following exceptions:

- (a) very low water use plantings that do not require any supplemental irrigation beyond establishment.
- (b) trees and other plants used to landscape a residential local street parkway abutting lots for single-family detached dwellings.

(2) For any development provided water by the City, an irrigation plan shall be submitted to and approved by the Utilities General Manager prior to the issuance of the building permit, or if no building permit is required, then prior to commencement of construction. As determined by the Director, minor redevelopment or change of use projects may not be required to submit an irrigation plan; in such cases, a written statement shall be submitted describing the type of irrigation system proposed. The irrigation plan shall incorporate the City of Fort Collins Irrigation System Standards for Water Conservation set forth below. In addition, the irrigation system must be inspected for compliance with the approved irrigation plan before the issuance of a Certificate of Occupancy.

(3) The City of Fort Collins Irrigation System Standards for Water Conservation are as follows:

(a) Irrigation Methods and Layout

- 1. The irrigation system shall be designed according to the hydrozones shown on the landscape plan.
- 2. Each zone shall irrigate a landscape with similar site, soil conditions and plant material having similar water needs. To the extent reasonably feasible, areas with significantly different solar exposures shall be zoned separately.
- 3. Turf and non-turf areas shall be irrigated on separate zones.
- 4. On steep grades, an irrigation method with a lower precipitation rate shall be used in order to minimize runoff and, to the extent reasonably feasible, these areas shall be zoned separately.

5. Drip, micro-sprays, sprayheads and rotors shall not be combined on the same zone.
6. The irrigation method shall be selected to correlate with the plant density. Drip irrigation or bubblers shall be used for sparsely-planted trees and shrubs, and rotors, sprayheads and multi-jet rotary nozzles shall be used for turfgrass.

(b) Equipment Selection

1. In order to reduce leakage of water from the irrigation system, a master shut-off valve shall be installed downstream of the backflow device to shut off water to the system when not operating.
2. For irrigation systems that are on a combined-use tap, with a water meter installed upstream to measure total water use, the installation of an irrigation-only submeter should be considered. The purpose of the submeter would be to enable the owner and landscape maintenance contractor to monitor water use for irrigation. The submeter would not be used for billing purposes. The cost of installation and maintenance of a submeter, if used, would be borne by the owner of the property, and not by the City. All such submeters would have to be installed in accordance with the specifications established by the City.
3. Irrigation controller(s) shall be “smart” controllers, using climate-based or soil moisture-based technology, selected from the Irrigation Association’s current Smart Water Application Technologies (SWAT) tested products list or other similarly tested product list. Controllers shall be installed and programmed according to manufacturer’s specifications.
  - a. A data input chart for the Smart Controller, including the precipitation rate from the audit, shall be posted at each irrigation controller.

- b. Within six (6) weeks of the installation of new landscaping, the irrigation system Smart Controllers shall be reset to the normal seasonal watering schedule.
4. A rain sensor shall be installed on each irrigation controller and installed according to the manufacturer's specifications.
5. Sprinklers and nozzles shall meet the following requirements:
  - a. The type of sprinkler and associated nozzles shall be selected to correlate with the size and geometry of the zone being irrigated.
  - b. Sprinklers shall be spaced no closer than seventy-five (75) percent of the maximum radius of throw for the given sprinkler and nozzle. Maximum spacing shall be head-to-head coverage.
  - c. Coverage arcs and radius of throw for turf areas shall be selected and adjusted to water only turf areas and minimize overspray onto vegetated areas, hard surfaces, buildings, fences, or other non-landscaped surfaces.
  - d. Sprinklers, bubblers or emitters on a zone shall be of the same manufacturer.
  - e. Sprayheads in turf areas shall have a minimum three and one-half (3 1/2) inch pop-up riser height.
  - f. Sprayheads on a zone shall have matched precipitation nozzles.
  - g. Nozzles for rotors shall be selected to achieve an approximate uniform precipitation rate throughout the zone.
  - h. All sprayheads and rotors shall be equipped with check valves. Sprayheads shall also have pressure regulating stems.

6. Pressure-compensating emitters shall be used for drip irrigation. For sloped areas, a check valve shall be installed and the drip line shall be parallel to the slope.
7. Remote control valves shall have flow control.
8. A backflow prevention assembly shall be installed in accordance with local codes. All backflow assemblies shall be equipped with adequately sized winterization ports downstream of the backflow assembly.
9. Properties with single or combined point of connection flows of two hundred (200) gpm or greater shall have a control system capable of providing real-time flow monitoring and the ability to shut down the system in the event of a high flow condition.

(c) Sleaving

1. Separate sleeves shall be installed beneath paved areas to route each run of irrigation pipe or wiring bundle. The diameter of sleaving shall be twice that of the pipe or wiring bundle.
2. The sleaving material beneath sidewalks, drives and streets shall be PVC Class 200 pipe with solvent welded joints.

(d) Water Pressure

1. The irrigation system designer shall verify the existing available water pressure.
2. The irrigation system shall be designed such that the point-of-connection design pressure, minus the possible system pressure losses, is greater than or equal to the design sprinkler operating pressure.
3. All pop-up spray sprinkler bodies equipped with spray nozzles shall operate at no less than twenty (20) psi and no more than thirty (30) psi.

4. All rotary sprinklers and multi-stream rotary nozzles on pop-up spray bodies shall operate at the manufacturer's specified optimum performance pressure.
5. If the operating pressure exceeds the manufacturer's specified maximum operating pressure for any sprinkler body, pressure shall be regulated at the zone valve or sprinkler heads.
6. Booster pumps shall be installed on systems where supply pressure does not meet the manufacturer's minimum recommended operating pressure for efficient water distribution.

(e) Sprinkler Performance Audit

1. A sprinkler performance audit shall be performed by a landscape irrigation auditor certified by the Irrigation Association (a non-profit industry organization dedicated to promoting efficient irrigation).
2. The audit shall include measurement of distribution uniformity. Minimum acceptable distribution uniformities shall be sixty (60) percent for sprayhead zones and seventy (70) percent for rotor zones. Sprayhead zones shall include zones with multi-stream rotary nozzles.
3. The audit shall measure the operating pressure for one sprinkler on each zone to determine whether the zone meets the above pressure requirements.
4. A copy of the sprinkler performance audit shall be submitted to and approved by the City before issuance of a certificate of occupancy.

Section 10. That Section 3.2.2(K)(1)(a) of the Land Use Code is hereby amended to read as follows:

(K) ***Parking Lots - Required Number of Off-Street Spaces for Type of Use.***

(1) ***Residential and Institutional Parking Requirements.*** Residential and institutional uses shall provide a ***minimum*** number of parking spaces as defined by the standards below.

(a) Attached Dwellings: For each two-family and multi-family dwelling there shall be parking spaces provided as indicated by the following table:

<i>Number of Bedrooms/Dwelling Unit</i>	<i>Parking Spaces Per Dwelling Unit</i>
One or less	1.5
Two	1.75
Three	2.0
Four and above	2.5

\* Spaces that are located in detached residential garages (but not including parking structures) or in attached residential garages, which attached garages do not provide direct entry into an individual dwelling unit, may be credited toward the minimum requirements contained herein only if such spaces are made available to dwelling unit occupants at no additional rental or purchase cost (beyond the dwelling unit rental rate or purchase price).

1. Multi-family dwellings and mixed-use dwellings within the Transit-Oriented Development (TOD) Overlay Zone shall have no minimum parking requirements.

Section 11. That Section 3.3.2(F)(2) of the Land Use Code is hereby amended to read as follows:

(2) ***Costs and Reimbursements.***

(a) Off-site streets, street intersections, sidewalks, alleys, paths or other related improvements to serve the development site or such improvements along the perimeter of the development site, shall be funded by the developer unless otherwise agreed by the City Manager, in his/her discretion. The developer (and others providing funding, including but not limited to the City) may be entitled to request reimbursement under paragraph (b).

(b) The entire cost of such construction (including right-of-way acquisition) shall be the responsibility of such developer. If, within twelve (12) months of the completion and acceptance by the city of such improvements, the developer installing such improvements (the "Funding Developer") has entered into a reimbursement agreement with the city in the manner prescribed by this Section, then, at the time that other property adjacent to the improvements (the "Adjacent Property") is developed or redeveloped and access to such improvements is accomplished or other benefit from such

improvements is conferred, the city may collect from the developer of the Adjacent Property a proportionate charge, based upon the cost incurred by the Funding Developer, plus an inflation factor, and based upon the benefit conferred upon the Adjacent Property. For the purpose of this provision, benefit to the Adjacent Property may include, among other things, the construction of improvements that will allow the Adjacent Property to be developed in accordance with the requirements of Section 3.6.4, where, in the absence of the improvements, such development would not be allowed to proceed. Said charge, if imposed by the city, shall be paid prior to the issuance of any building permits for the Adjacent Property; provided, however, that the city shall not attempt to make such collection unless the reimbursement agreement has been timely and properly prepared, executed and delivered to the city. If such charge is collected, the city shall reimburse the Funding Developer to the extent of such collection after deducting a service charge of three (3) percent to cover administrative costs. All costs for the construction (including right-of-way acquisition) of such improvements must be fully paid by the Funding Developer before such person shall be entitled to reimbursement under any agreement established hereunder. The amount of the reimbursement assessed by the city for each Adjacent Property as it develops shall be based on: (1) The fair market value (as determined by the city) of any right-of-way acquired by the Funding Developer that was needed for, and is directly attributable to, the improvements; and (2) The original cost of design and construction of the improvements plus an adjustment for inflation based on the construction cost index for Denver, Colorado, as published monthly by "Engineering News Record." (If said index shows deflation, the adjustment shall be made accordingly, but not below the original cost as submitted by the Funding Developer and approved by the City Engineer.) The original cost of the right-of-way and design and construction shall mean the cost of right-of-way acquisition, financing, engineering, construction and any other costs actually incurred which are directly attributable to the improvements, including any costs incurred for the formation or administration of a special improvement district. The city's obligation to reimburse the Funding Developer shall be contingent upon the city's actual collection of the charge from the developer of the Adjacent Property. In order to obtain approval of a reimbursement agreement from the city, the Installing Developer shall provide the City Engineer with copies of the following, after acceptance of the improvements:

- (a) real estate closing documents and/or appraisals or other documents showing to the satisfaction of the city the fair market value of the right-of-way for the improvements;

- (b) an invoice from the Funding Developer's engineer for any fee assessed on the project;
- (c) the contractor's application for final payment approved by the Funding Developer's engineer;
- (d) a letter from the Funding Developer and/or contractor certifying that final payment has been received by the contractor;
- (e) a letter from the Funding Developer and/or engineer certifying that final payment of engineering fees has been made;
- (f) a letter from the Funding Developer certifying the portion of the cost which has been funded by such developer and also any portions funded by others, and naming such proportionate contributors, if any.
- (g) a map prepared by a licensed engineer or surveyor which shows:
  - 1. the location of the improvements constructed;
  - 2. the name of the owner of each Adjacent Property which is benefited by the improvements;
  - 3. the proportionate benefit conferred upon each Adjacent Property, together with the assessment due based on the original costs;
  - 4. the acreage and parcel number of each Adjacent Property;
  - 5. a reference to the book, page and reception number from the records of the county Clerk and Recorder where the information for each property was obtained; and
  - 6. any other information deemed necessary by the City Engineer.

Any right to reimbursement pursuant to this provision shall not exceed a period of ten (10) years from the acceptance by the city of the street improvements. The City Council may approve extensions of the reimbursement agreement for additional ten-year periods. No such reimbursement shall be made unless the person entitled to reimbursement has fully satisfied his or her obligations under any other reimbursement agreements with the city.

Section 12. That Section 3.5.2(D) of the Land Use Code is hereby amended by the addition of a new subparagraph (6) which reads in its entirety as follows:

- (6) *Setback for Windmills.* Windmills shall be set back from the property lines a minimum of one (1) foot for every foot of height of the structure measured from the ground to the top of the highest blade of the windmill.

Section 13. That Section 3.8.19(C) of the Land Use Code is hereby amended to read as follows:

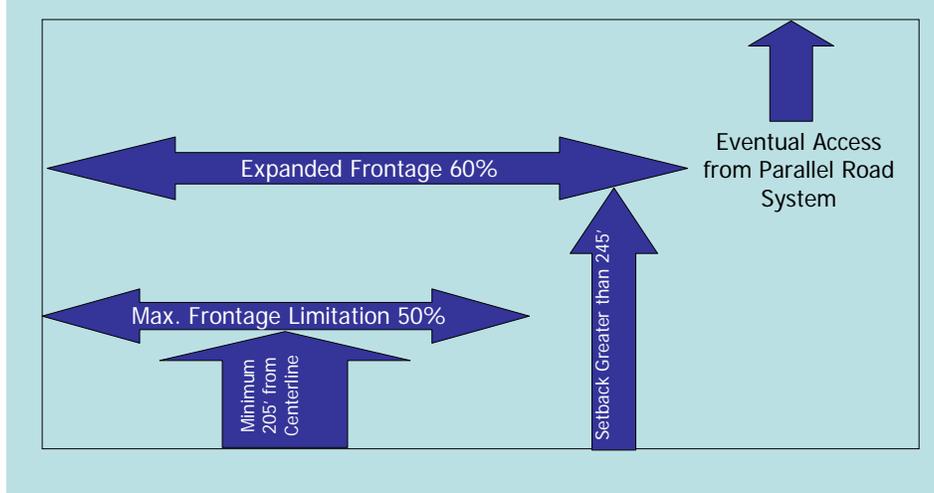
- (C) ***Front Setbacks on Corner Lots.*** In the case of corner lot only one (1) street line shall be considered as a front line, and the street to which the primary entrance of the principal building faces or to which the building is addressed shall be considered the front line for purposes of determining the front setback.

Section 14. That Section 3.9.3, including the replacement of the graphic under subsection (C), of the Land Use Code of the City of Fort Collins, is hereby amended to read as follows:

### **3.9.3 Building Placement Standards**

- (A) Minimum setback of any building on a lot, tract, or parcel of land adjoining the I-25 right-of-way shall be two hundred five (205) feet from the centerline of I-25.
- (B) Outside of I-25 activity centers, the placement of a building on a lot, tract or parcel of land adjoining the I-25 right-of-way where the building is located between two hundred five (205) feet and two hundred forty-five (245) feet from the centerline of I-25 shall be restricted so that no more than fifty (50) percent of the total frontage of the lot, tract or parcel of land is occupied by the building.
- (C) Outside of I-25 activity centers, the placement of a building on a lot, tract or parcel of land adjoining the I-25 right-of-way where the building is located more than two hundred forty-five (245) feet from the centerline of I-25 shall be restricted so that no more than sixty (60) percent of the total frontage of the lot, tract or parcel of land is occupied by the building.

Outside of Activity Centers maximum building frontage allowances are dependent upon setback distances from the I-25 Centerline.



Section 15. That Section 4.1(B)(2)(b)1 of the Land Use Code is hereby amended to read as follows:

1. Minor public facilities.

Section 16. That Section 4.2(B)(2)(b)1 of the Land Use Code is hereby amended to read as follows:

1. Minor public facilities.

Section 17. That Section 4.3(B)(3)(b)3 of the Land Use Code is hereby amended to read as follows:

3. Minor public facilities.

Section 18. That Section 4.4(B)(2)(b)2 of the Land Use Code is hereby amended to read as follows:

2. Minor public facilities.

Section 19. That Section 4.5(B)(2)(b)3 of the Land Use Code is hereby amended to read as follows:

3. Minor public facilities.

Section 20. That Section 4.6(B)(2)(b)4 of the Land Use Code is hereby amended to read as follows:

4. Minor public facilities.

Section 21. That Section 4.7(B)(3)(b)4 of the Land Use Code is hereby amended to read as follows:

4. Minor public facilities.

Section 22. That Section 4.8(B)(1)(b)2 of the Land Use Code is hereby amended to read as follows:

2. Minor public facilities.

Section 23. That Section 4.8(F)(2)(b) of the Land Use Code is hereby amended to read as follows:

(b) **Eave Height.**

1. The exterior eave height of an eave along a side lot line shall not exceed thirteen (13) feet from grade for a dwelling unit located at the rear of the lot or an accessory building with habitable space.
2. The exterior eave height of an eave along a side lot line shall not exceed ten (10) feet from grade for an accessory building containing no habitable space.
3. If a second story has an exterior wall that is set back from the lower story's exterior wall, the eave height shall be the point of an imaginary line at which the upper story's roofline (if extended horizontally) would intersect with the lower story's exterior wall (if extended vertically).

(See illustration contained in Division 4.7.)

Section 24. That Section 4.9(B)(1)(b)2 of the Land Use Code is hereby amended to read as follows:

2. Minor public facilities.

Section 25. That Section 4.9(E)(2)(b) of the Land Use Code is hereby amended to read as follows:

(b) **Eave Height.**

1. The exterior eave height of an eave along a side lot line shall not exceed thirteen (13) feet from grade for a dwelling unit located at the rear of the lot or an accessory building with habitable space.

2. The exterior eave height of an eave along a side lot line shall not exceed ten (10) feet from grade for an accessory building containing no habitable space.
3. If a second story has an exterior wall that is set back from the lower story's exterior wall, the eave height shall be the point of an imaginary line at which the upper story's roofline (if extended horizontally) would intersect with the lower story's exterior wall (if extended vertically).

(See illustration contained in Division 4.7).

Section 26. That Section 4.10(B)(2)(b)4 of the Land Use Code is hereby amended to read as follows:

4. Minor public facilities.

Section 27. That Section 4.13(B)(2)(a)3 of the Land Use Code is hereby amended to read as follows:

3. Minor public facilities.

Section 28. That Section 4.14(B)(2)(b)1 of the Land Use Code is hereby amended to read as follows:

1. Minor public facilities.

Section 29. That the table contained in Section 4.16(B)(2)B of the Land Use Code is hereby amended to read as follows:

B. INSTITUTIONAL/CIVIC/PUBLIC			
Places of worship or assembly	Type 1	Type 1	Type 2
Public and private schools (colleges, universities, vocation training)	BDR	Type 1	Type 1
Public and private schools (elementary, intermediate and high school education)	Type 2	Type 2	Type 2
Community facilities	Type 1	Type 1	Type 1
Long-term care facilities	Type 2	Type 2	Type 2
Minor public facilities	BDR	Type 1	Type 1

Parks, recreation and other open lands, except neighborhood parks as defined by the Parks and Recreation Policy Plan	Type 1	Type 1	Type 1
Transit facilities (without repair/storage)	Type 2	Type 2	Type 2
Jails, detention and penal centers	Not Permitted	Not Permitted	Type 2

Section 30. That Section 4.17(B)(2)(b)4 of the Lane Use Code is hereby amended to read as follows:

4. Minor public facilities.

Section 31. That Section 4.18(B)(2)(b)4 of the Land Use Code is hereby amended to read as follows:

4. Minor public facilities.

Section 32. That Section 4.19(B)(2)(b)4 of the Land Use Code is hereby amended to read as follows:

4. Minor public facilities.

Section 33. That Section 4.20(B)(2)(b)4 of the Land Use Code is hereby amended to read as follows:

4. Minor public facilities.

Section 34. That Section 4.21 (B)(2)(b)2 of the Land Use Code is hereby amended to read as follows:

2. Minor public facilities.

Section 35. That Section 4.21(B)(2)(a) of the Land Use Code is hereby amended to read as follows:

(a) **Institutional/Civic/Public Uses:**

1. Public and private schools, including colleges, universities, vocational and technical training.
2. Community facilities.

3. Hospitals.
4. Major public facilities.

Section 36. That Section 4.22(B)(2)(b)4 of the Land Use Code is hereby amended to read as follows:

4. Minor public facilities.

Section 37. That Section 4.22(B)(3) of the Land Use Code is hereby amended to read as follows:

(3) The following uses are permitted in the C-S District, subject to review by the Planning and Zoning Board:

(a) **Institutional/Civic/Public Uses:**

1. Major public facilities.

(b) **Commercial/Retail Uses:**

1. Drive-in restaurants.
2. Large retail establishments.
3. Day shelters, provided that they do not exceed ten thousand (10,000) square feet and are located within one thousand three hundred twenty (1,320) feet (one-quarter [¼] mile) of a Transfort route.

(c) **Industrial Uses:**

1. Recycling facilities.
2. Transport terminals (truck terminals, public works yards, container storage).

Section 38. That Section 4.23(B)(2)(b)3 of the Land Use Code is hereby amended to read as follows:

3. Minor public facilities.

Section 39. That the table contained in Section 4.24(B)(2)B 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>
<b>B. INSTITUTIONAL/CIVIC/PUBLIC</b>		
Places of worship or assembly	BDR	Type 1
Transit facilities (without repair and storage)	BDR	Type 1
Parks, recreation and other open lands, except neighborhood parks as defined by the Parks and Recreation Policy Plan	Type 1	Type 1
Community facilities	Not Permitted	Type 1
Public and private schools for college, university vocational or technical training	Type 1	Type 1
Minor public facilities	Type 1	Type 1
Neighborhood parks as defined by the Parks and Recreation Policy Plan	BDR	BDR
Major public facilities	Type 2	Type 2

Section 40. That Section 4.26(B)(2)(b)5 of the Land Use Code is hereby amended to read as follows:

5. Minor public facilities.

Section 41. That Section 4.27(B)(2)(b)2 of the Land Use Code is hereby amended to read as follows:

2. Minor public facilities.

Section 42. That Section 4.27(B)(2)(d)6 of the Land Use Code is hereby amended to read as follows:

6. Warehouse.

Section 43. That Section 4.28(B)(2)(b) of the Land Use Code is hereby amended to read as follows:

(b) **Institutional/Civic/Public Uses:**

1. Public and private schools, including colleges, universities, vocational and technical training.
2. Minor public facilities.

3. Community facilities.
4. Parks, recreation and other open lands, except neighborhood parks as defined by the Parks and Recreation Policy Plan.
5. Transit facilities with or without outdoor repair and storage.
6. Places of worship or assembly.
7. Major public facilities.

Section 44. That Section 4.28(B)(2)(d)8 of the Land Use Code is hereby amended to read as follows:

8. Warehouse.

Section 45. That Section 4.28(D)(1) of the Land Use Code is hereby amended to read as follows:

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

(1) ***Dimensional Standards.***

- (a) Maximum height for all nonresidential buildings, including those containing mixed-use dwelling units, shall be four (4) stories.
- (b) All new structures greater than fifty thousand (50,000) square feet in gross leasable area shall be subject to Planning and Zoning Board review.
- (c) Any building addition that exceeds fifty thousand (50,000) square feet in gross leasable area and exceeds twenty-five (25) percent of the gross leasable area of the existing building shall be subject to Planning and Zoning Board review.

Section 46. That the definition of “*Development*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

*Development* shall mean the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or, except as is authorized in Section 1.4.7, the dividing of land into two (2) or more parcels.

- (1) *Development* shall also include:

- (a) any construction, placement, reconstruction, alteration of the size, or material change in the external appearance of a structure on land;
  - (b) any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;
  - (c) any change in use of land or a structure;
  - (d) any alteration of a shore or bank of a river, stream, lake, pond, reservoir or wetland;
  - (e) the commencement of drilling (except to obtain soil samples), mining, stockpiling of fill materials, filling or excavation on a parcel of land;
  - (f) the demolition of a structure;
  - (g) the clearing of land as an adjunct of construction;
  - (h) the deposit of refuse, solid or liquid waste, or fill on a parcel of land.
  - (i) the installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property.
  - (j) the construction of a roadway through or adjoining an area that qualifies for protection by the establishment of limits of development.
- (2) *Development* shall *not* include:
- (a) work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way;
  - (b) work by any public utility for the purpose of inspecting, repairing, renewing or constructing, on public easements or rights-of-way, any mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks or the like; provided, however, that this exemption shall not include work by a public utility in constructing or enlarging mass transit or railroad depots or terminals or any similar traffic-generating activity;

- (c) the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure;
  - (d) the use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products; for raising or feeding livestock (other than in feedlots); or for other agricultural uses or purposes, provided none of the above creates a nuisance;
  - (e) a change in the ownership or form of ownership of any parcel or structure;
  - (f) the creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land.
- (3) When appropriate in context, *development* shall also mean the act of developing or to the result of development.

Section 47. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition “*Hydrozone*” which shall read in its entirety as follows:

*Hydrozone* shall mean an area within the landscape defined by a grouping of plants requiring a similar amount of water to sustain health. For the purposes of this document, hydrozones are divided into the following four categories:

- (1) Very low hydrozones include plantings that need water when first planted, but none once established. Typical plants in this hydrozone include yarrow, rabbitbrush and many native plants.
- (2) Low hydrozones include plantings that generally do not require more than three (3) gallons per square foot of supplemental water per year. During plant establishment or drought, additional supplemental water may be beneficial. Typical plants in this hydrozone include buffalograss, penstemon and daylily.
- (3) Moderate hydrozones include plantings that generally require ten (10) gallons per square foot of water supplemental water per year. Typical plants in this hydrozone include turf-type tall fescue, potentilla and purple coneflower.
- (4) High hydrozones include plantings that generally require eighteen (18) gallons of water per square foot of supplemental water per year. Typical plants in this hydrozone include Kentucky bluegrass, cottonwood, arborvitae and columbine.

Section 48. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition “*Minor public facilities*” which shall read in its entirety as follows:

*Minor public facilities* shall mean structures or facilities, such as electrical generating and switching stations, sub-stations, underground vaults, poles, conduits, water and sewer lines, pipes, pumping stations, natural gas pressure reducing stations, repeaters, antennas, transmitters and receivers, valves, and stormwater detention ponds, that are not occupied by persons on a daily basis except for periodic inspection and maintenance and are capable of operation without daily oversight by personnel, and do not generate daily traffic. Such facilities also include similar structures for fire protection, emergency service, and parks and recreation and natural areas. Minor Public Facilities shall not include outdoor storage and wireless telecommunications equipment or facilities.

Section 49. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition “*Major public facilities*” which shall read in its entirety as follows:

*Major Public Facilities* shall mean structures or facilities such as electrical generation power plants, water treatment plants, wastewater treatment plants, natural gas generation power plants, railroad depots, and transportation fleet maintenance facilities, that are generally occupied by persons on a daily basis to conduct operations and that contain or involve traffic-generating activities. Major Public Facilities include outdoor storage but shall not include wireless telecommunications equipment or facilities.

Section 50. That the definition “*public facilities*” contained in Section 5.1.2 of the Land Use Code is hereby deleted in its entirety.

Introduced, considered favorably on first reading, and ordered published this 2nd day of June, A.D. 2009, and to be presented for final passage on the 7th day of July, A.D. 2009.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 7th day of July, A.D. 2009.

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Mayor

ATTEST:

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City Clerk