



WESTMINSTER
COLORADO

March 24, 2003
7:00 P.M.

CITY COUNCIL AGENDA

NOTICE TO READERS: City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items is reflective of Council's prior review of each issue with time, thought and analysis given.

Members of the audience are invited to speak at the Council meeting. Citizen Communication (item 5) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Presentations
 - A. Proclamation re Ranum High School Girls Basketball Team
5. Citizen Communication (5 minutes or less)
6. Report of City Officials
 - A. City Manager's Report
7. City Council Comments

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any citizen wishes to have an item discussed. Citizens then may request that the subject item be removed from the Consent Agenda for discussion separately.

8. Consent Agenda
 - A. 136th Avenue and I-25 Interchange Project – Award of Construction Contract
 - B. IGA for 144th Avenue Interchange Study
 - C. Cleanup Program Services
 - D. Contract for the Design of the 74th Avenue Waterline
 - E. Councillor's Bill No. 11 re Establishing New Precincts for City Elections (Dittman-Dixon)
 - F. Councillor's Bill No. 12 re Historic Preservation (Hicks-McNally)
 - G. Councillor's Bill No. 13 re Amusement Centers Code Amendments (Atchison-McNally)
 - H. February Financial Report
9. Appointments and Resignations
10. Public Hearings and Other New Business
 - A. Public Hearing re Designating Westminster Grange Hall as a Local Historic Landmark
 - B. Resolution No. 12 re Designating Westminster Grange Hall as a Local Historic Landmark
 - C. Councillor's Bill No. 15 re Sign Code Revisions for Gasoline Pricing Signs
 - D. Intergovernmental Agreement with Westminster Economic Development Authority
 - E. Resolution No. 13 re Delegating Refunding of King Sooper's IDR to CHAFA
11. Old Business and Passage of Ordinances on Second Reading
 - A. Councillor's Bill No. 14 re Peddlers and Solicitors Code Amendments (Kauffman-Atchison)
12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business
 - A. Citizen Communication - Richard Ott and Krzysztof Smereczynski re Pigeon Ordinance
 - B. City Council
 - C. Executive Session
13. Adjournment

NON-LAND USE PUBLIC HEARINGS:

Persons wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to Have Name Entered Into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue, may do so whether in favor or opposed. No specified order of those in favor or in opposition will be used.

The presiding officer shall conduct the hearing in such manner as to provide for freedom of speech and expression of opinion of all persons speaking, subject only to the limits of courtesy and respect to other persons and their opinion as long as the subject is related to the public hearing notwithstanding the presiding officer has the authority to limit debate to a reasonable length of time to be equal for both positions.

Any person speaking may be questioned by members of Council or by the City Administration.

The presiding officer shall rule upon all disputed matters of procedure, unless, on motion duly made, he is overruled by a majority vote of Council members present.

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, MARCH 24, 2003 AT 7:00 P.M.

Mayor Moss asked for a moment of silence for our troops serving in Iraq and their families.

PLEDGE OF ALLEGIANCE

Mayor Moss led Council, Staff and the audience in the Pledge of Allegiance.

ROLL CALL

Mayor Moss, Mayor Pro-Tem Atchison, Councillors Dittman, Dixon, Hicks, and McNally were present at roll call. Brent McFall, City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk, were also present. Absent Kauffman.

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by Dixon to approve the minutes of the meeting of March 17, 2003 with no corrections or additions. The motion carried unanimously.

PRESENTATIONS

Mayor Moss presented a proclamation to the Ranum High School Lady Raiders Basketball Team for their Class 4A State championship.

CITY MANAGER COMMENTS

Brent McFall, City Manager, commented on the City's snow removal response to the recent snow storm.

CITY COUNCIL COMMENTS

Councillor Dixon commented on Scott Reyes, a 7th grader at Scott Carpenter Middle School, winning the State spelling bee and he will be competing in the National Spelling Bee.

Mayor Pro-Tem Atchison commented on the Girl Scout Troop that was planning to meet with one of the American Servicemen serving in Afghanistan. The Serviceman was planning on meeting the troop on Thursday but because of the severe storm he arrived on Sunday and met with member of the troop. He also commented on the snow crews and what a great job they did. He also mentioned that Farlin Ward, a member of the Board of Building Code Appeals from 1995 through January of 2003, passed away on March 14th.

Councillor Hicks commented that the troops in Iraq are protecting us.

CONSENT AGENDA

The following items were considered as part of the Consent Agenda: 136th Avenue and I-25 Interchange Project Award to SEMA Construction Company for \$11,586,109.42; payments of City's share of expenses of \$4,922,184.01; authorize City's share of the construction contingency, or \$500,000; authorize a payment to XCEL Energy not to exceed \$150,000 for the installation of all street lights for the project; IGA for 144th Avenue Interstate 25 Interchange Study with the City of Thornton for \$132,600 toward the completion of the Project Feasibility Study and Environmental Assessment, Bids for 2003 Large Item Trash Cleanup Program Pilot Program to Browning Ferris Inc. for \$95,000; Contract for Design of the 74th Avenue Waterline with Merrick Engineering for \$53,000; CB No. 11 re Establishing New Precincts for City Elections; CB No. 12 re Historic Preservation; CB No. 13 re Amusement Centers Code Amendments; and the February Financial Report.

The Mayor asked if there was any member of Council or anyone from the audience who would like to have any of the consent agenda items removed for discussion purposes or separate vote.

No request was made. Councillor McNally moved, seconded by Atchison to adopt the consent agenda items as presented. The motion carried unanimously.

PUBLIC HEARING DESIGNATING WESTMINSTER GRANGE HALL AS HISTORIC LANDMARK

At 7:22 P.M. the public hearing was opened on Designating the Westminster Grange Hall as a Local Historic Landmark. Vicky Bunsen, Assistant City Attorney, gave a power point presentation. Sharon Arnold, 7421 Knox Place, representing the Westminster Grange and Linda Cherrington, 9211 Julian Way, representing the Westminster Historical Society spoke in favor of this designation. No one spoke in opposition. The public hearing was declared closed at 7:35 P.M.

RESOLUTION NO. 12 DESIGNATING WESTMINSTER GRANGE HALL AS HISTORIC LANDMARK

Councillor Dittman moved, seconded by McNally to adopt Resolution No. 12 designating the Westminster Grange Hall, 3935 West 73rd Avenue, as a Westminster historic landmark. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 15 RE SIGN CODE REVISIONS FOR GASOLINE PRICING SIGNS

Mayor Pro-Tem Atchison moved, seconded by Dixon to pass Councillor's Bill No. 15 on first reading regarding revisions to the Sign Code for gasoline pricing signs. Upon roll call vote, the motion carried with a dissenting vote from Atchison.

IGA WITH WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

Councillor McNally moved, seconded by Atchison to authorize the Mayor to execute an Intergovernmental Agreement with the Westminster Economic Development Authority (WEDA) agreeing to advance funds to WEDA for the purpose of acquiring land in Mandalay Gardens. The motion carried unanimously.

RESOLUTION NO. 13 RE DELEGATING REFUNDING OF KING SOOPERS IDR B TO CHAFA

Councillor Dittman moved, seconded by Atchison to adopt Resolution No. 13 authorizing the Mayor to sign a Delegation Agreement for issuance of Industrial Development Revenue Bonds (IDRB) to re-finance the \$3.5 million King Sooper's IDR B through the Colorado Housing and Finance Authority (CHAFA). Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 14 RE PEDDLERS AND SOLICITOR'S CODE AMENDMENTS

Mayor Pro-Tem Atchison moved, seconded by McNally to pass Councillor's Bill No. 14 on second reading amending Title 5, Chapter 6, of the Westminster Municipal Code concerning peddlers and solicitors. Upon roll call vote, the motion carried unanimously.

CITIZEN COMMUNICATION

Attorney Richard Ott, 2865 S. Lee, representing Krzysztof Smereczynski, who resides at 6021 West 111th Avenue addressed Council on the City's ordinance pertaining to pigeons. Wallace Sabell, 5650 Ward Rd, and Scott Davidson, 6020 W. 111th Avenue, also addressed Council regarding the pigeons.

ADJOURNMENT:

The meeting was adjourned at 8:00 P.M.

ATTEST:

City Clerk

Mayor



Agenda Item 4 C

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 24, 2003

SUBJECT: Proclamation re Ranum High School Girl's Basketball Team Class 4A Championship

Prepared By Mary Joy Barajas, Executive Secretary

Summary Statement:

The purpose of this Proclamation is to recognize the Ranum High School Lady Raiders basketball team, which won the Class 4A basketball championship on Saturday, March 15th. The accomplishments of this team are a positive reflection of our community, schools and specifically Westminster youth.

Expenditure Required: \$0

Source of Funds: N/A

Recommended City Council Action:

Present the Proclamation to the Ranum High School Lady Raiders, Class 4A Basketball Champions.

SUBJECT: Proclamation re Ranum High School Girl's Basketball Team Class 4A Championship
Page 2

Policy Issue:

No policy issues identified.

Alternatives:

None Identified.

Background Information:

The 2003 State Basketball Championships were held March 13 through 21, 2003, at the Denver Coliseum and the Pepsi Center. The Lady Raiders won the Class 4A State Championship, beating Longmont High School, 69 to 64. The Lady Raiders, who are coached by Mike Carey, had a phenomenal 26-1 season. The team's only loss was to Broomfield High School for the Skyline League title. The Lady Raiders rallied after that 76-74 loss, beating Broomfield 60-44 to win the District Title and again 59-44 in the State Tournament securing their seat in the quarterfinals.

The 2002-03 Lady Raiders are the proud winners of the first girls state championship for Ranum High School.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

WHEREAS, the Ranum High School Girls Basketball team, coached by Mike Carey, won the Colorado 4A State Girls Basketball Championship at the Pepsi Center on Saturday, March 15, 2003; and

WHEREAS, the Lady Raiders basketball team, completed a 26-1 season, also winning their district title; and

WHEREAS, Ranum High School senior, Diana Lopez, was named the MPV for the Class 4A State Tournament; and

WHEREAS, Ranum High School seniors Diana and Denise Lopez will play on the Class 4A Senior All-Star Team, which plays March 22, 2003 at Broomfield High School; and

WHEREAS; the Lady Raiders coach, Mike Carey, was picked to coach the Class 4A Senior All-Star Team; and

NOW, THEREFORE, I, Ed Moss, Mayor of the City of Westminster, on behalf of the entire City Council and Staff hereby recognize Ranum High School Girls Basketball Team and Coach Mike Carey for an excellent season and a job well done.

Signed this 24th day of March 2003.

Ed Moss, Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 24, 2003



SUBJECT: Award of 136th Avenue and I-25 Interchange Construction Contract

Prepared By: David W. Loseman, Senior Projects Engineer

Recommended City Council Action

Authorize the City Manager to execute an agreement with SEMA Construction Company in the amount of \$11,586,109.42 for the construction of the 136th Avenue and I-25 Interchange Project; authorize payments of the City's share of these expenses of \$4,922,184.01; authorize the City's share of the construction contingency, or \$500,000; authorize a payment to XCEL Energy in an amount not to exceed \$150,000 for the installation of all street lights for the project. Funds for these expenses are available in the appropriate project account of the General Capital Improvement Fund.

Summary Statement

- Over the past several years, the City has taken several steps towards the construction of a new interchange at 136th Avenue and I-25.
- The first construction phase began on February 11, 2002 when Council authorized the City Manager to execute a construction contract for the relocation of Quail Creek and the Bull Canal in advance of the 136th Avenue interchange construction. This work was substantially completed in October 2002.
- The final design and construction documents, environmental reports, all right-of-way acquisitions and all Colorado Department of Transportation and Federal Highway Authority permissions were completed in January 2003.
- A Request for Bids for the construction of the interchange was advertised in the Daily Journal for five weeks, and bids were opened on March 6, 2003. Eight bids were received and opened, and the lowest responsible bidder is SEMA Construction Company with a bid of \$11,586,109.42.
- SEMA was the contractor that recently completed the Westminster Boulevard flyover project for the City. On that project, SEMA was very professional and did an outstanding job of constructing this project.
- The request for authorization to pay XCEL Energy relates to the design and installation of all streetlights for the project including the pedestrian luminaries on the bridge and the luminaries on the traffic signals.

Expenditure Required: \$5,072,184.01

Source of Funds: General Capital Improvement Fund.

Policy Issues

Should the City proceed with the award of the bid for construction of 136th Avenue and I-25?

Alternatives

Delay the construction of this project. This is not recommended because the bids are extremely favorable and our project partner, the City of Thornton, would not support this alternative. Furthermore, this project has the potential of attracting economic development projects to the north Westminster area.

Background Information

In 1998, the cities of Westminster, Broomfield and Thornton collaborated on the investigation and selection of the location for the next new interchange on I-25 north of 120th Avenue. After careful consideration, the three City Councils unanimously selected 136th Avenue as the site of this new interchange. Since that time, there have been several steps taken towards the construction of the interchange that include:

- In October 1999, Council approved an intergovernmental agreement with the City of Thornton for the environmental assessment, the design and construction of the Interchange.
- In August 2000 a final financial feasibility study was completed and Council approved the formation of a General Improvement District to assist in financing the project.
- In the November 2000 general election, the voters approved a no-tax increase sales tax bond issue to finance the proposed 136th Avenue and I-25 Interchange.
- In May 2001, Council authorized design services for the relocation of Quail Creek and the Bull Canal, separating them from the interchange design so the relocations could occur in advance of the interchange construction.
- In June 2001, Council approved an intergovernmental agreement for the relocation of the United Power electric substation, which was previously located in the southwest quadrant of the proposed interchange.
- In June 2001, Council approved a sales tax bond reimbursement resolution allowing the City to be reimbursed for project expenses that are incurred prior to the issuance of bonds.
- In December 2002, Council approved the Intergovernmental Agreement (IGA) between the City of Westminster, the City of Thornton and the Colorado Department of Transportation. This IGA spells out the construction, maintenance and funding obligations of all of the parties.
- In January 2003, all of the design and construction documents were completed, all of the right-of-way was acquired, and all of the environmental and utility approvals were completed allowing this project to be advertised for construction bids.

The notice of the construction package for this project was advertised in the Daily Journal for five weeks and bids were opened on March 6. Eight contractors submitted bids on this project with the low bid of \$11,586,109.42 being submitted by SEMA Construction Company. It is recommended that City Council award the construction contract to SEMA Construction Company. The bid results are as follows:

<u>Bidder</u>	<u>Amount of Bid</u>
SEMA Construction Co.	\$ 11,586,109.42
Asphalt Specialties Co.	\$ 11,677,777.77
Jalisco Interprises	\$ 11,879,595.82
AMES Construction Co.	\$ 11,942,000.00
Hamon Contractors, Inc.	\$ 12,076,649.87
Edward Kramer and Sons	\$ 12,150,031.31
Lawrence Construction Co.	\$ 13,189,553.14
Concrete Express	\$ 14,690,470.71
Engineer's estimate (Felsburg, Holt & Ullevig)	\$ 17,180,300.00

The City and Felsburg, Holt & Ullevig (FHU), the City's consultant, have reviewed the results of the bidding procedure and recommend that the low bidder, SEMA Construction Company, be awarded the contract for construction in the amount of \$ 11,586,109.42. The City and FHU are very familiar with SEMA since they were the contractor that recently constructed the Westminster Boulevard Flyover Project for the City. SEMA constructed this project in a professional and timely manner.

The requested construction contingency of \$500,000 is 10% of the City's share of the cost of construction or \$ 4,973,081.75. This is reasonable contingency for a project of this size and complexity. In addition, the City of Thornton will supplement this contingency amount since they are responsible for approximately 58% of the cost of construction.

The request for authorization to pay XCEL Energy for the design and installation of all of the streetlights for this project is recommended since this is standard procedure on all Capital Improvement Projects. A more important reason to use XCEL in the design and construction of these facilities is that the City gets a "construction allowance" from XCEL when they provide this service. This allowance makes the cost of this work substantially lower than if the street light design and construction is included as part of the bid for the project.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 24, 2003



SUBJECT: Intergovernmental Agreement with Thornton regarding the Project Feasibility Study for the 144th Avenue Interchange

Prepared By: Stephen C. Baumann, Assistant City Engineer

Recommended City Council Action

Authorize the Mayor to sign an Intergovernmental Agreement between Thornton and Westminster for Westminster to contribute \$132,600 toward the completion of the Project Feasibility Study and Environmental Assessment for the proposed Interchange at 144th Avenue and Interstate 25.

Summary Statement

- Thornton and Westminster have a strong interest in the planning and development of the I-25 Corridor and have shared the costs of the 136th Avenue Interchange, scheduled for construction through late 2004. Several years ago, Thornton also started the Feasibility Studies needed for the 144th Ave Interchange, another important interchange in the north area. The Project Level Feasibility Study is now approximately 60% complete and proposes a diamond interchange configuration.
- Given the importance of the interchange, the two cities would like to expand the scope of the Feasibility Study to include a partial cloverleaf along the diamond interchange layout. The partial cloverleaf option uses slightly more land, but is more efficient in dealing with high traffic volumes, particularly those exiting the interstate highway. To allow as much flexibility as possible in choosing the interchange in the future, the cities have agreed to include the partial cloverleaf option in the Thornton consultant's work at a cost of \$132,600. Since Thornton has borne all other costs of the Feasibility Study to-date (several hundred thousand dollars), Westminster has agreed to cover that additional cost in total.
- The Intergovernmental Agreement for Westminster's participation in the project is attached to this Agenda Memorandum and recommended for approval.

Expenditure Required: \$132,600

Source of Funds: General Capital Improvement Fund Reserves

Policy Issues

To this point, Thornton has taken the lead in the pursuing the Feasibility Studies for the 144th Avenue Interchange, and they will continue to do so with or without Westminster's involvement. The policy issue is whether the City wants to increase involvement in the planning for the interchange and thereby include consideration of options that are also of interest to Westminster. In general, the goals and benefits of the project are shared equivalently by the two cities. It follows that the costs of planning and pursuing those benefits should also be shared.

Alternative

The alternative to participating in the cost of the Feasibility Study is to allow Thornton to complete it themselves, as originally planned, advancing the lone alternative evaluated to date, a diamond interchange. Although the diamond configuration is relatively low cost and functional, carrying it forward as the only option could delay timely approvals by Colorado Department of Transportation if another interchange type is desired in the future to better serve the significant development potential of the sites that adjoin 144th Avenue and I-25. This alternative is not recommended

Background Information

Thornton and Westminster began joint planning of the 136th Avenue interchange with I-25 several years ago and have recently sponsored the start of construction of this project. Both cities are also interested in advancing the approvals and progress of the 144th Avenue Interchange and confirming its place on the Regional Transportation Plan. Thornton was able to find funding to complete a Systems Level Feasibility Study of the 144th Avenue interchange in 2001, and started a Project Level Feasibility Study in early 2002. While Westminster is keenly interested in that interchange, up until recently, no funding was available to assist in the effort.

At about 60% complete, the Project Level Feasibility Study is determining that a straight diamond interchange is the preferred alternative for 144th Avenue and I-25. In terms of cost this is not surprising, as the diamond utilizes the least amount of land and earthwork and structure improvements of almost any fully functional interchange style. Unfortunately, the diamond layout is not the most efficient in terms of handling traffic and minimizing delays, particularly at the ramp-end connection to the primary cross street (144th Avenue). The planning efforts for the north I-25 corridor suggest that future land uses may place high demands on the transportation infrastructure in general and the interchange in particular, and that a partial cloverleaf configuration is also worthy of consideration. To include this in the Feasibility Study could allow both alternatives to be carried forward and thus allow the choice of interchange layout to be responsive to ultimate land use intensities. If the partial cloverleaf is not brought forward, and is later found to be best suited for the proposed development, delays are likely while environmental analyses and other evaluations are brought up to date for the different layout. The Colorado Department of Transportation and the Federal Highway Administration have approval authority on interchange projects.

An amended scope of work was developed for Thornton's planning consultant, Washington Group International, and Westminster has agreed to cover the \$132,600 cost of revising the Project Level Feasibility Study to incorporate the partial cloverleaf in the preferred alternatives evaluation. Funding for this effort is available in the General Capital Improvement Fund Reserves.

With Council's approval of the attached Intergovernmental Agreement, Thornton will amend the contract, aiming for a completion of the Study in July or August of this year.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



WESTMINSTER
COLORADO
Agenda Memorandum

City Council Meeting
March 24, 2003



SUBJECT: Bids for 2003 Large Item Trash Cleanup Program Pilot Program

Prepared By: Sam LaConte, Street Operations Manager

Recommended City Council Action

Authorize the City Manager to execute a contract with Browning Ferris Inc. (BFI) in the amount of \$95,000 to perform the 2003 Large Item Trash Cleanup Program and charge the costs to the 2003 Street and Utilities Operations Divisions budgets.

Summary Statement

- The City’s Public Works and Utilities Department, through its Quality Service/Competitive Service Team (QS/CS), performed a study on the City’s popular Large Item Trash Cleanup Program in an effort to improve the delivery of the program.
- The private trash hauler will pick up the large item debris that is not normally included in everyday household trash. The difference in the program will be the private trash hauler will complete the hauling over two consecutive Saturdays versus the City’s traditional two week period at the end of April.
- Staff determined the program could be outsourced using a private trash hauler on two consecutive Saturdays, freeing up City Staff time to concentrate on roadway and water and wastewater utilities maintenance, while continuing to deliver the large item cleanup program.
- Staff is recommending that this program be performed as a pilot program in 2003 to determine its future viability and the adequacy customer service to Westminster residents.
- Staff sent out a Request for Proposal (RFP) to three firms qualified to perform this service. BFI is the low bidder qualified to perform the scope of work set forth by City staff. The work would take place on the last two Saturdays in April. DemandStar by Onvia an internet service the City uses to announce Request For Proposals was used to solicit additional bidders. The three local bidders all requested the RFP.

The three bids are as follows:

BFI	\$ 95,000
Waste Management	\$ 112,000
Valley Crest Landscape Maintenance	No Bid

Expenditure Required: \$95,000

Source of Funds: 2003 Street and Utilities Operations Divisions Budgets

Policy Issue

Does the City wish to outsource the 2003 Large Item Trash Cleanup Program as a pilot program.

Alternatives

- Continue to perform the program in-house with City personnel and City equipment using 13 tandem and single axle dump trucks, 4 front-end loaders and six pickups. In addition, the 2002 Spring Cleanup Program required 2,622 regular and 511 overtime manhours.
- Eliminate the total program, which may be an unpopular decision with residents.

Background Information

In 1977, the City initiated a large item trash cleanup program in an effort to persuade residents to rid their properties of large items not normally picked up by the local disposal companies. The program became very popular with City residents and was performed by City forces twice a year. The program continued to grow year by year with the City growth and the popularity requiring more equipment and manpower resulting in four weeks a year of Street Division personnel not performing street crackseal, patching, and other activities and Utilities Field Division water line replacement.

In 2002, the program was reduced to once a year due to the economic downturn, but still required two weeks of Public Works and Utilities field personnel.

As part of the ongoing effort by Public Works and Utilities to find ways to reduce costs, or perform activities more efficiently, the Quality Service/Competitive Service (QS/CS) team of four employees performed a study on this popular program. The QS/CS program is designed to review how a current service is delivered, what the cost to deliver the service is, what alternative ways the service can be delivered, and how the service can be improved. The QS/CS was developed by the Department of Public Works and Utilities in 1998 since every service that is delivered by the Department can be performed by an outside provider. The total estimated hard and soft dollar cost for the City crews to perform this annual Large Item Trash Cleanup program is \$145,681.

The QS/CS work unit team estimated the cost of outsourcing the program to be \$80,000. Since the low bid came in at \$95,000, the estimated budget shortfall is \$15,000, which will be equally absorbed between the Street and Utilities Operations Divisions budgets. The original estimated cost of the program was developed after meeting with representatives from BFI, who may not have had a clear understanding of the large type of debris involved at the time they developed the budget estimate. The \$95,000 cost is still well below the City's Cost to provide the program with City resources.

The results of the study pointed out that by outsourcing the Large Item Trash Cleanup program the Street Operations Division will be able to do an equivalent of 28 additional lane miles of cracksealing of City streets, install approximately 9 lane miles of striping, and maintain approximately 188 additional street signs. The Utilities Operations Division will be able to do an equivalent replacement of an additional 800 to 1,000 linear feet of waterline installation and maintain its goal of replacing four miles of pipeline per year, exercising approximately 160 water valves, and increasing the overall maintenance of the water distribution and wastewater collection systems.

In December 2002, Staff sent a letter to fourteen trash hauling companies that are licensed in the City to determine their level of interest in such a large project. Of these fourteen companies, only two companies expressed an interest in performing the project.

The Department of Public Works and Utilities will reassign several Staff members from their normal work schedule to oversee the Large Item Cleanup Program on April 19 and April 26 to ensure the program is delivered with the same high quality customer service expectations.

Staff will be present at the March 24 City Council meeting to answer any questions.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 D

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 24, 2003



SUBJECT: Contract for Design of the 74th Avenue Waterline

Prepared By: Diane M. Phillips, Capital Improvement Coordinator

Recommended City Council Action

Authorize the City Manager to execute a contract with Merrick Engineering in the amount of \$46,090 to provide design and construction inspection services for the 74th Avenue waterline and authorize \$6,910 for contingencies and charge the appropriate Utility Capital Improvement Fund.

Summary Statement

- The existing waterline in 74th Avenue between Federal Boulevard and Irving Street has required numerous repairs and cannot provide adequate fire flows, making replacement a priority.
- Request for Proposals were sent to five engineering firms and four firms submitted proposals for the design of the replacement line.
- Merrick Engineering submitted the lowest cost proposal and Staff recommends that the City contract with them to provide design and construction inspection services for this line.

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Expenditure Required: \$53,000 (includes 15% contingency)

Source of Funds: Utility Capital Improvement Fund

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Policy Issue

Should the City award a contract to Merrick Engineering to provide design and construction inspection services for the 74th Avenue waterline.

Alternative

The City could delay the design and construction of this line; however, the cost would likely increase and as numerous water breaks might occur, and peak fire flow could be compromised. The City could select one of the other three proposals or re-bid it altogether, but Staff has determined that Merrick is the most responsive bidder based on their low bid.

Background Information

The existing 8-inch waterline in 74th Avenue is aging and will be replaced with a 12-inch line that will provide adequate peak hour and fire flow supply to the Skyline Village area of the City. After the need to replace this line was identified and budgeted for in the 2003 CIP Budget, the scope of the project was expanded to include extending water services to the new 74th Avenue and Irving Street Library location and lengthening the project to include a Colorado Department of Transportation required bore under Federal Boulevard. Additionally, a 400-foot length of sanitary sewer in 74th Avenue will be replaced under the same contract, to take advantage of economies of scale.

The total estimated cost for the project is \$350,000 with \$145,000 from the 2003 CIP 74th Avenue Waterline Account and \$155,000 from the 2003 CIP Waterline Maintenance/Replacements /Additions Account and \$50,000 from Utility Operating Fund (Sewer Replacement).

Request for Proposals were sent to five engineering firms and four firms responded. Their prices are listed below.

Merrick Engineering	\$46,090
HDR Engineering	\$48,826
RMC Engineering	\$59,636
JR Engineering	\$76,564

Merrick Engineering had the lowest cost and they have completed numerous successful projects for the City.

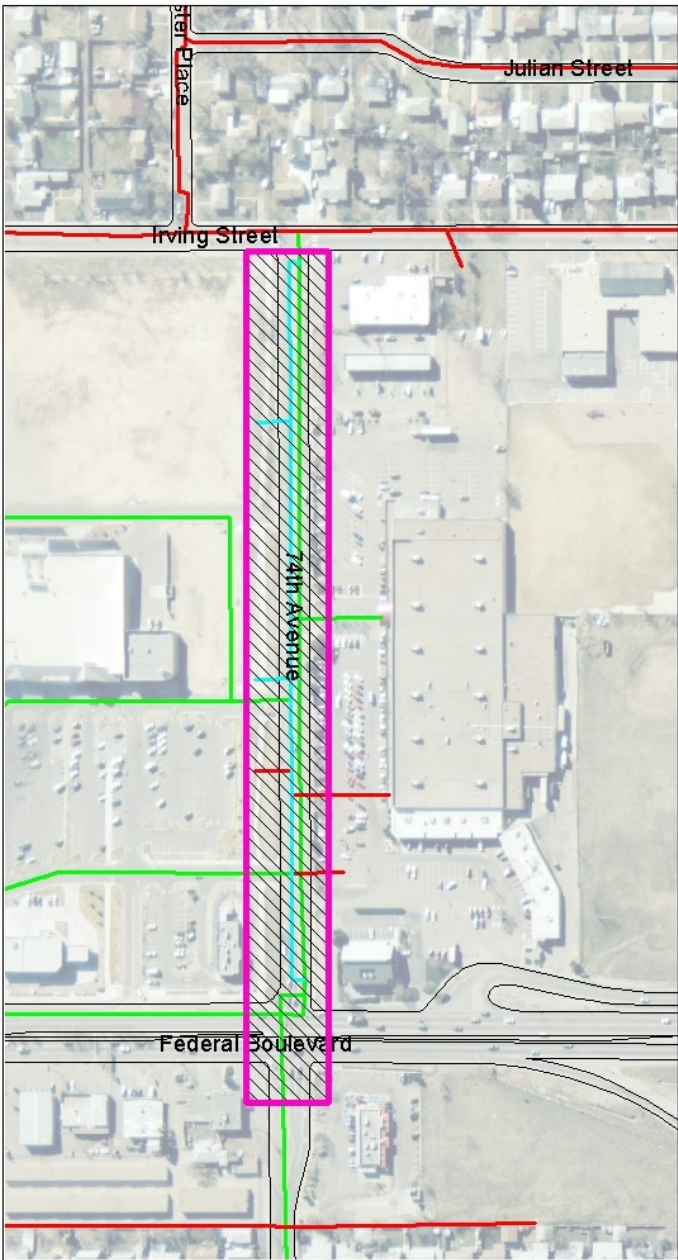
The design of this project is expected to be completed by June 15, in time to commence construction by August 31.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

WESTMINSTER
74th Avenue Project



1 inch equals 200 feet





WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 24, 2003

SUBJECT: Second Reading CB No. 11 re Establishing New Precincts for City Elections

Prepared By: Michele Kelley, City Clerk

Recommended City Council Action

Pass Councillor's Bill No. 11 on second reading establishing new precincts and polling places for future City conducted polling place elections.

Summary Statement

- The State has completed a revision of state legislature boundaries, and all Counties have completed a revision of their precinct boundaries to reflect the state legislative boundaries.
- The current City precinct boundaries do not coincide with the newly adopted County boundaries.
- City Council requires City precinct boundaries and polling places will be reviewed by the Election Commission after the State process of redistricting and the County process of reprecincting.
- The last time the City precincts were reviewed and adjusted was July of 1991.
- The Westminster Election Commission has proposed changes to reflect the County precinct changes and has recommended polling places for each precinct.
- City Council considered and passed this Councillor's Bill on first reading on March 17th, 2003.

Expenditure Required: \$ 0

Source of Funds: n/a

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO. **3014**

COUNCILLOR'S BILL NO. **11**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

Dittman-Dixon

A BILL
FOR AN ORDINANCE AMENDING CITY OF WESTMINSTER
PRECINCTS AND POLLING PLACES

THE CITY OF WESTMINSTER ORDAINS:

Section 1: Title 7, Chapter 1, Section 2 of the Westminster Municipal Code is hereby amended as follows:

7-1-2: WARDS; PRECINCTS; POLLING PLACES:

(A) The City shall consist of one ward.

(B) There is hereby established and there shall be ~~nineteen~~ TWENTY-TWO (49 **22**) precincts within the City as follows:

~~Precinct 1 shall consist of that area within the City lying north of 77th Avenue, west of Bradburn Boulevard, south of the Denver Boulder Turnpike east of Sheridan Boulevard to approximately 88th Avenue on the north~~ ADAMS COUNTY PRECINCTS 2313501012, 2313501013, AND 2313501014.

~~Precinct 2 shall consist of that area within the City lying south of 77th Avenue, west of Bradburn Boulevard extended to the City limits on the south, east of Sheridan Boulevard.~~ ADAMS COUNTY PRECINCTS 2313501011, 2313501016 AND 7313501009 WITHIN THE CITY LIMITS.

~~Precinct 3 shall consist of that area within the City lying north of the Denver Boulder Turnpike, west of Lowell Boulevard, south of 88th Avenue, east of Sheridan Boulevard~~ ADAMS COUNTY PRECINCTS 2313501019 AND 2313501023.

~~Precinct 4 shall consist of that area within the City lying east of Lowell Boulevard, north of the Denver Boulder Turnpike, west of Zuni Street and south of 88th Avenue~~ ADAMS COUNTY PRECINCTS 2313501020 AND 2313501024 WITHIN THE CITY LIMITS.

~~Precinct 5 shall consist of that area within the City lying east of Federal Boulevard, south of the Denver Boulder Turnpike, west of Zuni Street, to the City limits on the south~~ ADAMS COUNTY PRECINCTS 2313501021, 2313501025 AND 2313501026 WITHIN THE CITY LIMITS.

~~Precinct 6 shall consist of that area within the City lying east of Bradburn Boulevard, west of Lowell Boulevard and south of the Denver Boulder Turnpike to the City limits on the south~~ ADAMS COUNTY PRECINCTS 2233501030 AND 223501031.

~~Precinct 7 shall consist of that area within the City lying east of Lowell Boulevard, west of Federal Boulevard, south of the Denver Boulder Turnpike to the City limits on the south~~ ADAMS COUNTY PRECINCTS 2313501027, 2313501028 AND 2233501029 WITHIN THE CITY LIMITS

~~Precinct 8 shall consist of that area within the City lying east of Lowell Boulevard, west of Federal Boulevard, north of 88th Avenue and south of 104th Avenue~~ ADAMS COUNTY PRECINCTS 2233401050 AND 2233401051.

~~Precinct 9 shall consist of that area within the City lying east of Sheridan Boulevard, west of Lowell Boulevard, north of 88th Avenue and south of 104th Avenue ADAMS COUNTY PRECINCTS 2233501032 AND 2233501033.~~

~~Precinct 10 shall consist of that area within the City lying north of 96th Avenue, east of Alkire Street, along the City limits on the north to Simms Street, then north along Simms Street then south along Countryside Drive to Oak Street to the City limits on the south ADAMS COUNTY PRECINCTS 2233401034,2233401035,AND 2233401038.~~

~~Precinct 11 shall consist of that area within the City lying north of 104th Avenue, south of 120th Avenue, east of Sheridan Boulevard and west of the eastern City limits at 104th Avenue, then north to 112th Avenue, then west along 112th Avenue to Federal Boulevard, then north along Federal Boulevard to 120th Avenue ADAMS COUNTY PRECINCTS 2233401036, 2233401037, AND 2233401039~~

~~Precinct 12 shall consist of that area within the City lying north of 120th Avenue, east of Lowell Boulevard, south of the northern city limits and west of Interstate 25 ADAMS COUNTY PRECINCTS 2233301070, 2233301071, AND 2233301072.~~

~~Precinct 13 shall consist of that area within the City lying south of 100th Avenue, north of 88th Avenue and west of Colorado Highway 121 ADAMS COUNTY PRECINCTS 2233301073 AND 2233301074.~~

~~Precinct 14 shall consist of that area within the City lying east of Colorado Highway 121, south of 112th Avenue, west of the Denver Boulder Turnpike and north of 88th Avenue ADAMS COUNTY PRECINCTS 2233301075, 2233301076, 2233301077, 2233301078 AND 2233301079 WITHIN THE CITY LIMITS.~~

~~Precinct 15 shall consist of that area within the City lying south of 112th Avenue, east of Simms Street to Countryside Drive, south along Countryside Drive to Oak Street, south on Oak Street to 100th Avenue, east along 100th Avenue to Colorado Highway 121, north on Colorado Highway 121 to 112th Avenue, east along 112th Avenue to the Denver/Boulder Turnpike, north to 120th Avenue JEFFERSON COUNTY PRECINCTS 2192930021 AND 2192930022.~~

~~Precinct 16 shall consist of that area within the City lying east of the Denver Boulder Turnpike, south of 120th Avenue, west of Sheridan Boulevard and north of 88th Avenue JEFFERSON COUNTY PRECINCTS 219293007, 219293015, 219293018 AND 219293019 WITHIN THE CITY LIMITS.~~

~~Precinct 17 shall consist of that area within the City lying west of Interstate 25, south of 120th Avenue, east of Federal Boulevard and north of 112th Avenue JEFFERSON COUNTY PRECINCTS 219293002, 219293011 AND 2192930013 WITHIN THE CITY LIMITS.~~

~~Precinct 18 shall consist of that area within the City lying west of Sheridan Boulevard, south of 80th Avenue, east of Pierce Street and north of the City limits JEFFERSON COUNTY PRECINCTS 2192930016 AND 2192930020.~~

~~Precinct 19 shall consist of that area within the city lying west of Wadsworth Boulevard, north of the southern city limits along West 86th Avenue; north along the western city limits along the east side of Standley Lake to the Niver Canal; east along the Niver Canal to the foot path, south along the foot path to West 93rd Avenue, east on West 93rd Avenue to Garrison Street, south on Garrison Street to West 90th Place, southwest on West 90th Place to Independence Street, southeast on Independence Street to Farmers Highline Canal, east along Farmers Highline Canal to Field Street, north on Field Street to West 91st Avenue; east on West 91st Avenue to Cody Street; southeast on Cody Street to the fence line of Farmers Highline Canal; east along the Farmers Highline Canal to Wadsworth Boulevard JEFFERSON COUNTY PRECINCTS 2192930009, 2192930014 AND 2192930017~~

~~PRECINCT 20 SHALL CONSIST OF JEFFERSON COUNTY PRECINCTS 2192930006, 2192930010 AND 2192930012.~~

PRECINCT 21 SHALL CONSIST OF JEFFERSON COUNTY PRECINCTS 219293001, 219293004 AND 219293005 WITHIN THE CITY LIMITS.

PRECINCT 22 SHALL CONSIST OF JEFFERSON COUNTY PRECINCTS 219293003 AND 2192930008 WITHIN THE CITY LIMITS

(C) The following places in each precinct are hereby designated as the official polling places at which elections are to be held:

1. ~~Precinct 1: Westminster Hills Elementary School, 4105 West 80th Ave~~
2. ~~Precinct 2: St. Martha's Episcopal Church, 7615 Bradburn Blvd~~
3. ~~Precinct 3: Advent Lutheran Church, 3740 West 80th Avenue~~
4. ~~Precinct 4: First Southern Baptist Church, 7979 Lowell Blvd~~
5. ~~Precinct 5: Skyline Vista School, 7395 Zuni Street~~
6. ~~Precinct 6: Westminster Presbyterian Church, 7390 Bradburn Blvd~~
7. ~~Precinct 7: Westminster Elementary School, 7482 Irving Street~~
8. ~~Precinct 8: Sunset Ridge Elementary School, 9455 Hooker Street~~
9. ~~Precinct 9: Westminster City Hall, 4800 West 92nd Avenue~~
10. ~~Precinct 10: Countryside Recreation Center, 10470 Oak Street~~
11. ~~Precinct 11: Cotton Creek Elementary School, 11100 Vrain Street~~
12. ~~Precinct 12: Casa Estates Mobile Home Clubhouse, 860 West 132nd Ave~~
13. ~~Precinct 13: Zerger Elementary School, 9050 Field Street~~
14. ~~Precinct 14: Mandalay Junior High School, 9651 Pierce Street~~
15. ~~Precinct 15: Witt Elementary School, 10255 West 104th Drive~~
16. ~~Precinct 16: Sheridan Green Elementary School, 10951 Harlan St~~
17. ~~Precinct 17: The Ranch Country Club, 11887 Tejon Street~~
18. ~~Precinct 18: Thomson Elementary School, 7750 Harlan Street~~
19. ~~Precinct 19: Moore Junior High School, 8455 West 88th Avenue~~

- PRECINCT 1: 76TH AVENUE LIBRARY, 3031 WEST 76TH AVENUE
PRECINCT 2: FIRE STATION NO. 1, 3948 WEST 73RD AVENUE
PRECINCT 3: WESTMINSTER HILLS ELEMENTARY SCHOOL, 4105 WEST 80TH AVE
PRECINCT 4: GREGORY HILL PRESCHOOL, 8030 IRVING STREET
PRECINCT 5: HIGHVIEW MOBILE HOME CLUBHOUSE, 8601 ZUNI ST
PRECINCT 6: SUNSET RIDGE ELEMENTARY SCHOOL, 9451 HOOKER STREET
PRECINCT 7: WESTMINSTER CITY HALL, 4800 WEST 92ND AVENUE
PRECINCT 8: ROCKY MOUNTAIN ELEMENTARY SCHOOL, 3350 WEST 99TH AVENUE
PRECINCT 9: HYLAND HILLS RESTAURANT, 9650 SHERIDAN BOULEVARD
PRECINCT 10: FIRE STATION NO. 4, 4580 WEST 112TH AVENUE
PRECINCT 11: COLLEGE HILL LIBRARY, 3705 WEST 112TH AVENUE
PRECINCT 12: THE RANCH COUNTRY CLUB, 11887 TEJON STREET
PRECINCT 13: FIRE STATION NO. 6, 999 WEST 124TH AVENUE
PRECINCT 14: RECLAIMED WATER TREATMENT FACILITY, 13070 HURON ST
PRECINCT 15: KAISER HEALTH PLAN, 7701 SHERIDAN BOULEVARD
PRECINCT 16: MANDALAY MIDDLE SCHOOL, 9651 PIERCE STREET
PRECINCT 17: SHERIDAN GREEN ELEMENTARY SCHOOL, 10951 HARLAN STREET
PRECINCT 18: VICTORY CHURCH, 11700 SHERIDAN BOULEVARD
PRECINCT 19: MOORE MIDDLE SCHOOL, 8455 WEST 88TH AVENUE
PRECINCT 20: LUCAS ELEMENTARY SCHOOL, 9650 WEST 97TH AVENUE
PRECINCT 21: WEST VIEW RECREATION CENTER, 10747 WEST 108TH AVENUE
PRECINCT 22: WITT ELEMENTARY SCHOOL, 10255 WEST 104TH DRIVE

(D) In the event of future annexations to the City, the area annexed will become a part of the precinct to which it is annexed; except that, when such area shall be contiguous to two (2) or more precincts, the City Council by resolution shall designate the precinct in which the annexed area shall be located.

(E) When a City of Westminster election is held concurrently with a County conducted election, the designated precincts and polling places will be designated by the County; provided that the polling place for persons who are qualified electors as defined in the Westminster Charter, but not registered to vote, shall be Westminster City Hall.

(F) City precinct boundaries and polling places will be reviewed by the Election Commission after the State process of redistricting and the County process of reprecincting HAS BEEN COMPLETED.

Section 2. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 17TH day of March, 2003

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of March, 2003.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 24, 2003



SUBJECT: Second Reading Councillor's Bill No.12 re Historic Preservation Ordinance

Prepared By: Vicky Bunsen, Assistant City Attorney

Recommended City Council Action:

Pass Councillor's Bill No. 12 on second reading which provides for identification, preservation and use of City landmarks.

Summary Statement:

Staff has prepared a proposed ordinance that, if enacted, would:

- Allow the appointment of a qualified historic landmark board that is authorized to designate local historic landmarks.
- Allow voluntary applications to be submitted to a board for the landmarking of historically significant properties in the City.
- Provide for board review of alterations, demolition and other actions on landmarked properties.
- Satisfy one of the requirements for the City to become a "certified local government" (CLG), and thereby gain access to other grant funding opportunities that could be used to enhance landmarked properties in the City.
- Allow private property owners to become eligible for certain income tax credits for eligible expenses related to the landmarked property, if the City becomes a CLG.
- This Councillor's Bill was considered and passed on first reading on March 17, 2003.

Expenditure Required: \$0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager
Attachment

BY AUTHORITY

ORDINANCE NO. **3015**

COUNCILLOR'S BILL NO. 12

SERIES OF 2003

INTRODUCED BY COUNCILLORS

Hicks-McNally

A BILL

FOR AN ORDINANCE ESTABLISHING A PROGRAM FOR IDENTIFICATION, PRESERVATION
AND USE OF CITY LANDMARKS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Chapter 13 of Title XI of the Westminster Municipal Code is hereby adopted to read as follows:

11-13-1: DECLARATION OF POLICY AND PURPOSE:

(A) The Council finds that the pressures of population growth and development may result in the destruction, impairment or drastic alteration of the buildings, structures and areas important to the City's social, cultural, historic and architectural heritage. It is further found that the prevention of such destruction and impairment and the attendant preservation of the City's social, cultural, historic and architectural heritage is essential to the public health, safety and welfare.

(B) The purpose of this chapter is to promote the public health, safety and welfare through:

1. The protection, enhancement, perpetuation and use of buildings, structures, sites and areas that are reminders of past eras, events and persons important in local, state or national history, or which provide significant examples of architectural styles of the past, or which are unique and irreplaceable assets to the City and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived;

2. The development and maintenance of appropriate settings and environments for such buildings and structures, and in such sites and areas;

3. The enhancement of property values, the stabilization of neighborhoods and areas of the City, the increase of economic and financial benefits to the City and its inhabitants, and the promotion of visitor trade and interest;

4. The preservation and enhancement of a City of varied architectural styles, reflecting the distinct phases of its history: cultural, social, economic, political and architectural;

5. The enrichment of human life in its spiritual, educational and cultural dimensions by fostering knowledge of the living heritage of the past; and

6. The provision of educational opportunities and to increase the appreciation of local and state history.

(C) The intent of this chapter is to create a reasonable balance between private property rights and the public interest in preserving Westminster's unique historic character and culture. It is also the intent of this chapter not to preserve every old building in the City, but rather to provide incentives to preserve historic and architecturally significant sites, buildings, structures, neighborhoods and districts by providing guidelines for the appropriate use of land and the moving, demolition, reconstruction, restoration or alteration of such buildings, sites and structures that comply with state and federal historic preservation laws, thereby making certain tax credits available to private property owners and making other benefits and incentives available for preservation projects.

11-13-2: DEFINITIONS: As used in this chapter, the following words and terms are defined as follows:

ALTERATION: Any act or process that changes either one or more of the exterior architectural features of a structure; or one or more of the physical features of a site or district, except color or paint.

BOARD: The City's historic landmark board as created in this chapter.

CERTIFICATE OF HISTORIC APPROPRIATENESS: A certificate issued by the City showing approval of plans for construction, demolition, moving, reconstruction, restoration or alteration of any structure in a historic landmark district or designated as a historic landmark.

CONTRIBUTING STRUCTURES: Those structures or physical features within a site or district that help to define the historic significance of that site or district.

CULTURAL LANDSCAPE: A geographic area (including both cultural and natural resources and the wildlife or domestic animals therein) associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values.

DEMOLITION: Any act or process which destroys, in part or in whole, any historic landmark.

DESIGNATED LANDMARK OR DISTRICT: A structure, site or district officially included in the State of Colorado or National Register of Historic Places, or designated pursuant to this chapter as a historic landmark.

DIRECTOR: The City's Director of Community Development or his or her designee.

EXTERIOR ARCHITECTURAL FEATURES: The architectural style and general arrangement of the exterior of the structure including type and texture of the building materials and including all windows, doors, siding, roofs, lights, signs and other fixtures appurtenant thereto, if such physical component is visible from a public way or adjoining properties.

HISTORIC DESIGNATION: The formal recognition of a historic structure, site, or district by the City pursuant to this chapter.

HISTORIC LANDMARK: Any resources of this City either public and private, including buildings, homes, replicas, structures, objects, properties, cultural landscapes or sites that have importance in the history, architecture, archeology, or culture of this City, state or nation, as determined by the board and having received a historic designation because of its significance and importance to the community.

HISTORIC LANDMARK DISTRICT: A geographically definable area including a concentration, linkage or continuity of subsurface sites, cultural landscapes, buildings, structures, and/or objects. A district is related by a pattern of either physical elements or social activities. A term "district" may include, but is not limited to, neighborhoods, agricultural or commercial districts.

HISTORIC LANDMARK BOARD: The City Council or a citizen committee appointed by the City Council to make recommendations to the Council on the designation of historic landmarks and historic districts and to administer the City's historic landmark program, and hereinafter referred to as the "board." The board shall perform the various functions and duties provided for it in this chapter.

HISTORIC SITE: A landscape significant for its association with a historic event, activity or person.

HISTORIC SIGNIFICANCE: That which has a special historic or aesthetic interest or value as part of the development, heritage, cultural or historic character of the City, region, state or nation.

MAINTENANCE AND REPAIR: Any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration, decay of, or damage to a structure or any architecturally significant part thereof, and to restore or replace, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage, and which work does not effect a significant change in the external appearance of the structure.

OVERWHELMING HISTORICAL SIGNIFICANCE means:

1. Possessing such unusual or uncommon significance that any structure's potential demolition or major alteration would diminish the character and sense of place in the City; or
2. Possessing superior or outstanding examples of the architecture, social or geographic historic significance criteria outlined in the standards and criteria set forth in this chapter. The term "superior" shall mean excellence of its kind and the term "outstanding" shall mean marked by eminence and distinction.

OWNER: The person or persons listed in the records of the county clerk and recorder or county assessor as owner of a subject property.

PRESERVATION: The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic landmark.

RECONSTRUCTION: The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

REHABILITATION: The act or process of making a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historic, cultural or architectural values.

RESTORATION: The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from other periods in its history.

SIGNIFICANT CHANGE: An alteration or modification in the external appearance that has or is likely to have influence or effect on the historic or architectural merit of a structure or site, including, but not limited to all activities for which a building permit is required.

11-13-3: HISTORIC LANDMARK BOARD CREATED:

(A) There is hereby created a historic landmark board, which shall have the principal responsibility for matters involving historic landmarks as set forth in this chapter. The City Council may act as the board pursuant to this chapter until it appoints a qualified citizen board as provided herein.

(B) The board shall consist of five (5) to seven (7) members, appointed by the City Council, who have a demonstrated interest, competence or knowledge in historic preservation. The City Council may appoint up to two (2) alternate members, who shall attend meetings and participate fully in the activities, programs, and duties of the board. An alternate shall serve as a voting member of the board in the absence of a regular member, including the abstention of a member due to a conflict of interest. The board shall be composed of both professional and lay members and at least 40 percent shall be professionals in preservation-related disciplines, such as architecture, landscape architecture, architectural history, archaeology, history, and planning, or related disciplines such as building trades, real estate, law, cultural geography or cultural anthropology.

(C) Initial appointments shall be made for one (1) and two (2) year terms, in order to stagger the expiration of terms, and thereafter members shall be appointed for two (2) year terms.

(D) From among its regular members, the board shall select a chair and vice-chair at the first meeting of each calendar year.

(E) The board shall meet at least quarterly, unless applications or other requests for action are pending, in which case, the board shall meet at least monthly. All board meetings shall be open to the public with exceptions for executive sessions as provided for the City Council in this Code and as provided by any preservation-related state and federal law.

(F) A majority of the number of currently appointed regular board members shall constitute a quorum. An alternate may substitute for a regular board member to create a quorum. If a quorum is not present, then the chair of the board may set a new date for a special hearing or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date.

(G) The board shall adopt bylaws and other administrative guidelines to govern the conduct of its meetings, which shall be made available to the public.

11-13-4: POWERS AND DUTIES OF THE HISTORIC LANDMARK BOARD: Within available staff, volunteer and financial resources, the historic landmark board shall:

(A) Adopt criteria for review of historic resources and for review of proposals to alter, demolish, or move designated resources, that are in addition to and consistent with the criteria set forth in this chapter.

(B) Review properties nominated for designation as a historic landmark or a historic landmark district, and make recommendations to the City Council regarding historic designations.

(C) Encourage owners of historic properties to maintain them in good repair, and advise and assist owners of historic properties concerning physical and financial aspects of preservation, renovation, rehabilitation, and restoration, including nomination to the national and state registers of historic places.

- (D) Develop and assist in public education programs including, but not limited to, school programs, walking tours, brochures, a marker program for historic properties, interpretive sites and programs, lectures, and conferences about the history of the local and regional community, the value of preserving historic properties, and the materials and methods of preservation.
- (E) Review applications for and issue certificates of historic appropriateness pursuant to this chapter.
- (F) Conduct surveys of historic properties, structures and areas in order to define those of historic significance, for the purpose of creating a preservation plan of historic properties and districts.
- (G) Pursue financial assistance for preservation and history-related programs.
- (H) Maintain records and files on all board actions and provide documentation as necessary to the State Historical Fund.
- (I) Develop and modify as needed a checklist of activities critical to the maintenance of a historic landmark to be completed as a requirement for receiving a tax rebate.
- (J) Identify and implement other incentives for owners of historic properties.
- (K) Authorize and implement such steps as it deems desirable to recognize the merit of and to encourage the protection, enhancement, perpetuation, and use of any historic landmark or historic landmark district by, without limitation, issuing certificates of recognition and authorizing plaques to be affixed to the exteriors of such structures.
- (L) Pursue these duties and any others required by state and federal law in order to qualify the City as a certified local government under applicable historic preservation laws.
- (M) Foster civic pride and awareness of the unique heritage of the City.

11-13-5: CRITERIA FOR DESIGNATION: The board will consider the following criteria in reviewing nominations of properties for designation:

- (A) Properties receiving historic designations shall be at least fifty (50) years old except as otherwise provided herein and possess architectural, social, or geographical/environmental importance by meeting one or more of the following:
 1. Exemplifies specific elements of an architectural style or period;
 2. Is an example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally, or locally;
 3. Demonstrates superior craftsmanship or high artistic value;
 4. Represents an innovation in construction, materials or design;
 5. Represents a style particularly associated with the Westminster area;
 6. Represents a built environment of a group of people in an era of history;

7. Represents a pattern or grouping of elements representing at least one of the above criteria;
8. Has undergone significant historic remodel;
9. Is the site of historic event that had an effect upon society;
10. Exemplifies cultural, political, economic or social heritage of the community;
11. Represents an association with a notable person or the work of a notable person;
12. Represents a typical example/association with a particular ethnic group;
13. Represents a unique example of an event in Westminster's history;
14. Enhances sense of identity of the community;
15. Is an established and familiar natural setting or visual feature of the community.

(B) Additional Criteria For Historic Landmark Districts: A district is related by a pattern of either physical elements or social activities. Significance is determined by applying criteria in this chapter to the patterns and unifying elements. District designations will not be considered unless the application contains written approval of all property owners within the district boundaries. Properties that do not contribute to the significance of the historic landmark district may be included within the boundaries, as long as the noncontributing elements do not noticeably detract from the district's sense of time, place and historic development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location, and/or information potential.

(C) Any site listed on the State or National Register of Historic Places shall be deemed to qualify for local designation under this Chapter, but shall not be locally designated until an application for designation is filed and processed pursuant to this chapter.

11-13-6: PROCEDURES FOR NOMINATION OF HISTORIC LANDMARKS AND DISTRICTS:

(A) Who May Nominate: The board, City Council, or the Westminster Historical Society may nominate a property, area or structure for designation as a historic landmark or historic landmark district or a property owner may nominate his or her own property. If a nomination is received from a party other than the property owner, the nominating party shall contact the owner or owners of such historic property, outlining the reasons for and the effects of designation as a historic property, and shall secure the consent of the owner or owners to such designation before the nomination is accepted as complete for review.

(B) The nominating party shall file an application with the director on forms prescribed by the board, and shall include the names of all owners of property included in the proposed designation, and shall be accompanied by all information required by the board. The director shall transmit copies of the application to relevant City departments and the Westminster Historical Society for comment. If the nominating party is not the property owner, the director shall keep the owner informed of all steps in the designation proceedings and provide copies of documents that are filed with the City.

(C) Nomination Contents: Each such nomination shall include a description of the characteristics of the proposed historic landmark that justify its designation pursuant to this chapter, a description of the particular features that should be preserved, and shall include a legal description of the location and

boundaries of the historic property. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this chapter.

11-13-7: PROCEDURES FOR DESIGNATION OF HISTORIC LANDMARKS AND HISTORIC DISTRICTS:

(A) Application:

1. Any completed application for designation, once reviewed by the director, shall be promptly referred to the board. The board shall hold a public hearing on the proposal not less than thirty (30) days nor more than sixty (60) days after the filing of the application to consider the adoption of the designation resolution. The hearing may be held less than thirty (30) days after submission of the application, upon mutual consent of the applicant and the board.

2. Notice of the public hearing shall be published and posted at least ten (10) days prior to the hearing.

3. The director shall review the proposed designation with respect to: a) its relationship to the comprehensive plan; b) the effect of the designation on the surrounding neighborhood; c) the criteria set forth in this chapter; and d) such other planning considerations as may be relevant to the proposed designation. The director shall provide written comments and recommendations regarding the proposed designation to the board no less than seven (7) days before the hearing.

(B) Public hearings shall be conducted as quasi-judicial hearings, following procedures comparable to those used by City Council, unless specific procedures are provided by board bylaw.

(C) The board recommendation to the City Council shall be made after the board has heard all interested parties and relevant evidence. With the consent of the nominating party, the board may continue the hearing from time to time as necessary to gather all relevant evidence to make its recommendation. The board shall consider the conformance or lack of conformance of the proposed designation with the purposes, standards and criteria of this chapter. The board shall either recommend approval, modification and approval, or disapproval of the proposal and shall promptly refer the proposal, with a copy of its report and recommendations, to the Council. If the landowner is not satisfied with the recommendation to the Council, the landowner may withdraw the application, or withdraw consent to the application made by another nominating party, prior to the Council's action on the proposed designation.

(D) Proceedings Before The Council:

1. Within thirty (30) days after the date of any referral from the board, the Council shall hold a public hearing on the proposed designation. Notice of the public hearing shall be published and posted at least four (4) days prior to the hearing.

2. The Council shall, by resolution, approve, modify and approve, or disapprove the proposed designation and shall issue written findings in accordance with and after considering the criteria as set forth for historic landmarks and historic landmark districts. Such designating resolution shall include a description of the characteristics of the site that justify its designation and a description of the features that should be preserved or enhanced, and shall include a legal description of the location and boundaries of the historic landmark. The designating resolution may also indicate alterations that would have a significant impact upon, or be potentially detrimental to, the historic landmark. The owner(s) of the property nominated shall be notified of Council's decision. Once designated, the landmark shall be

required to display appropriate signage as determined by the board, notifying the public of such designation.

(E) Recording The Designation:

1. The historic designation resolution of the City Council shall be recorded within the real estate records of the county in which the property is located as soon as possible after the effective date of the resolution.

2. Within fifteen (15) days after recording of the historic designation, the director shall send a copy of the resolution to the owner.

(F) A property designated as a historic landmark shall retain that designation in perpetuity, unless the property has lost its historic character as determined pursuant this chapter.

11-13-8: REVOCATION OF DESIGNATION:

(A) If a structure or physical feature on a designated historic landmark site was lawfully removed or demolished, the owner may apply to the board for revocation of designation. The board shall recommend revocation of a historic landmark designation if it determines that without the demolished structure or physical feature the site as a whole no longer meets the purposes and standards of this chapter and the board's review standards for designation.

(B) Upon the board's recommendation to revoke a designation, the director shall cause to be prepared a resolution including the legal description of the affected property stating notice of the revocation, and schedule the item for City Council review. Upon adoption by the City Council, the resolution shall be recorded within the real estate records of the county in which the property is located.

(C) The City Council may revoke designation of a historic landmark if the public benefits of alteration, removal or demolition of the landmark outweigh the public benefits of maintaining the designation.

11-13-9: SPECIAL DUTIES AND OBLIGATIONS OF OWNERS OF HISTORIC PROPERTIES:

(A) It shall be unlawful for owners of historic landmarks to allow:

1. The deterioration of exterior walls or other vertical supports;
2. The deterioration of roofs or other horizontal members;
3. The deterioration of external chimneys;
4. The deterioration or crumbling of exterior plasters, mortars, brick, stone or wood siding;
5. The ineffective waterproofing of exterior walls, roof, and foundations, including windows and doors;
6. The peeling of paint, rotting, holes and other forms of decay;
7. The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, steps, signs, accessory structures and landscaping to produce a detrimental effect on a historic landmark;

8. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

(B) Before an owner is cited for failure to maintain the historic landmark or structure in a historic landmark district, the board shall notify the property owner, lessee, or occupant of the need to repair or maintain, and shall assist the owner, lessee, or occupant in determining how to preserve the property, and shall give the owner a reasonable time to perform such work, which time shall not exceed one hundred twenty (120) days. The board may grant extensions of the time period for good cause.

11-13-10: CERTIFICATE OF HISTORIC APPROPRIATENESS:

(A) A certificate of historic appropriateness shall be required for any work other than maintenance and repair on a property subject to a historic designation. It shall be unlawful for any person to perform any work, other than maintenance and repair without having first obtained a certificate of historic appropriateness.

(B) The director shall maintain a current record of: (1) designated historic landmarks; (2) historic landmark districts; and (3) all pending proposed designations.

(C) Upon any application for a permit to carry out any construction, alteration, removal or demolition of a building or other designated feature to a historic landmark or in a historic landmark district, which would materially alter the exterior of such a building, site or structure, or that involves more than ordinary maintenance and repair, the Department of Community Development shall not issue the requested permits until approved as provided herein, and shall promptly forward such application to the board.

(D) The board shall review any permit applications so forwarded to it to determine whether a certificate of historic appropriateness for the work proposed should be issued.

(E) Applications shall contain such information as is required by the board, so as to assure full presentation of pertinent facts for proper consideration of the application. The application shall be accompanied by plans and specifications showing the proposed exterior appearance, including color, texture of materials and architectural design and detail. Drawings or photographs showing the property in the context of its surroundings shall also be required. In addition, the applicant shall file with his/her application the names and addresses of abutting property owners, including properties across the street from the property.

(F) An application shall be promptly referred to the board. The board shall hold a public hearing on the proposal not less than thirty (30) days, nor more than sixty (60) days after the filing of the application to consider the adoption of the designation resolution. The hearing may be held less than thirty (30) days after submission of the application, upon mutual consent of the applicant and the board.

(G) Notice of the public hearing shall be published and posted at least ten (10) days prior to the hearing.

(H) In determining whether to issue a certificate of historic appropriateness the board shall consider:

1. The effect of the proposed change on the general architectural and/or historic character of the structure or district;

2. The architectural style, arrangement, textures and materials used on existing and proposed structures and their relation to other structures in the district, if applicable;
3. The uniqueness of the structure and how it ties in with the history of the area;
4. The size of the structure, its setbacks, its site, location, and the appropriateness thereof, when compared to existing nearby structures and the site;
5. The effects of the proposed work in creating, changing, destroying or otherwise affecting the exterior architectural features of the structure upon which such work is done;
6. The effect of the proposed work on the protection, enhancement, perpetuation and use of the structure, area or district;
7. The condition of existing improvements and whether they are a hazard to the public health or safety;
8. The economic viability of maintaining the structure or area as is;
9. Whether the property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment;
10. Whether the historic character of a property is being retained and preserved;
11. Visual compatibility with designated historic structures located on the property in terms of design, finish, material, scale, mass and height. When the subject site is within a historic landmark district, the board must also find that the proposed development is visually compatible with the development on adjacent properties. For the purposes of this chapter, the term "compatible" shall mean consistent with, harmonious with, and/or enhances the mixture of complementary architectural styles either of the architecture of an individual structure or the character of the surrounding structures.

(I) Limitations On Alterations: The following criteria shall apply to all alterations or changes:

1. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
2. The removal or alteration of any historical material or distinctive features shall be avoided when possible.
3. Deteriorated historic features shall be repaired rather than replaced when possible. When the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
4. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
5. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

6. New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property and shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic landmark and its environment would be unimpaired. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

7. All historic or contributing buildings, structures, and sites shall be recognized as products of their own time and place. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, site or environment. These changes may have acquired significance in their own right, and shall be retained and preserved. Alterations that have no historical basis and which seek to create an earlier or non-local appearance shall be discouraged.

8. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration to the defining characteristics, as identified in the application for designation, of the building, structure, or site and its environment, or to use the property for its originally intended purpose.

(J) Board Action: The board shall approve or disapprove the application in whole or in part. Any decision of the board approving or disapproving a certificate of historic appropriateness shall be final in thirty (30) days. The board shall issue a Certificate of Historic Appropriateness for any proposed work on a designated historical landmark only if the board can determine that the proposed work would not detrimentally alter, destroy, or adversely affect any feature that was found by the board in the original designation to contribute to the designation of the property as a landmark.

11-13-11: RELOCATION OF AN HISTORIC LANDMARK: It shall be unlawful for any person to relocate a historic landmark, a contributing structure on a historic site, a building or structure within a historic landmark district; a structure onto a historic site; or a structure onto property in a historic landmark district without having first obtained a certificate of historic appropriateness. In addition to the alterations criteria in this chapter, the board shall apply the following criteria in considering applications for relocating a historic landmark, a contributing structure on a historic site, a building or structure within a historic landmark district; a structure onto a historic site; or a structure onto property in a historic landmark district:

(A) With regard to the original site, the board will review for compliance with all of the following criteria:

1. Documentation showing the structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property;

2. Whether the structure makes a substantial contribution to its present setting;

3. Whether plans are specifically defined for the site to be vacated and have been approved by City Staff;

4. If the structure can be moved without significant damage to its physical integrity and the applicant can show the relocation activity is the best preservation method for the character and integrity of the structure;

5. Whether the structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and re-siting;

6. Whether a structural report submitted by a licensed structural engineer experienced in preservation of structures adequately demonstrates the soundness of the structure proposed for relocation.

(B) With regard to the new location, the board will review for compliance with all of the following criteria:

1. The building or structure must be compatible with its proposed site and adjacent properties and if the receiving site is compatible in nature with the structure or structures proposed to be moved.

2. The structure's architectural integrity is consistent with the character of the receiving neighborhood.

3. The relocation of the historic structure would not diminish the integrity or character of the neighborhood of the receiving site.

4. A relocation plan has been submitted and approved by the City Staff, including posting a bond, to ensure the safe relocation, preservation and repair (if required) of the structure, site preparation and infrastructure connections.

11-13-12: DEMOLITION OF A HISTORIC LANDMARK: It shall be unlawful for any historic landmark or property in a historic landmark district to be demolished without having first obtained a certificate for demolition. If a certificate for demolition is requested on any basis other than that of an imminent hazard or economic hardship, a certificate of demolition will not be issued until all criteria in subsection (A) of this section are met.

(A) Review Criteria For Total Demolition: Applicants requesting a certificate of demolition must provide data to clearly demonstrate that the situation meets all of the following criteria:

1. The structure proposed for demolition is not structurally sound despite evidence of the owner's efforts to properly maintain the structure; and

2. The structure cannot be rehabilitated or reused on-site to provide for any reasonable beneficial use of the property; and

3. The structure cannot be practically moved to another site; and

4. The applicant demonstrates that the proposal mitigates to the greatest extent practical the following:

(a) Any impacts that occur to the visual character of the neighborhood where demolition is proposed to occur.

(b) Any impact on the historic importance of the remaining structure(s) located on the property and adjacent properties.

(c) Any impact to the architectural integrity of the remaining structure(s) located on the property and adjacent properties.

5. In the case of archeological sites, consideration will be given to whether information can be recovered as part of the demolition process.

(B) Review Criteria For Partial Demolition:

1. The partial demolition is required for the renovation, restoration or rehabilitation of the structure; and

2. The applicant must mitigate, to the greatest extent possible:

(a) Impacts on the historic importance of the structure(s) located on the property.

(b) Impacts on the architectural integrity of the structure(s) located on the property.

11-13-13: ACTION OF BOARD UPON DENIAL OF CERTIFICATE OF HISTORIC APPROPRIATENESS:

(A) If the proposed certificate of historic appropriateness to alter, relocate or demolish is denied, the board, acting with all due diligence, shall explore with the applicant available means for substantially preserving the historic landmark that was affected by the determination. These investigations may include by way of example and not of limitation:

1. Feasibility of modification of plans.

2. Feasibility of any alternative use of the structures that would substantially preserve the original character.

(B) One year after denial of a certificate of historic appropriateness for demolition, if no feasible use or ownership is found for the structure, the owner may request a waiver of all or a part of the restraint of demolition. The board will include the following factors in their consideration of the request:

1. Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the property owner to make necessary repairs, to find an appropriate user, or to find a purchaser for the property; and

2. The adequacy of the property owner's efforts to locate available assistance for making the property functional without demolition.

11-13-14: HARDSHIP EXEMPTION: The board may exempt a property from the requirement of obtaining a certificate of historic appropriateness if the board finds that the property owner has shown the historic designation creates or would create an undue hardship.

(A) An exemption based on non-economic hardship may be found by the board when designation creates a situation substantially inadequate to meet the applicant's needs because of specific health and/or safety issues.

(B) An exemption based on economic hardship may be found by the board applying the following standards:

1. The applicant's knowledge of the designation at the time of acquisition, or whether the property was designated subsequent to acquisition;

2. The current level of economic return on the property as considered in relation to the following:

(a) The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years.

(b) The infeasibility or feasibility of alternative uses that can earn a reasonable economic return for the property.

(c) Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.

(C) Board Determination Of Economic Hardship: The board shall hold a public hearing as soon as practical, after notice, to take final action on the application.

1. Finding Of Economic Hardship: If after reviewing all of the evidence, the historic preservation board finds that the application of the standards set forth in subsection (B) of this subsection results in economic hardship, then the board shall issue a certificate of demolition.

2. Denial Of Economic Hardship: If the board finds that the application of the standards set forth in subsection (B) of this section does not result in economic hardship, then the certificate of demolition shall be denied.

(D) Willful Or Negligent Acts: Economic hardship does not include self-created hardships, willful or negligent acts by the owner, purchase of the property for substantially more than the market value, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.

11-13-15: UNSAFE OR DANGEROUS CONDITIONS EXEMPTED: Nothing in this chapter shall be construed to prevent any measures of construction, alteration, removal, or demolition necessary to correct the unsafe or dangerous condition of any structure, other feature, or parts thereof where such condition is declared unsafe or dangerous by the City and where the proposed measures have been declared necessary by the chief building official to correct the condition, as long as only such work that is necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining a certificate of historic appropriateness under this chapter, but a certificate is required for permanent alteration, removal, or demolition.

11-13-16: ENFORCEMENT AND PENALTIES:

(A) It shall be unlawful for any person to violate a provision of this Chapter or the terms of a certificate of historic appropriateness. Any person, either as owner, lessee, occupant, or otherwise, who violates any of the provisions of this Title, or any amendment thereof, or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him by the provisions of this Title, shall be subject to the fines provided by Section 1-8-1 of this Code.

(B) In addition:

1. Alterations to a designated historic landmark or historic landmark district without an approved certificate of historic appropriateness will result in a one-year moratorium on all building permits for the subject property.

2. Moving or demolishing or allowing demolition by neglect of a designated structure without an approved certificate of historic appropriateness will result in a five (5) year moratorium on all moving, demolition, or building permits for the structure and for the property at the structure's original location.

3. In addition to the other remedies provided in this chapter, the City Attorney may commence an action at law or equity in any court of competent jurisdiction to enforce the provisions of this chapter.

11-13-17: CITY COUNCIL REVIEW OF DESIGNATION, ALTERATION, REMOVAL AND DEMOLITION: Nothing in this Chapter shall prevent the City Council from revoking a historic landmark designation in order to carry out specified public purposes with benefits to the public that outweigh the benefits of maintaining the historic landmark designation.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this ____ day of _____, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this ____ day of _____, 2003.

Mayor

ATTEST:

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 24, 2003



SUBJECT: Second Reading CB No. 13 re Amusement Centers Code Amendments

Prepared By: Sharon Widener, Assistant City Attorney
Michele Kelley, City Clerk

Recommended City Council Action

Pass Councillor’s Bill No. 13 on second reading amending Chapter 5 of Title 9 of the Westminster Municipal Code concerning regulating amusement centers.

Summary Statement

- Police Department Staff have reviewed the proposed amendments to this ordinance and concur with the recommendations set forth in this Staff Report.
- The proposed ordinance allows the City Manager to revoke a license if there are problems, and also sets forth that the Special Permit and License Board would conduct a hearing on an appeal.
- These proposed ordinance changes have been reviewed by the Special Permit and License Board by means of an e-mail message. The impact to the Special Permit and License Board will be minimal since most applicants for amusement machines also include a liquor license hearing.
- City Council considered and passed this ordinance on first reading on March 17th.
- At the request of several businesses, the City has reviewed the current amusement center ordinance requirements and has suggested the proposes amendments.
- This ordinance was originally created in 1975 when there appeared to be much public consternation about minors playing amusement machines, especially the then-new electronic games.
- Hours of operation would be amended to reflect the hours allowed under Section 6-3-11 pertaining to Nighttime Juvenile Loitering.

Expenditure Required: \$0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall, City Manager
Attachment

BY AUTHORITY

ORDINANCE NO. **3016**

COUNCILLOR'S BILL NO. **13**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

Atchison-McNally

A BILL

FOR AN ORDINANCE AMENDING TITLE 5 OF THE WESTMINSTER MUNICIPAL CODE CONCERNING AMUSEMENT CENTERS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Chapter 9 of Title 5, Westminster Municipal Code, is hereby amended to read as follows:.

5-9-1: LICENSE REQUIRED: It shall be unlawful for any person to operate or conduct any place of amusement or recreation offering to the public for a fee the use of any pool or billiard table or any other amusement game, without first obtaining a license therefor pursuant to this Chapter. LICENSES SHALL NOT BE TRANSFERABLE, AND UPON A CHANGE OF OWNER OR CHANGE OF LOCATION, A NEW LICENSE MUST BE OBTAINED.

5-9-2: LICENSE APPLICATION:

~~(A) Original or renewal application for premises with a total of seven (7) or more tables or games:~~

~~— (1) The applicant shall submit a verified application to the City Clerk on forms provided by the City Clerk. The application shall include complete plans and specifications for the interior of the premises to be licensed, a copy of the lease or other evidence of the applicant's right to possession of the premises, and information concerning the zoning of the location of the premises and the fee and tax required by this Chapter.~~

~~— (2) The application shall be reviewed by the City Manager, who, within ten (10) days after receipt of the application and after such additional investigation as he may deem necessary, shall schedule a public hearing before the Special Permit and License Board.~~

~~— (3) Notice of such hearing shall be mailed to the applicant by the City Clerk not less than ten (10) days before the hearing date. Notice of such public hearing shall also be given by publication in a newspaper of general circulation in the community once, not less than ten (10) days prior to the hearing date and by posting a notice of hearing upon the premises for at least ten (10) days prior to the hearing. Publication and posting shall be done by the City Clerk.~~

~~(4) The City Clerk shall propose the boundaries of the neighborhood in writing to the Special Permit and License Board with a copy to the applicant. If a majority of the Board or the applicant disputes the proposed neighborhood boundaries, the issue shall be considered by the Board at a public meeting. A dispute of the boundaries by the applicant must be filed within ten (10) days of the letter notifying the applicant of the boundaries established.~~

~~— (5) Prior to the hearing, the City or its designee shall circulate appropriate petitions to determine the needs of the community for such a facility and the desires of its citizens regarding such a facility within the neighborhood surrounding the applicant. The petition form shall be approved by the City.~~

~~— (6) At least five (5) days prior to the public hearing, the City Clerk shall send the petition and investigation results to the applicant and make them available to other interested parties.~~

~~(7) After such public hearing, the Special Permit and License Board shall grant or deny the license and may impose reasonable conditions on the license.~~

~~(8) In determining whether to grant or deny the license, the Board shall take into consideration:~~

~~(a) The character of the applicant;~~

~~(b) The applicant's prior experience and qualifications to operate such a business;~~

- ~~(c) The needs of the community for such a facility and the desires of its citizens regarding such a facility including any petitions or remonstrances evidencing such desires;~~
- ~~(d) Pedestrian safety;~~
- ~~(e) Traffic volume and adequacy of parking and access;~~
- ~~(f) Essential character of the neighborhood and the applicant's effect on the peace of the neighborhood.~~
- ~~(g) Compliance of the facility with all applicable zoning and building regulations;~~
- ~~(h) Police activity in comparable businesses;~~
- ~~(i) Architectural compatibility with the character of the neighborhood.~~

~~(9) The Special Permit and License Board may require additional security guards for applicants with more than fifty (50) tables or machines.~~

~~(B) Original or renewal application for premises with a total of six (6) tables, games or machines or less:~~

CONDITIONS FOR APPLICATIONS FOR AN ORIGINAL LICENSE OR A RENEWAL:

~~(1)(A) The applicant shall submit a verified application to the City Clerk, on forms provided by the City Clerk, and accompanied by the fee and tax required by this Chapter.~~

~~(2)(B) The application shall be reviewed by the City Manager who shall have the power to grant or deny such license, TO REQUEST AN INVESTIGATION BY THE POLICE DEPARTMENT, and to impose reasonable limitations and restrictions on any license so granted. The City Manager shall evaluate the application under the criteria set forth BELOW, AND THE RESULTS OF AN INVESTIGATION BY THE POLICE DEPARTMENT, IF ANY. in paragraph 8 of subsection (A) of this section.~~

1. THE CHARACTER OF THE APPLICANT;
2. THE APPLICANT'S PRIOR EXPERIENCE AND QUALIFICATIONS TO OPERATE SUCH A BUSINESS;
3. THE NEEDS OF THE COMMUNITY FOR SUCH A FACILITY AND THE DESIRES OF ITS CITIZENS REGARDING SUCH A FACILITY, INCLUDING ANY PETITIONS OR REMONSTRANCES EVIDENCING SUCH DESIRES;
4. PEDESTRIAN SAFETY;
5. TRAFFIC VOLUME AND ADEQUACY OF PARKING AND ACCESS;
6. ESSENTIAL CHARACTER OF THE NEIGHBORHOOD AND THE APPLICANT'S EFFECT ON THE PEACE OF THE NEIGHBORHOOD;
7. COMPLIANCE OF THE FACILITY WITH ALL APPLICABLE ZONING AND BUILDING REGULATIONS;
8. POLICE ACTIVITY IN COMPARABLE BUSINESSES;
9. ARCHITECTURAL COMPATIBILITY WITH THE CHARACTER OF THE NEIGHBORHOOD.

5-9-3: FEES AND TAXES:

~~(A) The application fee for an original license for seven (7) or more tables, games or machines shall be Four Hundred Fifty Dollars (\$450). This fee shall be non-refundable. There shall be no license fee for six (6) tables, games or machines or less. nor shall there be a license fee if the hearing for the amusement center license is held concurrently with a hearing for an application for a liquor license.~~

~~(A) (B) There shall be no APPLICATION fee for a NEW OR renewal license.~~

~~(B) (C) The licensee shall annually remit a tax or excise of Forty Dollars (\$40) per pool or billiard table or coin-operated amusement game or device, payable at the time of filing an application for an original or renewal license or when a new table or game or device is added to the premises. If a license is obtained or a pool or billiard table or coin-operated amusement game or device is added by the licensee after June 30 of a particular year, the tax or excise shall be Twenty Dollars (\$20) each.~~

5-9-4: RENEWAL:

(A) All licenses issued pursuant to this Chapter shall expire December thirty first of the year for which issued, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required taxes.

(B) The renewal application shall be reviewed by the City Manager who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. The City Manager shall evaluate the application under the criteria set forth for original applications.

(C) FAILURE TO PAY REQUIRED FEES OR TAXES SHALL BE GROUNDS TO DENY RENEWAL, AND NO RENEWAL LICENSE SHALL BE ISSUED UNTIL SUCH FEES AND TAXES ARE PAID.

5-9-5: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION:

(A) Upon HIS OWN MOTION, OR UPON COMPLAINT BY THE POLICE CHIEF, THE CITY MANAGER ~~the motion of the City Manager or, upon its own motion, the Special Permit and License Board~~ may cancel, suspend or revoke any license at any time on the grounds that it is:

1. Detrimental to the public health, safety or welfare due to the location of the amusement center,
2. Because of the proximity of said location to schools, churches, or other places where the public may congregate,
3. Based on the criteria set forth in section 5-9-2(B)2. ~~5-9-2(A)(8)~~;
4. Based on violation of the provisions of this Code or any other law.
5. Based on the provisions of Chapter 1 of this Title.

~~(B) A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(C)~~ (B) A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice ~~and hearing~~. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title AND SHALL INFORM THE LICENSEE THAT HE MAY REQUEST, IN WRITING TO THE CITY CLERK, A HEARING BEFORE THE SPECIAL PERMIT AND LICENSE BOARD PURSUANT TO SUBSECTION (E) BELOW. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.

~~(D)~~(C) An application for a new license may be denied by the City Manager, upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with THE ZONING OR BUILDING CODE ~~provisions of this code such as zoning or the building code~~, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.

~~(E)~~(D) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

~~(F)~~(E) The Special Permit and License Board shall conduct A HEARING ON an appeal of the denial of a new license, THE CANCELLATION, DENIAL OF RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE ~~or a hearing~~ pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

~~(G)~~(F) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.

~~(H)-(G)~~ Any premises licensed pursuant to this Chapter, including the parking lots and streets and sidewalks adjacent to the premises which become the location of frequent or repeated violations of the City's ordinances including but not limited to disturbances, assaults, thefts, malicious mischief and disorderly conduct is hereby declared to be a nuisance which shall be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this code and the license of said premises shall be revoked.

~~5-9-6: TRANSFER; CHANGE IN NATURE OF BUSINESS:~~

~~(A) Transfer of Business or Stock:~~

~~— (1) Within (30) days after the transfer of ownership of an amusement center, or of the transfer of ownership of ten percent (10%) or more of the capital stock of the corporation, the new owner of the stock or business shall file with the City Clerk a written report of the transfer on forms provided by the City Clerk. The report shall be accompanied by an investigation fee of Two Hundred and Fifty Dollars (\$250.00).~~

~~— (2) Upon receipt of the report of transfer, the City Clerk shall report the transfer to the City Manager, after sufficient investigation by the Police Department, and the City Manager may approve the transfer or, in his sole discretion, recommend to the Special Permit and License Board that a public hearing be held regarding the transfer, at which parties in interest may be heard.~~

~~— (3) The Special Permit and License Board shall conduct the hearing after proper notice is given. Posting, publication, and notice requirements shall be the same as are required for a hearing on an original application.~~

~~— (4) At the hearing, all interested parties may appear and be heard, provided, however, that the Board shall consider only the character of the proposed new owner or owners and whether the new owner or owners comply with all requirements of the code and rules and regulations adopted pursuant to the Code.~~

~~(B) Change in Nature of Business:~~

~~— (1) At least thirty (30) days prior to the commencement of expansion, remodeling, or other change in the nature of the licensed business, the owner shall submit an application for a change in the nature of the business to the City Clerk on forms provided by the City Clerk. The application shall be reviewed by the City Manager, who, within ten (10) days shall determine whether the proposed change in the nature of the business is significant. For purposes of this subsection, "significant change" shall include, but shall not be limited to: (a) an increase or decrease in the total size or capacity of the licensed premises; (b) the sealing off, creation of or relocation of a common entryway, doorway, or passage or other means of public ingress or egress; or (c) any material change in the interior of the premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application. The term does not include painting and redecorating of premises; the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment, and other similar changes.~~

~~(2) After investigation by the City Manager, he may approve the proposed change or, in his sole discretion, recommend to the Special Permit and License Board that a public hearing be held regarding the proposed change, at which parties in interest may be heard. The Special Permit and License Board shall conduct the hearing after proper notice is given. Posting, publication, and notice requirements shall be the same as are required for a hearing on an original application. Criteria for approval shall be as for an original application. Petitioning shall be at the discretion of the Special Permit and License Board.~~

5-9-7: 5-9-6: HOURS OF OPERATION; AGE LIMITATION:

(A) 1. Except for premises licensed for the sale of fermented malt beverages, malt, vinous or spirituous liquor for consumption on the premises, premises licensed pursuant to this Chapter shall be open to the public not earlier than TEN O’CLOCK (10:00) ~~eleven o’clock (11:00)~~ and not later than eleven o’clock (11:00) P.M ON MONDAYS THROUGH THURSDAYS AND SUNDAYS; AND ON FRIDAYS AND SATURDAYS SHALL BE OPEN TO THE PUBLIC NO EARLIER THAN TEN O’CLOCK (10:00) A.M. AND NOT LATER THAN MIDNIGHT (12:00 AM). ~~daily~~. An adult twenty one (21) years of age or older shall be present on and responsible for management of the premises during all hours of operation.

2. PRIVATE EVENTS: LICENSED AMUSEMENT CENTERS MAY CONDUCT PRIVATE EVENTS OUTSIDE THE HOURS OF OPERATION STATED IN 5-9-6(A) IN COMPLIANCE WITH THE FOLLOWING:

a. THE CENTER MAY NOT BE LICENSED FOR THE SALE OF FERMENT MALT BEVERAGES, MALT, VINOUS OR SPIRITUOUS LIQUOR, NOR MAY ANY OF THE SAME BE SOLD, SERVED, OR CONSUMED ON THE PREMISES.

b. IF MINORS ARE IN ATTENDANCE, THERE MUST BE ONE (1) ADULT SUPERVISOR FOR EVERY EIGHT (8) MINORS.

c. MINORS MUST REMAIN IN THE BUILDING AND MUST NOT BE ALLOWED TO LEAVE AND RE-ENTER DURING THE EVENT.

d. PARTICIPANTS MUST NOT BE ALLOWED TO CONGREGATE OR LOITER IN THE PARKING LOT OR NEARBY AREAS AND MUST COMPLY WITH THE REGULATION OF NIGHTTIME JUVENILE LOITERING, SECTION 6-3-11

e. THE CENTER MUST NOT ALLOW ANY FORM OF ENTERTAINMENT OTHER THAN THOSE AMUSEMENT DEVICES FOR WHICH IT IS LICENSED.

f. THE CENTER MUST REPORT THE EVENT TO THE CITY CLERK IN WRITING, WITH A COPY TO THE POLICE DEPARTMENT, AT LEAST SEVENTY-TWO (72) HOURS IN ADVANCE.

“PRIVATE EVENT” MEANS AN EVENT FOR WHICH THE CENTER HAS CLOSED THE PREMISES TO THE GENERAL PUBLIC.

(B) Unless the licensee of the premises maintains a full-time ~~City-licensed~~ security guard, OR HAS TWELVE OR LESS AMUSEMENT DEVICES, it shall be unlawful for a licensee or any other person in charge of the licensed premises to permit any pool or billiard table or coin-operated amusement games or devices to be used by any person under the age of sixteen (16) years or to allow any such persons to congregate or remain upon the licensed premises unless accompanied by a parent or legal guardian. Such security guard shall be in addition to the adult manager of the premises. This section shall not apply to premises licensed for the sale of fermented malt beverages, malt, vinous or spirituous liquor for consumption on the premises.

(C) When operating a total of ~~six (6)~~ TWELVE (12) or less of the AMUSEMENT devices referred to in THIS CHAPTER, ~~5-9-2 (B)~~, premises used principally for the conduct of another business, including, but not limited to grocery store, convenience store, drugstore, bowling alley or tavern shall not be subject to the provisions of this section.

5-9-8: 5-9-7: SECURITY GUARDS:

(A) The owner of any premises licensed pursuant to this Chapter shall maintain security guards ~~licensed pursuant to Title V, Chapter 13 of this Code~~. The number of security guards required shall be calculated as follows:

1. Premises licensed for the sale of fermented malt beverages, or malt, vinous or spirituous liquor for consumption on the premises: For THIRTEEN (13) ~~seven (7)~~ to fifty (50) tables or machines, one (1) guard on duty during all hours of operation; for more than fifty (50) tables or machines, one (1) or more additional guards may be required for such hours as the CITY MANAGER ~~Special Permit and License Board~~ may decide based on, but not limited to, the number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels.

2. All other premises: For ~~seven (7)~~ THIRTEEN (13) to fifty (50) tables or machines, one (1) guard on duty during all hours of operation; for more than fifty (50) tables or machines, one (1) or more additional guards may be required for such hours as the CITY MANAGER ~~Special Permit and License Board~~ may decide based on, but not limited to, the number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels.

(B) For premises licensed for more than fifty (50) machines or tables, any requirements for security guards in excess of one (1) security guard, imposed pursuant to subsection (A) of this section, shall be stated on the license. These conditions shall be reviewed annually by the City Manager upon application for renewal of the license or at any time at the request of the City Council, ~~the Special Permit and License Board~~, or the Chief of Police based on a finding that security measures are insufficient to protect the public health, safety and welfare. ~~Upon recommendation by the City Manager, the Special Permit and License Board~~ THE CITY MANAGER may adjust these conditions based on, but not limited to, the following factors: The number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels. The City Manager's DECISION ~~recommendation~~ regarding additional security shall be mailed to the licensee. The licensee MAY request a hearing on the matter before the Special Permit and License Board within ten (10) days after the letter is mailed to the licensee. FAILURE TO TIMELY REQUEST A HEARING SHALL BE DEEMED A WAIVER OF A HEARING. ~~the Special Permit and License Board may adopt the City Manager's recommendation without a public hearing.~~

~~5-9-9: 5-9-8: PROHIBITED ACTS:~~

(A) It shall be unlawful for any licensee or his agent knowingly to do, to encourage, to participate or to permit any of the following acts on the premises of any place licensed pursuant to this Chapter or on any parking lot, street or sidewalk adjacent to the premises:

1. Gamble or to permit gambling upon any pool or billiard table or coin-operated amusement game or device. The licensee is hereby specifically charged with knowledge of and made liable for the use of all tables, games and devices on the premises in any manner constituting a violation of this section.

2. ~~Except for those premises licensed under the Colorado Beer Code or Colorado Liquor Code, To permit any person TO USE, SELL, OR DISTRIBUTE ANY ILLEGAL OR DANGEROUS DRUG, CHEMICAL SUBSTANCE, OR NARCOTIC. ANY PREMISE LICENSED UNDER THE COLORADO BEER CODE OR COLORADO LIQUOR CODE SHALL CONFORM TO SAID CODE AND SHALL NOT ALLOW THE USE, SALE OR DISTRIBUTION OF BEER OR ALCOHOL TO ANY MINOR. under the influence of any alcoholic beverage, dangerous drug, chemical substance or narcotic to be or remain upon the premises.~~

3. Any disturbance, unlawful or disorderly act, or activity offensive to the senses of the average citizen, or to the residents of the neighborhood to be committed by any person or group of persons upon the premises.

(B) It shall be unlawful for any licensee to fail to comply with the following requirements:

1. Any licensee and its employees shall immediately report to the Police Department any unlawful or disorderly act, conduct or disturbance committed on the premises. Failure to comply with the requirements of this Section may be considered by the CITY MANAGER ~~licensing authority~~ in any action relating to revocation, suspension or nonrenewal of a license. Repeated failure to comply with the requirements of this section shall constitute prima facie grounds for the suspension, revocation or nonrenewal of a license.

2. Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign to be provided by the City Clerk's Office which shall be in the following form:

"WARNING: CITY OF WESTMINSTER POLICE MUST BE NOTIFIED OF ALL DISTURBANCES IN THIS ESTABLISHMENT AND ON THE GROUNDS AND PARKING LOT WHICH ARE A PART OF THIS ESTABLISHMENT."

(C) It shall not be a defense to a prosecution under this Section that the licensee was not personally present on the premises at the time such unlawful or disorderly act, conduct or disturbance was permitted, encouraged or participated in; provided, however, that an agent, servant or employee of the licensee shall not be responsible hereunder when absent from the premises and not on duty.

~~5-9-10: 5-9-9: PENALTY:~~ It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title VIII of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 17th day of March, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of March, 2003.

Mayor

ATTEST:

City Clerk



WESTMINSTER
COLORADO
Agenda Memorandum

City Council Meeting
March 24, 2003



SUBJECT: Financial Report for February 2003

Prepared By: Mary Ann Parrot, Finance Director

Recommended City Council Action

Accept the Financial Report for February as presented.

Summary Statement

City Council is requested to review and accept the attached monthly financial statement and monthly revenue report. The Shopping Center Report is also attached to this monthly financial report; this reflects January sales and use tax receipts received in February.

- Across all shopping centers, total sales & use tax receipts are down 7% over the two-month period from last year (Sales and Use Taxes). Sales Tax receipts (only) are down 7% compared to the two-month period last year. This includes part of the additional revenue from Vendor Fees for two months.
- The Westminster Mall is down 10% for February year to date, compared to year to date last year. For just the month of February, the Westminster Mall is down 9% for February, compared to February of last year.
- January figures were as follows:
 - Shopping center receipts were down 4% for the month and Sales Tax receipts (only) were down 9%.
 - The Westminster Mall was down 10% the month of January compared to January 2002.

Key features of the monthly financial report for February are as follows:

- At the end of February, two months of 12 months of the year has passed. This is 16.7% of the year.
- The Sales and Use Tax Fund revenues are currently \$70,819 under pro-rated budget for the year. The February figures reflect the sales in January, tax receipts received in February. Sales tax returns are down for February 2003 compared to February 2002 by .07% for the month and 1.8 % year to date, or \$143,389 below February year to date 2002.
- For the entire Sales and Use Tax Fund (Sale and Use Tax Returns and Audits) the fund is 0.3% below last year on a year-to-date basis.
- The General Fund revenue is currently 102% of pro-rated budget for two months.

Policy Issues

A monthly review of the City's financial position is the standard City Council practice; the City Charter requires the City Manager to report to City Council on a quarterly basis.

Alternatives

Conduct a quarterly review. This is not recommended, as the City's pro-rated budget and financial position are large and complex, warranting a monthly review by the City Council.

Background Information

This section is broken down into a discussion of highlights of each fund presented.

For revenues, a positive indicator is a pro-rated budget percentage at or above 100%. For expenditures, a positive indicator is a pro-rated budget percentage that is below 100%.

General Fund

This fund reflects the results of the City's operating departments: Police, Fire, Public Works (Streets, etc.), Parks Recreation and Libraries, Community Development, and the internal service functions such as City Manager, City Attorney, Finance, and General Services.

At the end of February, the General Fund is in the following position regarding both revenues and expenditures:

- Revenues over pro-rated budget (102% of budget) by \$158,562.
- Expenditures under pro-rated budget (76% of pro-rated budget) by \$2.7 million.

Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

This fund reflects the operating results of the City's water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects. At the end of February, the Enterprise is in a positive position.

- Combined Water & Wastewater revenues are under pro-rated budget (93% of budget) by \$319,915:
 - Water revenues under pro-rated budget (92% of pro-rated budget) by \$213,130, due primarily to a negative variance in interest income and somewhat due to a negative variance in revenue for rates and charges due to decreased water consumption. The interest income is negative due to year-end adjustments from 2002 that carry over into 2003.
 - Wastewater revenues under pro-rated budget (93% of pro-rated budget) by \$106,785, due mostly to year end 2002 adjustments for interest income that carry over into 2003.
 - Storm Water Drainage revenues under pro-rated budget (91% of pro-rated budget) by \$13,350.
- Combined Water & Wastewater expenses are under pro-rated budget (52% of budget) by \$2,017,323, due primarily to under-spending in capital at this time of year:
 - Water expenses under pro-rated budget (57% of pro-rated budget) by \$1,235,384.
 - Wastewater expenses under pro-rated budget (40% of pro-rated budget) by \$781,937.
 - Storm Water Drainage expenses under pro-rated budget (14% of pro-rated budget) by \$33,998.

Sales and Use Tax Funds (Sales & Use Tax Fund and Open Space Sales & Use Tax Fund)

These funds are the repositories for the 3.25% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the Capital Projects Fund and the Debt Service Fund. The Open Space Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space, and make park improvements on a pay-as-you-go basis. At the end of February, the position of these funds is as follows:

- Sales & Use Tax Fund revenues are under pro-rated budget by (99% of pro-rated budget) \$70,819.
- Sales & Use Tax Fund expenditures are even with pro-rated budget because of the transfers to the General Fund, Debt Service Fund and General Capital Improvement Fund.
- Open Space Sales & Use Tax Fund revenues are under pro-rated budget (95% of pro-rated budget) by \$42,105, due primarily to a shortfall in sales and use tax collections tied to a recessionary economy.
- Open Space Sales & Use Tax Fund expenditures are under pro-rated budget (80% of pro-rated budget) by \$151,422.

Golf Course Enterprise (Legacy and Heritage Golf Courses)

This enterprise reflects the operations of the City's two municipal golf courses. Starting this month, Staff is going to show the Golf Course (and Legacy Golf Course) adjusting for the impact of the 1997 Sales Tax Bonds. The 1997 Sales Tax Bonds are not a legal obligation of the Legacy Golf Course. The statement will show Legacy Golf Course without the debt service (shown in Operating Income) and with debt service (showing Net Income). By showing reduced debt service on the Legacy Golf Course, this will indicate the operating performance of the Legacy Golf Course. This is highlighted in the footnotes. The figures below reflect the reduction of expenses (and increase in net income) by \$54,847 for two months of debt service charges:

- Combined Enterprise operating income without the impact of debt service for Legacy is a deficit of \$182,752.
- Combined Enterprise net income with the impact of debt service for Legacy is a deficit of \$237,599.
- Legacy – Revenues are under pro-rated budget (96% of pro-rated budget) by \$3,370.
- Legacy – Expenses are under pro-rated budget (61% of pro-rated expenses) by \$91,132.
- Heritage – Revenues are under pro-rated budget (97% of pro-rated budget) by \$1,969.
- Heritage – Expenses are under pro-rated budget (71% of pro-rated budget) by \$71,390.

Staff will attend the March 24th City Council Meeting to address any questions.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 24, 2003



SUBJECT: Public Hearing and Resolution No. 12 re application to designate the Westminster Grange Hall as a Westminster historic landmark

PREPARED BY: Vicky Bunsen, Assistant City Attorney

Recommended City Council Action:

Hold a public hearing re designating the Westminster Grange Hall, 3935 West 73rd Avenue, as a Westminster historic landmark.

Adopt Resolution No. 12 designating the Westminster Grange Hall, 3935 West 73rd Avenue, as a Westminster historic landmark.

Summary Statement:

- The Westminster Grange Hall played a central role in the civic and social life of Westminster residents from 1913 until other public gathering places began to be built in the 1960s and 1970s.
- Designation of the Grange as a local historic landmark would be the first such designation in the history of the City of Westminster.
- Designation of the Grange as a local historic landmark is a prerequisite for the City's application to the State Historic Fund for major grant funding needed to preserve and rehabilitate the 90-year-old building so that it can continue to be an active public gathering place.
- The Executive Committee of the Westminster Grange Association No. 184 has provided its written consent to the designation.
- The Westminster Historical Society supports this designation.

Expenditure Required: \$0

Source of Funds: Not applicable

Policy Issues

Does the City Council wish to designate the Westminster Grange Hall as a local historic landmark, thereby causing the City's historic preservation ordinance, W.M.C. sections 11-13-1 to -17 to regulate future alterations, moving or demolition of the building?

Alternatives

Do not designate the Westminster Grange Hall as a local historic landmark. This is not recommended as the City has an opportunity to obtain State Grant funding for the Grange Hall if it is designated as an Historic Landmark.

Background Information

The City Council has passed on first reading an ordinance that establishes the City's first historic preservation program. If passed on second reading on March 24, the City Council will have the ability to designate properties as local historic landmarks pursuant to the ordinance. Most of the duties under the ordinance will eventually pass to a qualified citizen board to be appointed by City Council at a later date.

Two years ago, representatives of the Westminster Grange Association met with City Staff to discuss the future of the Grange Hall. Pursuant to that conversation, City Staff applied for a State Historical Fund grant to conduct a historic structure assessment ("HSA"). A grant of \$10,000 was awarded, and the firm of WKJ Architecture + Urban Design L.L.C. conducted the assessment.

The assessment report recommends a preservation plan that is divided into two phases. The first phase recommends the exterior rehabilitation of the structure that also includes a minimum level of improvements to several key building systems (such as electrical service). The second phase recommends rehabilitation of the interior wall finishes and an appropriate and non-intrusive addition to the Grange that better accommodates the key building systems (HVAC, restrooms, and kitchen) that are not original to the structure. This addition would allow restoration of the front of the structure to its original configuration and would also accommodate an entrance that is accessible to visitors with mobility impairments.

In order to qualify the phase I project for further State Historical Fund grant money, it is necessary that the structure be designated as a local historic landmark prior to April 1, 2003. It is the desire of the owner of the building, the Westminster Grange Association No. 184, to designate the building and the Executive Committee has consented to the preparation of an application by City Staff.

The application is attached to this agenda memo. In summary, the Grange qualifies for designation under the historic preservation ordinance because:

- It exemplifies a rural vernacular style that documents a period of history in the western United States.
- It was built by volunteer citizens of Westminster during 1911 to 1913 and is of superior craftsmanship.
- It is built in a style that is particularly associated with the Westminster area.
- It represents the built environment of Westminster citizens during the first half of the 20th century.
- It exemplifies the cultural, political, economic and social heritage of community.
- The Grange enhances the sense of identity in the community.
- The Grange is an established and familiar visual feature of the south Westminster area.

The physical features of the Grange that are recommended for preservation include:

- South storefront façade with cornices as described in HSA
- Main entry door located in center of front façade (currently hidden)
- Two windows in front façade
- Ten side windows (one currently non-existent due to side entry)
- Gabled roof, hipped on north end as described in HSA
- Exterior painted wood ship's lap siding

The physical features that are found to be historically significant are the features that will be subject to review in the future if alterations are proposed for the structure. The ordinance does not regulate interior features of the building.

Designation of the Grange as a local landmark supports its continued use as a gathering place for civic, educational and social functions and for the continued operation of the Westminster Grange Association. Designation is compatible with the Comprehensive Land Use Plan and the urban renewal plan. Designation is likely to be beneficial to the surrounding neighborhood if the designation leads to grant funding for improvements to the Grange, thereby improving the visual impact and supporting the functionality of the building as a gathering place that is available to the public.

City Staff is working with consultants on a concept plan for the West 73rd Avenue area that will help inform land use decisions in the area, including the use of the vacant land and historic home recently purchased by the Westminster Housing Authority at 7319 Orchard Court. The Grange will play a central role in plans for the area, so preservation of this historic structure supports revitalization efforts in the neighborhood.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **12**

INTRODUCED BY COUNCILORS

SERIES OF 2003

A RESOLUTION DESIGNATING THE WESTMINSTER GRANGE HALL, 3935 WEST 73RD
AVENUE, AS A WESTMINSTER HISTORIC LANDMARK

WHEREAS, the City Council finds that Westminster Grange Hall:

- (a) Exemplifies a rural vernacular style of architecture that documents a period of history in the western United States,
- (b) Was built by volunteer citizens of Westminster during 1911 to 1913 and is of superior craftsmanship,
- (c) Was built in a style that is particularly associated with the Westminster area,
- (d) Represents the built environment of Westminster citizens during the first half of the 20th century,
- (e) Exemplifies the cultural, political, economic and social heritage of the City of Westminster,
- (f) Enhances a sense of identity of the community, and
- (g) Is an established and familiar visual feature of the south Westminster area; and

WHEREAS, the City Council finds that Westminster Grange Hall is significant and important to the heritage of the City of Westminster; and

WHEREAS, the City Council finds that Westminster Grange Hall qualifies for designation as a Westminster historic landmark pursuant to Westminster Municipal Code, section 11-13-5; and

WHEREAS, the Executive Committee of the Westminster Grange Association No. 184 has consented to designation of the Westminster Grange Hall as a Westminster historic landmark,

NOW, THEREFORE, the City Council of the City of Westminster hereby resolves:

1. The Westminster Grange Hall, 3935 West 73rd Avenue, Westminster, Colorado, is hereby designated a Westminster historic landmark pursuant to Chapter 13 of Title 11 of the Westminster Municipal Code.
2. The physical characteristics of the Westminster Grange Hall that must be preserved or enhanced include:
 - South storefront façade with cornices as described in HSA
 - Main entry door located in center of front façade (currently hidden)
 - Two windows in front façade
 - Ten side windows (one currently non-existent due to side entry)
 - Gabled roof, hipped on north end as described in HSA
 - Exterior painted wood ship's lap siding

3. The legal description of the designated property is:

Part of Block Numbered Thirty-five (35) in Harris Park described as follows:

Beginning at a point in the South line of said block sixty (60) feet West of the Southeast corner of said block; running thence North one hundred and twenty (120) feet to a point running thence West sixty (60) feet to a point; running thence South one hundred and twenty (120) feet to the South line of said block; and running thence East along the South line of said block to the Place of Beginning,
County of Adams,
State of Colorado

UTM coordinates: Zone 13, NAD 83, UTM X = 496625.062592, UTM Y = 4408815.743649

PASSED AND ADOPTED this 24th day of March, 2003.

Mayor

ATTEST:

City Clerk

City of Westminster

Historic Landmark Application

Name of proposed landmark: Westminster Grange Hall

Address or location: 3935 West 73rd Avenue

Legal description:

Part of Block Numbered Thirty-five (35) in Harris Park described as follows:

Beginning at a point in the South line of said block sixty (60) feet West of the Southeast corner of said block; running thence North one hundred and twenty (120) feet to a point running thence West sixty (60) feet to a point; running thence South one hundred and twenty (120) feet to the South line of said block; and running thence East along the South line of said block to the Place of Beginning,
County of Adams,
State of Colorado

UTM coordinates: Zone 13, NAD 83, UTM X = 496625.062592, UTM Y = 4408815.743649

Nominated by: City of Westminster

Property owner: Westminster Grange Association No. 184 (consent of Executive Committee attached as Attachment 1)

Reasons for designation pursuant to W.M.C. section 11-13-5:

The Grange was completed in 1913 and is currently 90 years old. It qualifies for designation as a Westminster historic landmark based on the following criteria in W.M.C. section 11-13-5:

1. Exemplifies specific elements of an architectural style or period;
3. Demonstrates superior craftsmanship,
5. Represents a style particularly associated with the Westminster area;
6. Represents a built environment of a group of people in an era of history;
10. Exemplifies cultural, political, economic or social heritage of the community;
14. Enhances sense of identity of the community;
15. Is an established and familiar natural setting or visual feature of the community.

The facts supporting this criteria are included in Attachment 2, Westminster Grange Hall, Historic Structure Assessment, Section 2.0 (History and Use) (“HSA”).

Description of features that should be preserved:

South storefront façade with cornices as described in HSA
Main entry door located in center of front façade (currently hidden)
Two windows in front façade
Ten side windows (one currently non-existent due to side entry)
Gabled roof, hipped on north end as described in HSA
Exterior painted wood ship's lap siding

The surrounding site has no other structures and the subsurface historical significance is unknown. An archeological assessment may be desirable prior to any addition to the rear of the building. It is reported that a privy was located on the property behind the building

Photos

1. Existing South Elevation
2. Existing North Elevation
3. Existing East Elevation
4. Existing West Elevation
5. Rear Stairs/Typical Window
6. Original Wood Siding
7. Existing Roofing and Siding
8. Main Entry Door
9. Extended Façade Parapet
10. Original Ship's Lap Siding
11. Main Street, Westminster, 1924
12. Grange interior, 1940s
13. Current hand-painted stage curtain
14. Westminster Grange Hall, 1950s



Photo No. 1: Existing South Elevation

The existing main entry has been relocated located to the covered entrance at left (a later addition). The original entry was located between the two windows on the south facade.

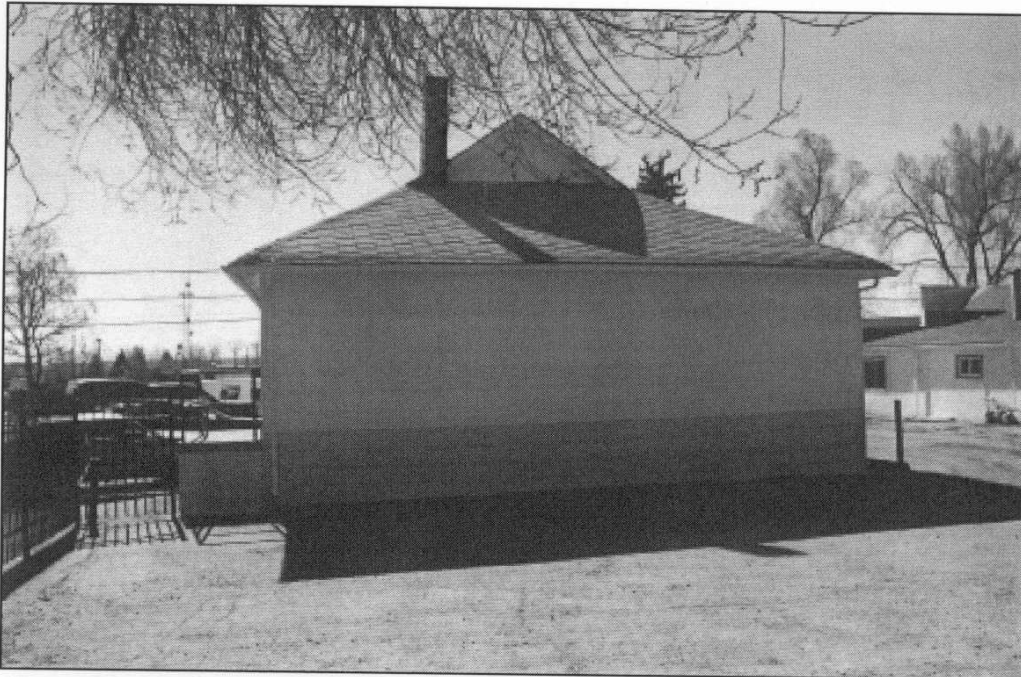


Photo No. 2: Existing North Elevation

The north (rear) elevation illustrates the hipped roof over the stage area.



Photo No. 3: Existing East Elevation

The east and west elevations are similar with few exceptions. In this photo, the front facade is located to the left. Electrical and gas service entries are just to the right of the front facade and concrete stairs/railing and door (located at the rear of the structure), provide an exit from the stage area.

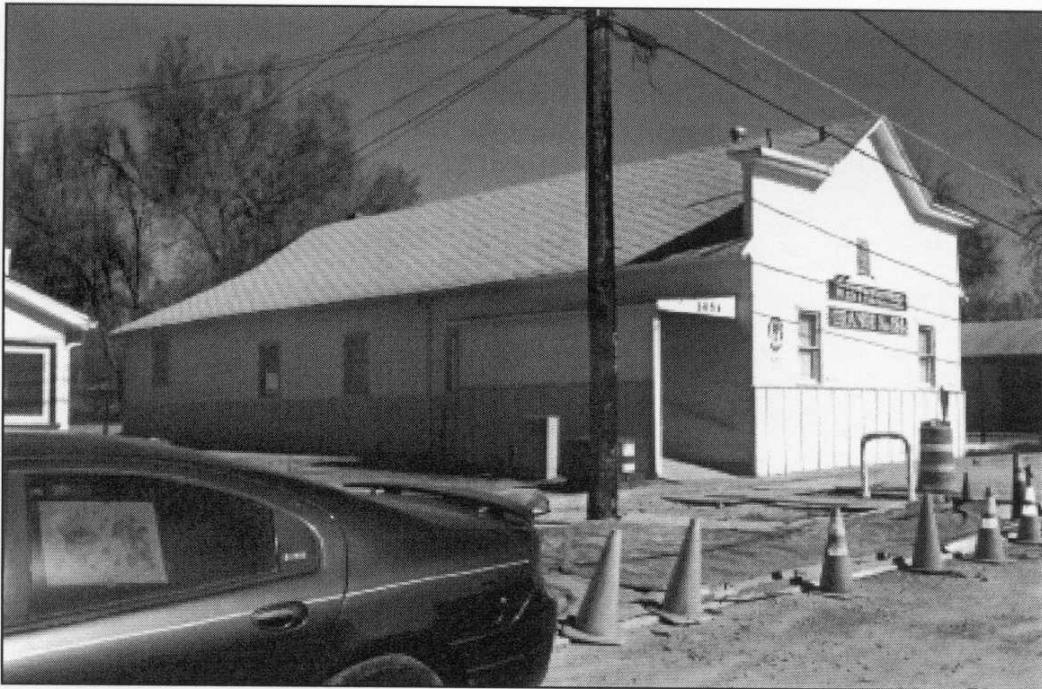


Photo No. 4: Existing West Elevation

The existing front entry is within the shed addition near the front facade. Note that Streetscape improvements were in-progress at the time of this photo.



Photo No. 5: Rear Stairs/Typical Window
The Rear Door, stairs and railing (serving as an exit from the stage) and a typical window are included in this photo.

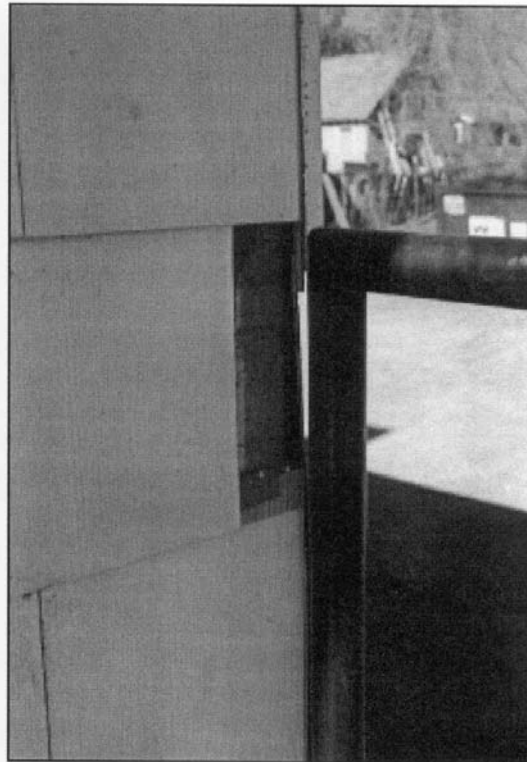


Photo No. 6: Original Wood Siding
The existing siding was pulled back at this corner near the rear exposing the original ship's lap wood siding.

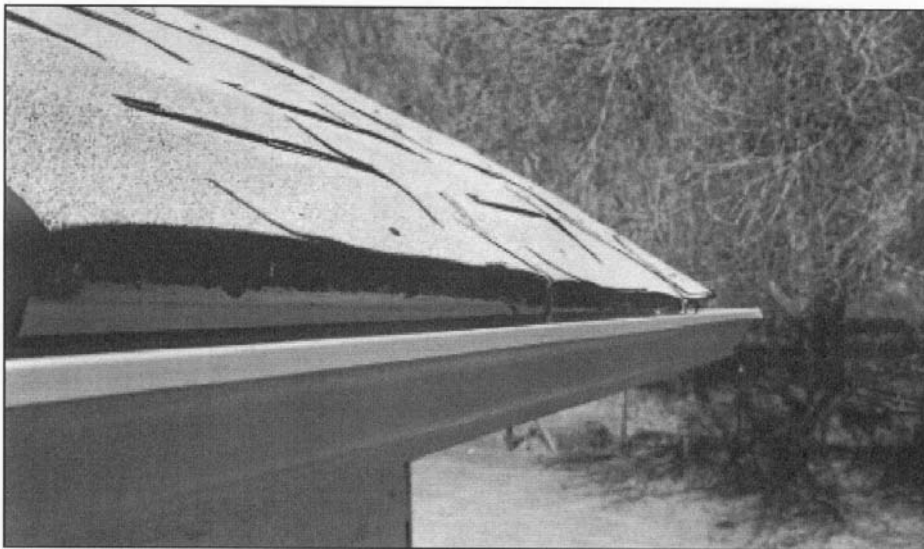


Photo No. 7: Existing Roofing and Gutter
Several layers of roofing over wood shingles and the new aluminum gutter are evident in this photo.



Photo No. 8: Main Entry Door

The existing front entry door located within the shed addition.

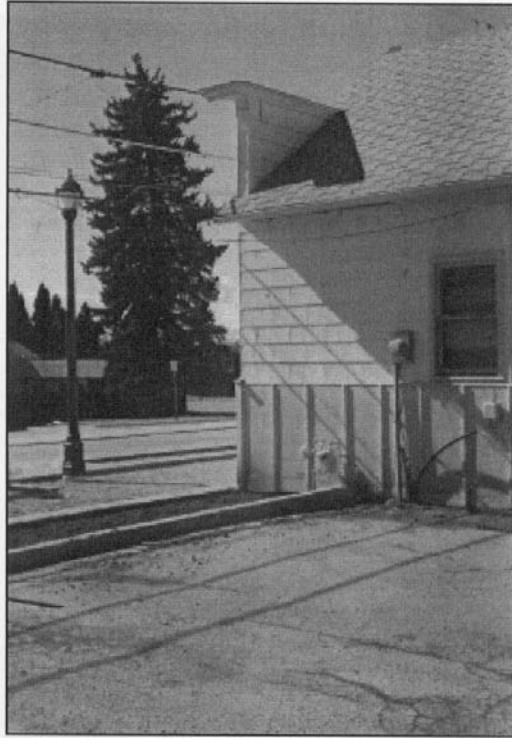
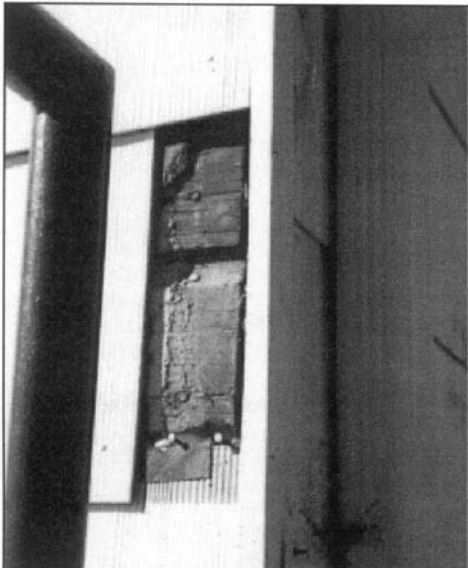


Photo No. 9: Extended Facade Parapet

The facade and parapet extending above the gable roof are evident in this photo. Note, also, a new streetlamp has just been put into place at the time of this assessment.



The original ship's lap siding is evident at this corner condition where a shingle was removed during a field visit. (Refer to Sketch Plan on Page 2.7 for location of this condition)

Photo No. 10



Photo No. 11: Main Street, Westminster, 1924



Photo No. 12: Grange interior, 1940s, note stage curtain advertising, which was subsequently repainted (see current photo below)



Photo No. 13: Current hand-painted stage curtain, probably painted around 1950 (2002 photo).



Photo No. 14: Westminster Grange Hall, 1950s



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 24, 2003



SUBJECT: Councillor's Bill No. 15 re Sign Code Revision for Gasoline Pricing Signs

PREPARED BY: Terri Hamilton, Planner III

Recommended City Council Action:

Pass Councillor's Bill No. 15 regarding revisions to the Sign Code for gasoline pricing signs.

Summary Statement

Two revisions are proposed to the existing Sign Code to address gasoline pricing signs. These are as follows:

- A definition for a gasoline pricing sign is proposed for the definition portion of the Sign Code.
- Gasoline signs are proposed to be an excepted type of sign from the existing description of prohibited signs.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City allow gasoline fueling facilities the ability to have pricing signs that are electronically activated changeable signs?

Alternatives

- 1) Do not allow an exception to the Sign Code that would allow gasoline fueling facilities the ability to have pricing signs that would be electronically activated changeable signs. This alternative maintains the status quo, whereby changes in gasoline prices occur by a person manually removing and replacing the numbers. This alternative limits the ability of fueling facilities to alter prices in a more convenient and safe manner.
- 2) Eliminate the existing prohibition regarding signs that visibly move, revolve or rotate (Section 11-11-5C). This alternative would allow changeable copy signs with minimal restrictions. If this alternative is chosen, City Staff recommends that the Sign Code revision include limitations on the type of changeable sign allowed (monument, wall, etc.) and a time limitation on how often a message or sign face changes - such as the two changes in a twenty-four hour period as specified within the proposed definition of gasoline pricing sign.

City Staff does not recommend this alternative because this change would result in an eventual erosion of the existing visual character of signage in Westminster. Currently, individual freestanding letters are encouraged through the Planned Unit Development design process and adopted Commercial Guidelines. City Staff believes that expanding the use of changeable signs, that would require a box type design to operate, works against the goal of using individual letters in sign design.

Background Information

On October 28, 2002, City Council reviewed several proposed revisions to the Sign Code and adopted a revision regarding menu board pricing signs at drive through facilities. At that time, City Staff was directed to evaluate a possible Sign Code amendment regarding changeable copy signs that would be restricted in application for gasoline pricing. The proposed Sign Code amendment addressing gasoline pricing signs was presented to City Council at the March 3, 2002 Study Session. At this meeting Council requested that Staff prepare an ordinance for consideration at a future meeting.

City Staff has researched common types of changeable copy signs used in gasoline pricing and is proposing to amend the code to allow for the use of two types of changeable copy signs that maintain a visual appearance similar to the current type of gasoline price signs that typically require the numerals to be manually changed. The two types of signs proposed are signs that use an internal scrolling or magnetic mechanism. These two common types of changeable copy signs are currently used by King Soopers (internal scrolling), and Conoco (magnetic mechanism).

An internal scrolling sign is somewhat like a roll of film in a camera – each number changes by a scrolling mechanism. The second type of sign technology, magnetic mechanism, creates a change in numbers somewhat like puzzle pieces that move by magnetic mechanisms to compose and change each number. A picture of each of these technologies and a manually changed sign, are attached to this Agenda Memorandum. As apparent from these photos, there is not an obvious visual difference between signs that are currently changed manually, scrolling changeable copy signs, or magnetic changeable copy signs. Light emitting diode (LED), Liquid Crystal Display (LCD), and Lamp Matrix (signs that use numerous incandescent bulbs) are not proposed to be allowed by this Sign Code amendment because they use exposed lighting (that is currently prohibited by the Sign Code) and are signs that visually are characterized as changeable copy signs.

SUBJECT: Councillor's Bill re Sign Code Revision for Gasoline Pricing Signs Page 3

The proposed Sign Code amendment includes a definition of gasoline pricing signs that places a limitation on how often the copy can change to twice in a twenty-four hour period. This will preclude frequent visual movement that could be distracting and possibly dangerous to the public.

The current language in the Sign Code regarding prohibited signs is proposed to be revised to exclude gasoline pricing signs at fueling facilities, and language has been added to note that signage excepted from prohibited signs must comply to all other regulations such as size and placement.

City Staff has conferred with several sign companies and an attorney representing Safeway prior to developing this most recent Sign Code amendment and they are in concurrence with Staff's recommendations. The City Attorney's Office has been involved in the preparation of the proposed amendment and believes the amendment can be legally justified.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **15**

SERIES OF 2003

INTRODUCED BY COUNCILLORS

A BILL
FOR AN ORDINANCE AMENDING THE SIGN CODE

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 2 of Title 11, Chapter 11, W.M.C., is hereby amended BY THE ADDITION OF A NEW DEFINITION, to be placed alphabetically, to read as follows:

11-11-2: DEFINITIONS:

GASOLINE PRICING SIGN – A SIGN DISPLAYING ONLY THE PRICES OF GASOLINE WHICH SIGN USES ONLY INTERNAL SCROLLING OR MAGNETIC MECHANISMS, DOES NOT CONTAIN A LIGHT EMITTING DIODE (LED), AND WHOSE MESSAGE DOES NOT CHANGE MORE OFTEN THAN TWICE IN A TWENTY-FOUR (24) HOUR PERIOD.

Section 2. Subsection (C) of Title 11, Chapter 11, Section 5, W.M.C., is hereby amended to read as follows:

11-11-5: PROHIBITED SIGNS:

(C) Signs with visible moving, revolving, or rotating parts or visible mechanical movement or any description or other apparent visible movement achieved by electrical, electronic or mechanical means, and all animated and electronically activated changeable signs as defined in Section 11-11-2 except for time temperature date signs, traditional barber poles, gauges and dials that may be animated to the extent necessary to display correct measurement, ~~and~~ menu board order confirmation signs, AND GASOLINE PRICING SIGNS AT FUELING FACILITIES. AN EXCEPTION TO THIS SUBSECTION (C) MUST COMPLY WITH ALL OTHER REGULATIONS OF THIS CHAPTER SUCH AS SIZE AND PLACEMENT REGULATIONS.

Section 3. This ordinance shall take effect upon its passage after second reading.

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this ____ day of _____, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this ____ day of _____, 2003.

Mayor

ATTEST:

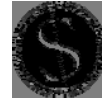
City Clerk



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
March 24, 2003



SUBJECT: Intergovernmental Agreement with the Westminster Economic Development Authority

Prepared By: Robert C. Smith, Treasury Manager
Alan Miller, Project Manager

Recommended City Council Action:

Authorize the Mayor to execute an Intergovernmental Agreement with the Westminster Economic Development Authority (WEDA) agreeing to advance funds to WEDA for the purpose of acquiring land in Mandalay Gardens.

Summary Statement

- The City of Westminster (City) and the Westminster Economic Development Authority (WEDA) have been engaged in activities to redevelop the Mandalay Gardens area. Actions taken to-date include:
 - On December 23, 2002 the City Council approved the annexation of Mandalay Gardens to Westminster.
 - On March 17, 2003 the City Council approved an Urban Renewal Plan for Mandalay Gardens under the Colorado Urban Renewal Law.
- The City and WEDA are parties to a Purchase and Sale Agreement with Suppa Properties LLC (“Suppa”) and Sup-Cal Development LLC (“Sup-Cal”) to purchase approximately six acres of land in Mandalay Gardens (the “Sup-Cal property”). The terms of the Purchase and Sale Agreement are for WEDA to pay the Sellers \$ 1,060,000 for the property, \$800,000 at closing, currently scheduled for April 15, 2003, and the other \$260,000 plus interest on April 15, 2004.
- At this time WEDA does not have cash to make the payment to Sup-Cal. Staff is recommending the City advance funds to WEDA to permit it to purchase the land. This cash would come from the General Capital Improvement Fund.
- WEDA anticipates issuing Tax Increment Financing before December 31, 2003 to fund land acquisition and infrastructure improvements for the Mandalay Gardens project. It is WEDA’s intent to use a portion of the bond proceeds to repay the City for its advance. An Intergovernmental Agreement is needed to formalize the intentions of the City to advance funds to WEDA and for WEDA to repay the City.

Expenditure Required: \$1,060,000

Source of Funds: General Capital Improvement Fund

Policy Issues

Is the City willing to advance to WEDA \$1,060,000 for WEDA to use to purchase the Sup-Cal property in Mandalay Gardens subject to the agreement with WEDA that it repay the City from the proceeds of its issuance of debt before year end 2003?

Alternatives

Do not enter into an Intergovernmental Agreement with WEDA to advance WEDA the funds to purchase the Sup-Cal property in Mandalay Gardens. This is not recommended since the acquisition of this property is an integral part of the development of Mandalay Gardens.

Background Information

On December 16, 2002, the Board of the Westminster Economic Development Authority authorized and directed the Executive Director to sign a Purchase and Sale Agreement with Suppa Properties LLC and Sup-Cal Development LLC for the acquisition of about 6.0 acres of land needed for the proposed Mandalay Gardens development. This agreement was signed on December 16, 2002. The terms of the Purchase and Sale Agreement call for WEDA to pay a total of \$1,060,000 to the sellers to purchase the property. \$800,000 of this would be paid on the anticipated closing date of April 15, 2003 with an additional amount \$ 260,000 plus interest accruing at a rate of 5.0% per annum to be paid on April 15, 2004.

WEDA does not have sufficient cash on hand to make the payment to the sellers on the anticipated closing date of April 15, 2003. Therefore, the Authority must obtain funds from another source to close on the purchase of the land. The City has cash that can be advanced to WEDA on a short-term basis to permit the Authority to buy the Sup-Cal property. Cash is available in the General Capital Improvement Fund and could be advanced to WEDA.

WEDA anticipates issuing debt before December 31, 2003 to fund the purchase of land in the Mandalay Gardens project area and to finance the costs of infrastructure improvements in the area that are necessary to support development. It is WEDA's intent to use part of the proceeds from this debt issuance to repay the City the amount borrowed from the City to purchase the Sup-Cal property on April 15, 2003.

An Intergovernmental Agreement will formalize the agreement between the City and WEDA whereby the City will advance funds to WEDA and WEDA will repay the amount advanced by December 31, 2003.

Staff will attend the March 24 City Council meeting to answer City Council questions.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 24, 2003



SUBJECT: Resolution No. 13 re Delegating the Refunding of King Sooper’s Industrial Development Revenue Bonds to CHAFA

Prepared By: Mary Ann Parrot, Finance Director

Recommended City Council Action

Adopt Resolution No. 13 authorizing the Mayor to sign a Delegation Agreement for issuance of Industrial Development Revenue Bonds (IDRB) to re-finance the \$3.5 million King Sooper’s IDRB through the Colorado Housing and Finance Authority (CHAFA).

Summary Statement

- The City acted as the original conduit finance agency in 1981 for issuance of \$3.5 million in industrial development revenue bonds for the construction of a King Sooper’s grocery store.
- The City acted again in 1984 for the refunding of the 1981 issue.
- The King Sooper’s legal and financial advisors wish to combine this refunding with another issue in a different part of the state. They have stated that, due to economies of scale, they can achieve this combined refunding through the Colorado Housing and Finance Authority.
- The authority for the City’s delegating this action to CHFA is expressly allowed under the state statutes (CRS Title 29, Articles 1 and 3)
- Mr. Calvin Hanson of Sherman & Howard has acted as Special Legal Counsel to the City and has reviewed the documents for this transaction and finds that it is in good order. King Sooper’s has agreed to pay Sherman & Howard their fees as special counsel to review this documentation on behalf of the City.
- Staff recommends approval of this approach for two reasons:
 - Approving this delegation eliminates the risk that the IRS will audit the arbitrage compliance by the City on the new bonds.
 - This action significantly reduces the work effort by Staff in evaluating the transaction especially when there are many other important projects under way.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Does City Council favor the transfer of financing authority to another conduit financing agency for Industrial Development Revenue Bonds?

Alternative

Do not approve the delegation of authority to CHAFA. This is not recommended. Although this means the City would realize the income from the fees charged for the review (by Finance and City Attorney Staff), this still exposes the City to a targeted IRS audit for the 2003 refunding issue.

Background Information

In 1986, the United States Congress passed the Tax Equity Reform and Finance Act (TEFRA), which act was responsible for the beginning of laws and regulations prohibiting arbitrage earnings on municipal bonds, whereby municipalities would issue bonds at tax-exempt rates, invest the proceeds at higher interest rates and keep the arbitrage earnings for the benefit of the citizens and local government.

Since that time, the IRS has formalized a well-organized program of targeting selected issuers of bonds, in which they conduct lengthy, detailed audits. The intent is to find and penalize issuers of municipal bonds who do not comply with arbitrage rules and regulations.

In documentation surrounding the issuance of IDRB bonds, the City indemnifies itself against any and all claims (including IRS claims). The developer, as the obligor of the bond payments, is the party liable for the violation of the arbitrage regulations. That notwithstanding, there is a real risk the IRS can audit the City, even though these bonds are not recorded on the books of the City.

It is also important to note that the 1981 and 1984 King Sooper's bonds were issued prior to the 1986 Arbitrage Regulations going into effect, so the City bears no risk of an IRS audit for these prior issues. However, if the City agreed to act as a conduit issuer for the 2003 refunding bonds, it could be subject to an IRS audit. Staff recommends delegating the refunding authority to CHAFA; this will eliminate the risk of an IRS audit on a post-1986 IDRB conduit financing.

Lastly, under the CRS Title 29, there exists the authority to delegate the power to issue IDRB's through the Colorado Housing and Finance Authority (CHAFA). Mr. Calvin Hanson of Sherman & Howard has reviewed the attached documentation on behalf of the City, acting as Special Legal Counsel and finds that it is in good order. King Sooper's has agreed to pay Sherman & Howard their fees as special counsel to review this documentation on behalf of the City.

Staff will attend the March 24 City Council meeting to answer City Council questions.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **13**

INTRODUCED BY COUNCILLORS

SERIES OF 2003

A RESOLUTION

CONCERNING THE REFINANCING OF INDUSTRIAL DEVELOPMENT REFUNDING REVENUE BONDS; DELEGATING TO THE COLORADO HOUSING AND FINANCE AUTHORITY THE POWERS TO ISSUE REVENUE REFUNDING BONDS OR OTHER REFUNDING OBLIGATIONS IN ORDER TO EFFECT SUCH REFINANCING, AND AUTHORIZING THE EXECUTION AND DELIVERY OF A DELEGATION AGREEMENT IN CONNECTION THEREWITH; PROVIDING OTHER DETAILS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, City of Westminster, Colorado (the "Prior Issuer") previously has issued its \$3,500,000 Industrial Development Revenue Bond (King Sooper's, Inc. Project), dated September 4, 1981, which bonds were refunded, in whole, with the proceeds of the Prior Issuer's \$3,500,000 Floating/Fixed Rate Industrial Development Refunding Revenue Bonds (Dillon Real Estate Co., Inc. Project) dated June 15, 1984 hereto (the "Bonds") pursuant to the County and Municipality Development Revenue Bond Act, constituting Article 3 of Title 29, Colorado Revised Statutes (the "Project Act"), in order to promote economic development, specifically to finance, refinance, acquire, construct and install a retail supermarket facility and related improvements, which promote the public health, welfare, safety, convenience and prosperity; and

WHEREAS, the Project Act and Part 2 of Article 1 of Title 29, Colorado Revised Statutes, provide, in effect, that any county or municipality may by resolution or ordinance delegate to any other county, municipal authority or political subdivision its authority under the Project Act to refinance projects or bonds originally financed under the Project Act; and

WHEREAS, the Prior Issuer desires to delegate to the Colorado Housing and Finance Authority (the "Authority"), its powers under the Project Act to issue refunding revenue bonds or other refunding obligations to be used to pay at maturity and/or redeem prior to maturity the principal of the Bonds as the same becomes due and payable from time to time; and

WHEREAS, the Authority desires to accept such delegation; and

WHEREAS, it is necessary to evidence such delegation and the acceptance of such delegation by the execution and delivery of a Delegation Agreement between the Authority and the Prior Issuer, substantially in the form attached hereto as Exhibit A (the "Delegation Agreement"); and

NOW, THEREFORE, BE IT RESOLVED, BY CITY OF WESTMINSTER, COLORADO:

Section 1. In order to ensure the refinancing of the Bonds by the Authority, it is deemed necessary and advisable that the Delegation Agreement be approved, executed and delivered by and on behalf of the Prior Issuer, in connection with the refunding of the Bonds.

Section 2. The form, terms and provisions of the Delegation Agreement hereby are approved and the officers of the Prior Issuer hereby are authorized and directed to execute and deliver the Delegation Agreement, with such changes therein as are approved by the officers of the Prior Issuer executing the Delegation Agreement. The execution of the Delegation Agreement shall be conclusive evidence of the approval by the Prior Issuer of such document in accordance with the terms hereof.

Section 3. The officers of the Prior Issuer shall take such other steps or actions necessary or reasonably required to carry out the terms and intent of this Resolution and the Delegation Agreement.

Section 4. If any section, paragraph, clause or provisions of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 5. All action not inconsistent with the provisions of this Resolution heretofore taken by the governing body and the officers of the Prior Issuer directed toward the authorization of the Delegation Agreement hereby are ratified, approved and confirmed.

Section 6. This Resolution shall be in full force and effect upon its passage and adoption.

PASSED, ADOPTED AND APPROVED this 24th day of March, 2003.

Title: _____

(SEAL)

Attest:

Title: _____

EXHIBIT A

(Attach Form of Delegation Agreement)

DELEGATION AGREEMENT

This Delegation Agreement is made and entered as of April 1, 2003 between City of Westminster, Colorado (the "Local Government"), a political subdivision duly organized and existing under the Constitution and laws of the State of Colorado (the "State") and the Colorado Housing and Finance Authority (the "Authority"), a body corporate and a political subdivision of the State.

1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this Delegation Agreement are the following:

(a) The Local Government and the Authority are authorized by the County and Municipality Development Revenue Bond Act, constituting Article 3 of Title 29, Colorado Revised Statutes (the "Project Act") and by the Colorado Housing and Finance Authority Act, constituting Title 29, Article 4, Part 7, Colorado Revised Statutes (the "Authority Act"), respectively, to finance properties to promote economic development, specifically to finance, refinance, acquire, construct and install a retail supermarket facility and related improvements, to issue bonds evidencing such financing and to refinance any outstanding bonds issued for such purpose.

(b) Pursuant to the Project Act, the Local Government previously has issued its \$3,500,000 Industrial Development Revenue Bond (King Sooper's, Inc. Project), dated September 4, 1981, which bonds were refunded, in whole, with the proceeds of the Local Government's \$3,500,000 Floating/Fixed Rate Industrial Development Refunding Revenue Bonds (Dillon Real Estate Co., Inc. Project) dated June 15, 1984 (the "Bonds") for such purposes.

(c) The Project Act and Part 2 of Article 1 of Title 29, Colorado Revised Statutes, provide, in effect, that any county or municipality may by resolution or ordinance delegate to any other county, municipal authority or political subdivision its authority under the Project Act to refinance projects originally financed under the Project Act.

(d) The Local Government desires to delegate to the Authority its powers under the Project Act to issue refunding revenue bonds or other refunding obligations to be used to pay at maturity and/or redeem prior to maturity the principal of the Bonds as the same becomes due and payable from time to time.

(e) The Authority desires to accept such delegation.

(f) Neither the execution and delivery of this Delegation Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Delegation Agreement conflicts with or results in a breach of any of the terms, conditions or provisions of any legal restriction or any agreement or instrument to which the Local Government or the Authority is now a party or by which the Local Government or the Authority is bound, or constitutes a default under any of the foregoing.

2. Delegation by the Local Government. Pursuant to the Project Act and Part 2 of Article 1 of Title, 29, Colorado Revised Statutes:

(a) The Local Government hereby delegates to the Authority all authority of the Local Government with respect to the refunding of the Bonds. The Local Government hereby acknowledges that the Authority may effect the refunding of the Bonds using any method that the Authority deems, in its discretion, to be most effective to accomplish such refunding.

(b) The Local Government agrees that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Delegation Agreement.

3. Acceptance of Delegation by the Authority. Pursuant to the Authority Act:

(a) The Authority hereby accepts the delegation granted to it by the Local Government, subject to the terms and conditions herein contained.

(b) The Authority agrees that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Delegation Agreement.

4. General Provisions.

(a) This Delegation Agreement is hereby declared irrevocable during the terms of any agreements to be entered into by the Authority for the purpose of providing for the refunding of the Bonds, and this Delegation Agreement shall terminate upon the termination of all of such agreements.

(b) This Delegation Agreement shall not constitute the debt or indebtedness of the Authority or the Local Government within the meaning of the Constitution or laws of the State, nor give rise to a pecuniary liability or a charge against the general credit or taxing powers of the Authority or the Local Government.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have entered into this Delegation Agreement as of the day and year first above written.

CITY OF WESTMINSTER, COLORADO

By: _____
Title: _____

(SEAL)

Attest:

By: _____
Title: _____

COLORADO HOUSING AND FINANCE
AUTHORITY

By: _____
Executive Director

(SEAL)

Attest:

By: _____
Assistant Secretary



WESTMINSTER
COLORADO

City Council Meeting
March 24, 2003



SUBJECT: Second Reading of Councillor’s Bill No. 14 re Peddlers and Solicitors Code Amendments

Prepared By: Sharon Widener, Assistant City Attorney
Michele Kelley, City Clerk

Recommended City Council Action

Pass Councillor’s Bill No. 14 on second reading amending Title 5, Chapter 6, of the Westminster Municipal Code concerning peddlers and solicitors.

Summary Statement

In 2002, the U.S. Supreme Court struck down a town ordinance requiring that canvassers obtain a solicitor’s permit before going on any private residential property for the purpose of promoting a cause. *Watchtower Bible and Tract Society v. Village of Stratton*, 122 S.Ct. 2080 (2002).

The Court found the permit requirement violated the First Amendment, even though the permit was issued routinely and at no cost, because it required persons to identify themselves and the nature of their speech to the government before approaching any private residential property. The Court did not believe that the permit advanced any legitimate municipal interest, because it was not limited to commercial activities that the town might have regulated to discourage fraud or other crime.

The Westminster Municipal Code contains a requirement that solicitors obtain a permit that includes both commercial and non-commercial activities. Solicitation for candidates to elected office and election issues are exempted from the requirements, but there is no exemption for speech activities involving religious, political, or other types of non-commercial speech except for the election issues that are limited to city elections. The proposed amendment would eliminate the requirement for a solicitor’s license. However, the amendment also makes it clear that an attempt to solicit, for whatever reason, would be unlawful where the resident has posted a sign saying “no soliciting,” as the Court upheld a resident’s (not the government’s) right to protect his or her privacy in the home.

City Council considered and passed this Councillor’s Bill on first reading on March 17th, 2003.

Expenditure Required: \$0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3017**

COUNCILLOR'S BILL NO. **14**

SERIES OF 2003

INTRODUCED BY COUNCILLORS
Kauffman-Atchison

A BILL

FOR AN ORDINANCE AMENDING THE REGULATION OF DOOR-TO-DOOR SOLICITORS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Chapter 6 of Title 5, Westminster Municipal Code, is hereby amended to read as follows:

5-6-1: INTENT: THE CITY COUNCIL FINDS THAT IT IS IN THE INTEREST OF THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC TO ENHANCE PRIVACY OF PERSONS IN THEIR HOMES BY PREVENTING SOLICITORS FROM SOLICITING IN RESIDENTIAL AREAS WHERE THE RESIDENT HAS POSTED A “NO SOLICITING,” “NO TRESPASS,” “NO HANDBILLS” SIGN OR SIMILAR RESTRICTION.

~~5-6-1:~~ **5-6-2: DEFINITIONS:**

(A) “Nonprofit” means peddling or soliciting on behalf of a nonprofit corporation as demonstrated by the corporation’s certificate of tax-exempt status. ~~If a certificate has not yet been issued, the City Clerk may accept an application for a certificate of tax exempt status as proof of the nonprofit nature of the organization, so long as the certificate is provided within a reasonable time.~~

(B) “Peddler” means any person, whether as volunteer, owner, agent, consignee or employee, who engages in a temporary business of selling and delivering amusements or goods, within the City, and who, in furtherance of such purpose, leases, uses or occupies any tent, temporary structure, stand, or outdoor location on private property, for the exhibition and sale of such goods or amusements. This definition includes all persons engaged in said activities who occupy any single location within the City for more than ten (10) minutes at a time. This definition shall not include an individual who holds a general business or home occupation license from the City and operates indoors in full compliance with the zoning code of the City.

(C) “Solicitor” means any person, whether as volunteer, owner, agent, consignee or employee, who travels by foot, wagon, motor vehicle, pushcart, or any other method of transportation from house to house or street to street selling or offering to sell services, food, beverages, goods or merchandise, distributing goods or information ABOUT SUCH SERVICES, FOOD, BEVERAGES, GOODS, OR MERCHANDISE, or soliciting funds or other forms of assistance. A person is not a solicitor unless he or she knocks on doors or otherwise attempts to contact or speak to the occupants of a private residence.

(D) “Stand” means any table, bench, booth, rack, handcart or any other fixture or device which is not required to be licensed and registered by the department of motor vehicles, used for the display, storage or transportation of articles offered for sale by a peddler.

~~5-6-2:~~ **5-6-3: LICENSE REQUIRED; VIOLATION:**

(A) It shall be unlawful for any person to engage in the business of a peddler within the city limits of Westminster without first obtaining a license as provided herein.

~~(B) It shall be unlawful for any person to engage in the business of a solicitor in a residential area within the city limits of Westminster without first obtaining a license as provided herein.~~

~~(C)~~ (B) IT SHALL BE UNLAWFUL FOR ANY PERSON TO SOLICIT OR ATTEMPT TO SOLICIT OR TO INVITE OR ATTEMPT TO DISCUSS, VERBALLY OR IN WRITTEN FORM, IDEAS AND ISSUES, OR DISTRIBUTE WRITTEN INFORMATION, AT ANY PRIVATE RESIDENCE WHICH HAS BEEN POSTED WITH A SIGN STATING "NO SOLICITATIONS," "NO TRESPASS" OR A SIGN WITH SIMILAR MEANING.

~~(D)~~ (C) UPON CONVICTION, A VIOLATION OF THIS CHAPTER SHALL BE PUNISHED AS STATED IN SECTION 1-8-1 OF THIS CODE. A VIOLATION AT EACH RESIDENCE OR UPON EACH DAY SHALL BE CONSIDERED A SEPARATE VIOLATION.

(D) NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO ALTER OR AMEND SECTION 6-3-5 OF THIS CODE.

~~(E)~~ (E) A peddler or solicitor shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trade, merchant or auctioneer.

~~5-6-3:~~ 5-6-4: EXEMPTIONS:

(A) ~~Solicitation on behalf of a candidate for elective public office or a measure to be placed on the ballot or which has been placed on the ballot in the next election shall be exempt from the application of this Chapter.~~ THE DISCUSSION OR INVITATION TO DISCUSS, EITHER VERBALLY OR IN WRITTEN FORM, A PUBLIC OR PRIVATE ISSUE OR POLITICAL OR RELIGIOUS IDEAS, SHALL NOT BE CONSIDERED TO BE SOLICITATION GOVERNED BY THIS CHAPTER. IT SHALL BE A VIOLATION OF THIS CHAPTER TO SOLICIT FUNDS TO BE PAID DIRECTLY TO THE PERSON ENGAGED IN DISCUSSION OF IDEAS OR ISSUES

(B) Solicitation on behalf of a governmental entity shall be exempt from the application of this Chapter.

(C) This ordinance shall not apply to yard sales, garage sales or estate sales in a residential area unless such a sale is subject to the sales and use tax provisions of this Code. This shall not be construed to allow such a sale to exceed a three-day period or to allow the sale of food, beverages or amusements in conjunction with the sale. No loud speakers, tents, public toilet facilities or other portable structures are permitted. Auctions are prohibited except where permitted by zoning. Any professional or compensated agent of the owner of the items to be sold shall be licensed pursuant to this Code. Such license shall be conditioned upon the professional or compensated agent's sale or auction for sale of property owned only by the owner of the premises at which the sale is conducted. Children selling drinks, such as lemonade, at their own homes shall be exempted from the application of this Chapter.

~~5-6-4:~~ 5-6-5: LICENSE APPLICATION:

(A) An applicant for a license under this Chapter shall file with the City Clerk a verified application in writing on a form to be furnished by the City Clerk, which shall include the following information:

1. The name ~~and description~~ of the applicant, ~~including date of birth of the individual.~~
- ~~— (2) In the case of an applicant on behalf of a corporation or other entity, the name, address and telephone number of the agent for service of process.~~
- ~~(3)~~2. The residential address and telephone number of an individual applicant and the business address and telephone number.
- ~~(4)~~3. A brief description of the nature of the business ~~or solicitation.~~
- (5)4. The dates or length of time for which the right to do business is desired stated in number of days, weeks, or months, up to a maximum of one year.
- ~~(6) If a vehicle is to be used, a description of the same, together with the license number or other means of identification.~~

~~(7)~~ 5. The location in which the applicant will be conducting business if a license is granted and written permission from the owner of the property or, if the applicant is the owner or lessee, evidence of ownership or a lease. If the applicant is not the property owner, the name, address and telephone number of the owner shall be provided. ~~If the applicant applies for a solicitor's license, the streets or area in which this activity will be conducted shall be identified.~~

~~(8)~~ A statement of whether the applicant has been convicted of any crime, misdemeanor or violation of any federal, state or municipal law, the nature of the offense and the punishment or penalty assessed therefor.

~~(9)~~ 6. A brief statement of the nature and character of the signage or advertising shall be attached to said application as exhibits thereto.

~~(10)~~ 7. When requested, a list of the individuals or employees who will be operating on behalf of the licensee within the City.

~~(11)~~ 8. Documentation of nonprofit corporate status and nonprofit tax status, if applicable.

~~(12)~~ Such other reasonable information as to the identity or character of the applicants and person or persons managing or supervising the applicant's business as may be determined by the City Manager to be necessary for the protection of the public good.

~~5-6-5:~~ **5-6-6: INVESTIGATION AND ISSUANCE:**

(A) Upon receipt of an application FOR A PEDDLER'S LICENSE (TEMPORARY USE PERMIT), the application shall be referred to ~~the Chief of Police and~~ to the Department of Community Development for processing as specified by this section.

(B) The Chief of Police shall cause such investigation of the applicant and the applicant's business to be made as he deems necessary for the protection of the public and return his recommendation to the City Clerk. If the investigation discloses that the applicant has been convicted of crimes that were not disclosed on the application, the Chief of Police shall recommend denial of the application. If the applicant has disclosed convictions on the application, the Chief of Police shall make his recommendation to the City Clerk based on the nature of the offenses, the length of time since the convictions and any other information relevant to the protection of the public. The Chief of Police may also base his recommendation upon other identifiable threats to public safety.

(C) The applicant shall apply for a sales and use tax license.

~~(D)~~ If the application is for a stationary location, approval by the Department of Community Development for a temporary use permit is required in order to do business in the proposed location. ~~If a temporary use permit is required, then the applicant is eligible only for a peddler's license.~~

~~(E)~~ Upon receipt and review of recommendations from the Chief of Police and the Department of Community Development, the City Manager shall approve, approve with conditions, or deny the application. The City Manager shall endorse his decision on the application and his reasons for same and shall notify the applicant of the decision and whether issuance of the license is authorized.

~~(F)~~ If the application is approved by the City Manager, upon posting the bond required by this Chapter and payment of the prescribed license fee by the applicant, the license shall be issued.

~~(G)~~ (D) Each licensee shall carry his or her license at all times while peddling ~~or soliciting~~ and shall display it upon request.

~~(H)~~ (E) All licenses shall be issued in the individual's name except as otherwise provided herein. Any license issued to a firm, association or corporation shall include the name of the authorized representative of the firm, association or corporation which representative's name shall appear on the application, bond, badge, and license. No license shall be transferable or used by any other person, except as provided in this section. No other representative of the same firm, association or corporation shall use the same license, except as provided in this section.

(1) If a firm, association or corporation applies for and is granted an annual license at the fee set forth in this Chapter, it shall be entitled to obtain ~~badges~~ A LICENSE for up to and including ten employees under its annual license. The business shall comply with the bonding requirement under this Chapter, but need not obtain separate bonds for each employee.

~~———— (2) For every employee over ten, or in order to process a transfer of a badge LICENSE from one employee to another, a \$5.00 fee shall be charged to issue a new individual employee badge LICENSE.~~

~~———— (3) Each individual employee badge LICENSE shall exhibit the business name as well as the individual employee's name. Each employee soliciting pursuant to a business's annual license shall carry an individual badge LICENSE in his own name at all times.~~

(4) Each business applying for an annual license and wishing to license employees pursuant to such annual license shall provide such proof as may be required by the City Manager to demonstrate that it is a bona fide business entity separate from its alleged employees.

~~(5) For purposes of the investigation conducted by the Chief of Police pursuant to this Chapter, each individual employee of a business who desires a badge shall be considered an applicant and shall be investigated.~~

~~(F)~~ (F) A nonprofit corporation need not submit a separate application for each person peddling ~~or soliciting~~ on its behalf, but shall inform the City Clerk in writing of each individual who will be acting on behalf of the nonprofit corporation within the City.

~~(G)~~ (G) Issuance of a license under this Chapter does not in any way relieve a peddler from responsibility for obtaining permission from respective property owners to set up displays and sell goods on private property.

~~(H)~~ (H) A licensee under this chapter shall comply with all applicable laws of the City of Westminster and the State of Colorado.

~~(I)~~ (I) The duties of the City Manager may be delegated to the City Clerk except that the City Manager shall review all denials of applications prior to notification to the applicant.

~~5-6-6: 5-6-7:~~ FEES: The following fees shall be charged upon application for a license as required by this Chapter:

<u>Commercial</u>	<u>Nonprofit</u>
\$ 5.00 per 1 day period	\$5.00 per 30 day period
\$ 15.00 per 7 day period	
\$ 50.00 per 30 day period	
\$500.00 per 365 day period	

~~5-6-7: 5-6-8:~~ BOND REQUIRED:

(A) Before any license shall be issued an applicant pursuant to this Chapter, the applicant shall file with the City Clerk a cash bond, certified funds payable to the City or a surety bond payable to the City in the sum of one thousand dollars (\$1,000.00). If a surety bond is provided it shall be executed by the applicant as principal and at least one surety upon which service of process may be made in the State of Colorado. Such bond must be approved by the City Attorney, both as to form and as to the responsibility of the surety.

(B) Such bond shall be conditioned that:

(1) The applicant shall comply fully with the terms of its license, all applicable laws and regulations of the City, and state statutes regulating and concerning the applicant's business, and

(2) The City shall be indemnified against and held harmless from any liability that may be imposed upon the City by the licensee's operations within the City.

(C) In the event of a breach of the conditions of the surety bond, or in the event of a breach of this Code by a licensee who has provided a cash bond or certified funds, the entire amount shall be forfeited to the City, upon demand and without proof of actual damages, as liquidated damages to compensate the City for actual costs and delay as well as inconvenience and other harm to the City and the general public that is impossible to estimate with certainty at the time the license is issued. The City shall be entitled to collect interest and its attorney's fees related to enforcement of the surety bond.

(D) All licensees shall be personally liable to pay the City, its officials and employees, and their successors any judgments, claims, demand, losses, costs, expenses, or liabilities of any kind that the City or any of the persons above enumerated may sustain or that may be recovered from it or them, from or by reason of the issuance of a license pursuant to this Chapter or by reason of any act, neglect, or thing done under or by virtue of the authority given in the license or this Chapter.

(E) All licensees shall be responsible for all acts or omissions of any persons acting on behalf of such licensee, whether as an employee, volunteer or other agent. Any violation of this ordinance by an employee, volunteer or other agent of a licensee resulting in damage to the City shall be grounds for forfeiture of the licensee's surety bond, cash bond or certified funds.

(F) The bond requirement shall be waived if peddling or solicitation is conducted on behalf of a nonprofit corporation.

(G) Forfeiture or loss of such bond shall be grounds for summary suspension of a license issued pursuant to this Chapter by the City Manager until such time as a new bond is provided.

~~5-6-8:~~ 5-6-9: TEMPORARY USE PERMITS:

(A) All uses conducted pursuant to this chapter shall conform to the zoning provisions of this Code, including the sign code, unless otherwise provided herein.

(B) A temporary use permit shall be required for all peddlers.

(C) If a temporary use permit is required, it shall be granted if the proposed temporary use meets the following criteria:

- (1) The temporary outdoor use is of a seasonal or special event nature.
- (2) All structures subject to any building, construction or fire codes comply with such codes, as appropriate.
- (3) All signs comply with the applicable provisions of this Code.
- (4) The location of the use is at least ten (10) feet from any public property or right-of-way.
- (5) If customers of a peddler are required to park in order to gain access to the peddler, that sufficient parking is available without interfering with the public rights of way on sidewalks or streets and without requiring customers to park on private property without the consent of the property owner.
- (6) Safe access is available by vehicle and pedestrian traffic to the peddler's location without requiring illegal or unsafe turning movements by vehicles or trespass across private property without the consent of the property owner.
- (7) If the applicant proposes a use that will occupy private property or cause vehicles or pedestrians to use or cross private property, then written proof of the applicant's right to use such property shall be required.
- (8) No use shall be permitted that:
 - a. Impedes access to the entrance of any adjacent building or driveway,
 - b. Is located in such a manner as to interfere with a fire hydrant, fire escape, bus stop, loading zone, or driveway of a fire station, police station, hospital or handicapped parking space or access ramp.

(D) The temporary use permit shall designate the specific location for the use and the time period for which the permit is issued. Permits may not be issued for any location for more than sixty (60) days per year.

(E) Services may not be rendered in a location pursuant to a temporary use permit.

(F) This ordinance shall not be construed to require a temporary use permit for the temporary outdoor extension of regular indoor commercial activity such as a sidewalk sale.

~~5-6-9:~~ 5-6-10: CONDITIONS OF OPERATION:

~~(A) Every resident of the City shall have the right to post a notice upon his real property, business or residence, including but not limited to apartments, condominiums, mobile homes, and detached residences, to the effect that solicitors shall not solicit or attempt to solicit from the occupant or occupants thereof. It shall be unlawful to solicit from an occupant in violation of such a notice or without previous invitation so to do from the occupant thereof.~~

~~(B) All solicitation activities, whether conducted on foot or from a vehicle, shall be conducted in strict accordance with all traffic and parking laws.~~

~~(C)~~ (A) Peddlers shall be allowed to engage in their businesses between the hours of 7:00 A.M. and 10:00 P.M. unless otherwise stated in the conditions on their license. Solicitors shall be allowed to solicit in residential areas between the hours of 8:00 A.M. and 8:00 P.M.

~~(D)~~ (B) All trash or debris accumulation caused by a licensee's activities shall be collected and deposited in a proper trash container. Any accumulation of trash or debris that causes the City to incur expense in removing the accumulation shall be cause for the City to proceed against the licensee's surety bond.

~~(E)~~ (C) Sales and use taxes shall be paid upon the schedule set by this Code.

~~5-6-10:~~ 5-6-11: ENFORCEMENT; LICENSE DENIAL, SUSPENSION, CANCELLATION, OR REVOCATION:

(A) It shall be the duty of any police officer, sales tax enforcement officer or code enforcement officer of the City to require any person subject to this Chapter to produce his license and to enforce the provisions of this Chapter against any person found to be violating the same.

(B) The Chief of Police shall report to the City Clerk all violations of this chapter and of this Code by licensees and the City Clerk shall maintain a record of the reports of violation therein.

(C) A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title, or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.

(D) A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing and shall be given by personal delivery to the licensee or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.

(E) An application for a new license may be denied by the City Manager upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this Code, such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.

(F) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

(G) The Special Permit and License Board shall conduct A HEARING OF an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

(H) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.

~~5-6-11:~~ 5-6-12: PENALTY: It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter 6.

~~5-6-12:~~ 5-6-13: LOUD SPEAKERS OR SOUND TRUCKS:

~~(A) It shall be unlawful for any person to operate, or cause to be operated, any sound truck on the public streets of the City with sound amplifying equipment in operation, except in conformance with the regulations set forth herein.~~

~~(B)~~ (A) The use of sound trucks with sound amplifying equipment in operation shall be subject to the following regulations:

1. The only sounds permitted to be amplified are music or human speech.
2. Operations are permitted for nine (9) hours each day. The permitted nine (9) hours of operation shall be between the hours of ten o'clock (10:00) A.M. and seven o'clock (7:00) P.M
3. Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of less than twelve (12) miles per hour. When stopped to make sales, said sound amplifying equipment shall not be operated.
4. Sound shall not be issued within one hundred (100) yards of hospitals, or within 100 hundred (100) yards of churches during the hours services are being held, or within five hundred feet (500') of a school during the school year.
5. The human speech and music amplified shall not be profane, lewd, indecent or slanderous.
6. The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred (100) yards from the sound truck and so that said volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.
7. It shall be unlawful for any sound truck to amplify sound along any particular route more than one time during a twenty four (24) hour period.
8. It shall be unlawful for any sound truck to stop within twenty five feet (25') of an intersection when making a sale, or attempting to make a sale.
9. It shall be unlawful for any sound truck to double park, or park in a manner contrary to any ordinance relating to parking, when attempting a sale or making a sale.
10. It shall be unlawful for any sound truck to make a U turn in any block.
11. It shall be unlawful for any driver of a sound truck to drive his vehicle backward to make or attempt to make a sale.
12. It shall be unlawful for any driver of a sound truck to sell to any person who is standing in the street.
13. It shall be unlawful for any driver of a sound truck to permit any person to hang on the vehicle, or permit any person to ride in or on the vehicle, except a bona fide assistant or assistants.
14. All sound trucks must be equipped with four (4) way flashing lights, both parking and taillights. Trucks must have lights flashing while seeking or making a sale.

⊖ (B) It shall be unlawful for any person to use or cause to be used, a sound truck with its sound amplifying equipment in operation in the City without having paid an annual registration fee of \$5 per vehicle and filed a registration statement with the City Clerk in writing and having it approved by the City Manager and City Clerk. This statement shall be filed in duplicate and include the following information:

1. Name and address of the registrant,
2. Name and address of person having direct charge of the sound truck,
3. Name and address of all persons who will use or operate the sound truck,
4. The purpose for which the sound truck will be used,
5. A general statement as to the areas of the City in which the sound truck will be used,
6. The proposed hours of operation of the sound truck,
7. The number of days of proposed operation of the sound truck,

⊕ (C) DEFINITIONS:

1. "Sound truck" shall mean any vehicle, or horse-drawn vehicle, having mounted, thereon, or attached thereto, any sound amplifying equipment.
2. "Sound amplifying equipment" shall mean any machine or device for the amplification of the human voice, music or any other sound. "Sound amplifying equipment" shall not be construed as including standard automobile radios when used and heard only by the occupants of the vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

~~5-6-13:~~ **5-6-14: SOLICITATION ON OR NEAR STREET OR HIGHWAY:** This chapter shall not apply to sales or solicitation on or near streets or highways. See Title IX, Chapter 4 of this Code.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 17th day of March, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of March, 2003.

Mayor

ATTEST:

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 24, 2003

SUBJECT: Citizen Communication – Richard Ott and Krzysztof Smereczynski

Prepared By: Michele Kelley, City Clerk

Recommended City Council Action

Listen to the presentation by Richard Ott and Krzysztof Smereczynski

Summary Statement

Mr. Richard Ott, attorney representing Krzysztof Smereczynsk, who resides at 6021 West 111th Avenue have requested time on Monday night's agenda to address City Council.

Mr. Ott has indicated that their presentation will be longer than 5 minutes and therefore this item has been place at the end of the meeting.

Articles and information have been attached addressing the issue of pigeons.

Expenditure Required: \$ 0

Source of Funds:

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, March 24, 2003. Present at roll call were Mayor Moss, Mayor Pro-Tem Atchison, Councillors Dittman, Dixon, Hicks, and McNally. Absent Kauffman.

The minutes of the March 17, 2003 meeting were approved.

Mayor Moss presented a proclamation to the Ranum High School's Girl's Basketball Team and Coach for their Class 4A State championship.

Council approved the following: 136th Avenue and I-25 Interchange Project Award for \$5,072,184.01; IGA for 144th Avenue Interchange Study for \$132,600; Bids for 2003 Large Item Trash Cleanup Program Pilot Program Browning Ferris Inc. (BFI) for \$95,000; Contract for Design of the 74th Avenue Waterline with Merrick Engineering for \$53,000; CB No. 11 re Establishing New Precincts for City Elections; CB No. 12 re Historic Preservation; CB No. 13 re Amusement Centers Code Amendments; February Financial Report; IGA with Westminster Economic Development Authority re advance of funds to WEDA for the purpose of acquiring land in Mandalay Gardens; and CB No. 14 re Peddlers and Solicitors Code Amendments.

The following Public Hearing was held: At 7:22 p.m. on the Designation of Westminster Grange Hall as a Local Historic Landmark.

The following Councillor's Bills were passed on first reading:

A BILL FOR AN ORDINANCE AMENDING THE SIGN CODE Purpose: Sign Code Revisions for Gasoline Pricing Signs

The following Councillor's Bills were adopted on second reading:

A BILL FOR AN ORDINANCE AMENDING CITY OF WESTMINSTER PRECINCTS AND POLLING PLACES

A BILL FOR AN ORDINANCE ESTABLISHING A PROGRAM FOR IDENTIFICATION, PRESERVATION AND USE OF CITY LANDMARKS

A BILL FOR AN ORDINANCE AMENDING TITLE 5 OF THE WESTMINSTER MUNICIPAL CODE CONCERNING AMUSEMENT CENTERS

A BILL FOR AN ORDINANCE AMENDING THE REGULATION OF DOOR-TO-DOOR SOLICITORS

The following Resolutions were adopted:

Resolution No. 12 re Designating Westminster Grange Hall as a Local Historic Landmark

Resolution No. 13 re Delegating Refunding of King Sooper's IDR to CHAFA

At 8:00 P.M. the meeting was adjourned

By order of the Westminster City Council

Michele Kelley, CMC, City Clerk

Published in the Westminster Window on April 3, 2003

ORDINANCE NO.

COUNCILLOR'S BILL NO. **11**

SERIES OF 2003

INTRODUCED BY COUNCILLORS
Dittman-Dixon

A BILL
FOR AN ORDINANCE AMENDING CITY OF WESTMINSTER
PRECINCTS AND POLLING PLACES

THE CITY OF WESTMINSTER ORDAINS:

Section 1: Title 7, Chapter 1, Section 2 of the Westminster Municipal Code is hereby amended as follows:

7-1-2: WARDS; PRECINCTS; POLLING PLACES:

(A) The City shall consist of one ward.

(B) There is hereby established and there shall be ~~nineteen~~ TWENTY-TWO (~~19~~ **22**) precincts within the City as follows:

~~Precinct 1 shall consist of that area within the City lying north of 77th Avenue, west of Bradburn Boulevard, south of the Denver Boulder Turnpike east of Sheridan Boulevard to approximately 88th Avenue on the north~~ ADAMS COUNTY PRECINCTS 2313501012, 2313501013, AND 2313501014.

~~Precinct 2 shall consist of that area within the City lying south of 77th Avenue, west of Bradburn Boulevard extended to the City limits on the south, east of Sheridan Boulevard.~~ ADAMS COUNTY PRECINCTS 2313501011, 2313501016 AND 7313501009 WITHIN THE CITY LIMITS.

~~Precinct 3 shall consist of that area within the City lying north of the Denver Boulder Turnpike, west of Lowell Boulevard, south of 88th Avenue, east of Sheridan Boulevard~~ ADAMS COUNTY PRECINCTS 2313501019 AND 2313501023.

~~Precinct 4 shall consist of that area within the City lying east of Lowell Boulevard, north of the Denver Boulder Turnpike, west of Zuni Street and south of 88th Avenue~~ ADAMS COUNTY PRECINCTS 2313501020 AND 2313501024 WITHIN THE CITY LIMITS.

~~Precinct 5 shall consist of that area within the City lying east of Federal Boulevard, south of the Denver Boulder Turnpike, west of Zuni Street, to the City limits on the south~~ ADAMS COUNTY PRECINCTS 2313501021, 2313501025 AND 2313501026 WITHIN THE CITY LIMITS.

~~Precinct 6 shall consist of that area within the City lying east of Bradburn Boulevard, west of Lowell Boulevard and south of the Denver Boulder Turnpike to the City limits on the south~~ ADAMS COUNTY PRECINCTS 2233501030 AND 223501031.

~~Precinct 7 shall consist of that area within the City lying east of Lowell Boulevard, west of Federal Boulevard, south of the Denver Boulder Turnpike to the City limits on the south~~ ADAMS COUNTY PRECINCTS 2313501027, 2313501028 AND 2233501029 WITHIN THE CITY LIMITS

~~Precinct 8 shall consist of that area within the City lying east of Lowell Boulevard, west of Federal Boulevard, north of 88th Avenue and south of 104th Avenue~~ ADAMS COUNTY PRECINCTS 2233401050 AND 2233401051.

~~Precinct 9 shall consist of that area within the City lying east of Sheridan Boulevard, west of Lowell Boulevard, north of 88th Avenue and south of 104th Avenue~~ ADAMS COUNTY PRECINCTS 2233501032 AND 2233501033.

~~Precinct 10 shall consist of that area within the City lying north of 96th Avenue, east of Alkire Street, along the City limits on the north to Simms Street, then north along Simms Street then south along Countryside Drive to Oak Street to the City limits on the south~~ ADAMS COUNTY PRECINCTS 2233401034, 2233401035, AND 2233401038.

~~Precinct 11 shall consist of that area within the City lying north of 104th Avenue, south of 120th Avenue, east of Sheridan Boulevard and west of the eastern City limits at 104th Avenue, then north to 112th Avenue, then west along 112th Avenue to Federal Boulevard, then north along Federal Boulevard to 120th Avenue~~ ADAMS COUNTY PRECINCTS 2233401036, 2233401037, AND 2233401039

~~Precinct 12 shall consist of that area within the City lying north of 120th Avenue, east of Lowell Boulevard, south of the northern city limits and west of Interstate 25~~ ADAMS COUNTY PRECINCTS 2233301070, 2233301071, AND 2233301072.

~~Precinct 13 shall consist of that area within the City lying south of 100th Avenue, north of 88th Avenue and west of Colorado Highway 121 ADAMS COUNTY PRECINCTS 2233301073 AND 2233301074.~~

~~Precinct 14 shall consist of that area within the City lying east of Colorado Highway 121, south of 112th Avenue, west of the Denver Boulder Turnpike and north of 88th Avenue ADAMS COUNTY PRECINCTS 2233301075, 2233301076, 2233301077, 2233301078 AND 2233301079 WITHIN THE CITY LIMITS.~~

~~Precinct 15 shall consist of that area within the City lying south of 112th Avenue, east of Simms Street to Countryside Drive, south along Countryside Drive to Oak Street, south on Oak Street to 100th Avenue, east along 100th Avenue to Colorado Highway 121, north on Colorado Highway 121 to 112th Avenue, east along 112th Avenue to the Denver/Boulder Turnpike, north to 120th Avenue JEFFERSON COUNTY PRECINCTS 2192930021 AND 2192930022.~~

~~Precinct 16 shall consist of that area within the City lying east of the Denver Boulder Turnpike, south of 120th Avenue, west of Sheridan Boulevard and north of 88th Avenue JEFFERSON COUNTY PRECINCTS 219293007, 219293015, 219293018 AND 219293019 WITHIN THE CITY LIMITS.~~

~~Precinct 17 shall consist of that area within the City lying west of Interstate 25, south of 120th Avenue, east of Federal Boulevard and north of 112th Avenue JEFFERSON COUNTY PRECINCTS 219293002, 219293011 AND 2192930013 WITHIN THE CITY LIMITS.~~

~~Precinct 18 shall consist of that area within the City lying west of Sheridan Boulevard, south of 80th Avenue, east of Pierce Street and north of the City limits JEFFERSON COUNTY PRECINCTS 2192930016 AND 2192930020.~~

~~Precinct 19 shall consist of that area within the city lying west of Wadsworth Boulevard, north of the southern city limits along West 86th Avenue; north along the western city limits along the east side of Standley Lake to the Niver Canal; east along the Niver Canal to the foot path, south along the foot path to West 93rd Avenue, east on West 93rd Avenue to Garrison Street, south on Garrison Street to West 90th Place, southwest on West 90th Place to Independence Street, southeast on Independence Street to Farmers Highline Canal, east along Farmers Highline Canal to Field Street, north on Field Street to West 91st Avenue; east on West 91st Avenue to Cody Street; southeast on Cody Street to the fence line of Farmers Highline Canal; east along the Farmers Highline Canal to Wadsworth Boulevard JEFFERSON COUNTY PRECINCTS 2192930009, 2192930014 AND 2192930017~~

~~PRECINCT 20 SHALL CONSIST OF JEFFERSON COUNTY PRECINCTS 2192930006, 2192930010 AND 2192930012.~~

~~PRECINCT 21 SHALL CONSIST OF JEFFERSON COUNTY PRECINCTS 219293001, 219293004 AND 219293005 WITHIN THE CITY LIMITS.~~

~~PRECINCT 22 SHALL CONSIST OF JEFFERSON COUNTY PRECINCTS 219293003 AND 2192930008 WITHIN THE CITY LIMITS~~

(C) The following places in each precinct are hereby designated as the official polling places at which elections are to be held:

- ~~1. Precinct 1: Westminster Hills Elementary School, 4105 West 80th Ave~~
- ~~2. Precinct 2: St. Martha's Episcopal Church, 7615 Bradburn Blvd~~
- ~~3. Precinct 3: Advent Lutheran Church, 3740 West 80th Avenue~~
- ~~4. Precinct 4: First Southern Baptist Church, 7979 Lowell Blvd~~
- ~~5. Precinct 5: Skyline Vista School, 7395 Zuni Street~~
- ~~6. Precinct 6: Westminster Presbyterian Church, 7390 Bradburn Blvd~~
- ~~7. Precinct 7: Westminster Elementary School, 7482 Irving Street~~
- ~~8. Precinct 8: Sunset Ridge Elementary School, 9455 Hooker Street~~
- ~~9. Precinct 9: Westminster City Hall, 4800 West 92nd Avenue~~
- ~~10. Precinct 10: Countryside Recreation Center, 10470 Oak Street~~
- ~~11. Precinct 11: Cotton Creek Elementary School, 11100 Vrain Street~~
- ~~12. Precinct 12: Casa Estates Mobile Home Clubhouse, 860 West 132nd Ave~~
- ~~13. Precinct 13: Zenger Elementary School, 9050 Field Street~~
- ~~14. Precinct 14: Mandalay Junior High School, 9651 Pierce Street~~
- ~~15. Precinct 15: Witt Elementary School, 10255 West 104th Drive~~
- ~~16. Precinct 16: Sheridan Green Elementary School, 10951 Harlan St~~
- ~~17. Precinct 17: The Ranch Country Club, 11887 Tejon Street~~
- ~~18. Precinct 18: Thomson Elementary School, 7750 Harlan Street~~
- ~~19. Precinct 19: Moore Junior High School, 8455 West 88th Avenue~~

PRECINCT 1: 76TH AVENUE LIBRARY, 3031 WEST 76TH AVENUE
PRECINCT 2: FIRE STATION NO. 1, 3948 WEST 73RD AVENUE
PRECINCT 3: WESTMINSTER HILLS ELEMENTARY SCHOOL, 4105 WEST 80TH AVE
PRECINCT 4: GREGORY HILL PRESCHOOL, 8030 IRVING STREET
PRECINCT 5: HIGHVIEW MOBILE HOME CLUBHOUSE, 8601 ZUNI ST
PRECINCT 6: SUNSET RIDGE ELEMENTARY SCHOOL, 9451 HOOKER STREET
PRECINCT 7: WESTMINSTER CITY HALL, 4800 WEST 92ND AVENUE
PRECINCT 8: ROCKY MOUNTAIN ELEMENTARY SCHOOL, 3350 WEST 99TH AVENUE
PRECINCT 9: HYLAND HILLS RESTAURANT, 9650 SHERIDAN BOULEVARD
PRECINCT 10: FIRE STATION NO. 4, 4580 WEST 112TH AVENUE
PRECINCT 11: COLLEGE HILL LIBRARY, 3705 WEST 112TH AVENUE
PRECINCT 12: THE RANCH COUNTRY CLUB, 11887 TEJON STREET
PRECINCT 13: FIRE STATION NO. 6, 999 WEST 124TH AVENUE
PRECINCT 14: RECLAIMED WATER TREATMENT FACILITY, 13070 HURON ST
PRECINCT 15: KAISER HEALTH PLAN, 7701 SHERIDAN BOULEVARD
PRECINCT 16: MANDALAY MIDDLE SCHOOL, 9651 PIERCE STREET
PRECINCT 17: SHERIDAN GREEN ELEMENTARY SCHOOL, 10951 HARLAN STREET
PRECINCT 18: VICTORY CHURCH, 11700 SHERIDAN BOULEVARD
PRECINCT 19: MOORE MIDDLE SCHOOL, 8455 WEST 88TH AVENUE
PRECINCT 20: LUCAS ELEMENTARY SCHOOL, 9650 WEST 97TH AVENUE
PRECINCT 21: WEST VIEW RECREATION CENTER, 10747 WEST 108TH AVENUE
PRECINCT 22: WITT ELEMENTARY SCHOOL, 10255 WEST 104TH DRIVE

(D) In the event of future annexations to the City, the area annexed will become a part of the precinct to which it is annexed; except that, when such area shall be contiguous to two (2) or more precincts, the City Council by resolution shall designate the precinct in which the annexed area shall be located.

(E) When a City of Westminster election is held concurrently with a County conducted election, the designated precincts and polling places will be designated by the County; provided that the polling place for persons who are qualified electors as defined in the Westminster Charter, but not registered to vote, shall be Westminster City Hall.

(F) City precinct boundaries and polling places will be reviewed by the Election Commission after the State process of redistricting and the County process of reprecincting HAS BEEN COMPLETED.

Section 2. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 17TH day of March, 2003 PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of March, 2003.

ORDINANCE NO.
SERIES OF 2003

COUNCILLOR'S BILL NO. 12
INTRODUCED BY COUNCILLORS

Hicks-McNally

A BILL FOR AN ORDINANCE ESTABLISHING A PROGRAM FOR IDENTIFICATION,
PRESERVATION AND USE OF CITY LANDMARKS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Chapter 13 of Title XI of the Westminster Municipal Code is hereby adopted to read as follows:

11-13-1: DECLARATION OF POLICY AND PURPOSE:

(A) The Council finds that the pressures of population growth and development may result in the destruction, impairment or drastic alteration of the buildings, structures and areas important to the City's social, cultural, historic and architectural heritage. It is further found that the prevention of such destruction and impairment and the attendant preservation of the City's social, cultural, historic and architectural heritage is essential to the public health, safety and welfare.

(B) The purpose of this chapter is to promote the public health, safety and welfare through:

1. The protection, enhancement, perpetuation and use of buildings, structures, sites and areas that are reminders of past eras, events and persons important in local, state or national history, or which provide significant examples of architectural styles of the past, or which are unique and irreplaceable assets to the City and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived;

2. The development and maintenance of appropriate settings and environments for such buildings and structures, and in such sites and areas;

3. The enhancement of property values, the stabilization of neighborhoods and areas of the City, the increase of economic and financial benefits to the City and its inhabitants, and the promotion of visitor trade and interest;

4. The preservation and enhancement of a City of varied architectural styles, reflecting the distinct phases of its history: cultural, social, economic, political and architectural;

5. The enrichment of human life in its spiritual, educational and cultural dimensions by fostering knowledge of the living heritage of the past; and

6. The provision of educational opportunities and to increase the appreciation of local and state history.

(C) The intent of this chapter is to create a reasonable balance between private property rights and the public interest in preserving Westminster's unique historic character and culture. It is also the intent of this chapter not to preserve every old building in the City, but rather to provide incentives to preserve historic and architecturally significant sites, buildings, structures, neighborhoods and districts by providing guidelines for the appropriate use of land and the moving, demolition, reconstruction, restoration or alteration of such buildings, sites and structures that comply with state and federal historic preservation laws, thereby making certain tax credits available to private property owners and making other benefits and incentives available for preservation projects.

11-13-2: DEFINITIONS:

As used in this chapter, the following words and terms are defined as follows:

ALTERATION: Any act or process that changes either one or more of the exterior architectural features of a structure; or one or more of the physical features of a site or district, except color or paint.

BOARD: The City's historic landmark board as created in this chapter.

CERTIFICATE OF HISTORIC APPROPRIATENESS: A certificate issued by the City showing approval of plans for construction, demolition, moving, reconstruction, restoration or alteration of any structure in a historic landmark district or designated as a historic landmark.

CONTRIBUTING STRUCTURES: Those structures or physical features within a site or district that help to define the historic significance of that site or district.

CULTURAL LANDSCAPE: A geographic area (including both cultural and natural resources and the wildlife or domestic animals therein) associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values.

DEMOLITION: Any act or process which destroys, in part or in whole, any historic landmark.

DESIGNATED LANDMARK OR DISTRICT: A structure, site or district officially included in the State of Colorado or National Register of Historic Places, or designated pursuant to this chapter as a historic landmark.

DIRECTOR: The City's Director of Community Development or his or her designee.

EXTERIOR ARCHITECTURAL FEATURES: The architectural style and general arrangement of the exterior of the structure including type and texture of the building materials and including all windows, doors, siding, roofs, lights, signs and other fixtures appurtenant thereto, if such physical component is visible from a public way or adjoining properties.

HISTORIC DESIGNATION: The formal recognition of a historic structure, site, or district by the City pursuant to this chapter.

HISTORIC LANDMARK: Any resources of this City either public and private, including buildings, homes, replicas, structures, objects, properties, cultural landscapes or sites that have importance in the history, architecture, archeology, or culture of this City, state or nation, as determined by the board and having received a historic designation because of its significance and importance to the community.

HISTORIC LANDMARK DISTRICT: A geographically definable area including a concentration, linkage or continuity of subsurface sites, cultural landscapes, buildings, structures, and/or objects. A district is related by a pattern of either physical elements or social activities. A term "district" may include, but is not limited to, neighborhoods, agricultural or commercial districts.

HISTORIC LANDMARK BOARD: The City Council or a citizen committee appointed by the City Council to make recommendations to the Council on the designation of historic landmarks and historic districts and to administer the City's historic landmark program, and hereinafter referred to as the "board." The board shall perform the various functions and duties provided for it in this chapter.

HISTORIC SITE: A landscape significant for its association with a historic event, activity or person.

HISTORIC SIGNIFICANCE: That which has a special historic or aesthetic interest or value as part of the development, heritage, cultural or historic character of the City, region, state or nation.

MAINTENANCE AND REPAIR: Any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration, decay of, or damage to a structure or any architecturally significant part thereof, and to restore or replace, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage, and which work does not effect a significant change in the external appearance of the structure.

OVERWHELMING HISTORICAL SIGNIFICANCE means:

1. Possessing such unusual or uncommon significance that any structure's potential demolition or major alteration would diminish the character and sense of place in the City; or
2. Possessing superior or outstanding examples of the architecture, social or geographic historic significance criteria outlined in the standards and criteria set forth in this chapter. The term "superior" shall mean excellence of its kind and the term "outstanding" shall mean marked by eminence and distinction.

OWNER: The person or persons listed in the records of the county clerk and recorder or county assessor as owner of a subject property.

PRESERVATION: The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic landmark.

RECONSTRUCTION: The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

REHABILITATION: The act or process of making a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historic, cultural or architectural values.

RESTORATION: The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from other periods in its history.

SIGNIFICANT CHANGE: An alteration or modification in the external appearance that has or is likely to have influence or effect on the historic or architectural merit of a structure or site, including, but not limited to all activities for which a building permit is required.

11-13-3: HISTORIC LANDMARK BOARD CREATED:

(A) There is hereby created a historic landmark board, which shall have the principal responsibility for matters involving historic landmarks as set forth in this chapter. The City Council may act as the board pursuant to this chapter until it appoints a qualified citizen board as provided herein.

(B) The board shall consist of five (5) to seven (7) members, appointed by the City Council, who have a demonstrated interest, competence or knowledge in historic preservation. The City Council may appoint up to two (2) alternate members, who shall attend meetings and participate fully in the activities, programs, and duties of the board. An alternate shall serve as a voting member of the board in the absence of a regular member, including the abstention of a member due to a conflict of interest. The board shall be composed of both professional and lay members and at least 40 percent shall be professionals in preservation-related disciplines, such as architecture, landscape architecture, architectural history, archaeology, history, and planning, or related disciplines such as building trades, real estate, law, cultural geography or cultural anthropology.

(C) Initial appointments shall be made for one (1) and two (2) year terms, in order to stagger the expiration of terms, and thereafter members shall be appointed for two (2) year terms.

(D) From among its regular members, the board shall select a chair and vice-chair at the first meeting of each calendar year.

(E) The board shall meet at least quarterly, unless applications or other requests for action are pending, in which case, the board shall meet at least monthly. All board meetings shall be open to the public with exceptions for executive sessions as provided for the City Council in this Code and as provided by any preservation-related state and federal law.

(F) A majority of the number of currently appointed regular board members shall constitute a quorum. An alternate may substitute for a regular board member to create a quorum. If a quorum is not present, then the chair of the board may set a new date for a special hearing or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date.

(G) The board shall adopt bylaws and other administrative guidelines to govern the conduct of its meetings, which shall be made available to the public.

11-13-4: POWERS AND DUTIES OF THE HISTORIC LANDMARK BOARD:

Within available staff, volunteer and financial resources, the historic landmark board shall:

(A) Adopt criteria for review of historic resources and for review of proposals to alter, demolish, or move designated resources, that are in addition to and consistent with the criteria set forth in this chapter.

(B) Review properties nominated for designation as a historic landmark or a historic landmark district, and make recommendations to the City Council regarding historic designations.

(C) Encourage owners of historic properties to maintain them in good repair, and advise and assist owners of historic properties concerning physical and financial aspects of preservation, renovation, rehabilitation, and restoration, including nomination to the national and state registers of historic places.

(D) Develop and assist in public education programs including, but not limited to, school programs, walking tours, brochures, a marker program for historic properties, interpretive sites and programs, lectures, and conferences about the history of the local and regional community, the value of preserving historic properties, and the materials and methods of preservation.

(E) Review applications for and issue certificates of historic appropriateness pursuant to this chapter.

(F) Conduct surveys of historic properties, structures and areas in order to define those of historic significance, for the purpose of creating a preservation plan of historic properties and districts.

(G) Pursue financial assistance for preservation and history-related programs.

(H) Maintain records and files on all board actions and provide documentation as necessary to the State Historical Fund.

(I) Develop and modify as needed a checklist of activities critical to the maintenance of a historic landmark to be completed as a requirement for receiving a tax rebate.

(J) Identify and implement other incentives for owners of historic properties.

(K) Authorize and implement such steps as it deems desirable to recognize the merit of and to encourage the protection, enhancement, perpetuation, and use of any historic landmark or historic landmark district by, without limitation, issuing certificates of recognition and authorizing plaques to be affixed to the exteriors of such structures.

(L) Pursue these duties and any others required by state and federal law in order to qualify the City as a certified local government under applicable historic preservation laws.

(M) Foster civic pride and awareness of the unique heritage of the City.

11-13-5: CRITERIA FOR DESIGNATION: The board will consider the following criteria in reviewing nominations of properties for designation:

(A) Properties receiving historic designations shall be at least fifty (50) years old except as otherwise provided herein and possess architectural, social, or geographical/environmental importance by meeting one or more of the following:

1. Exemplifies specific elements of an architectural style or period;
2. Is an example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally, or locally;
3. Demonstrates superior craftsmanship or high artistic value;
4. Represents an innovation in construction, materials or design;
5. Represents a style particularly associated with the Westminster area;
6. Represents a built environment of a group of people in an era of history;
7. Represents a pattern or grouping of elements representing at least one of the above criteria;
8. Has undergone significant historic remodel;
9. Is the site of historic event that had an effect upon society;
10. Exemplifies cultural, political, economic or social heritage of the community;
11. Represents an association with a notable person or the work of a notable person;
12. Represents a typical example/association with a particular ethnic group;
13. Represents a unique example of an event in Westminster's history;
14. Enhances sense of identity of the community;
15. Is an established and familiar natural setting or visual feature of the community.

(B) Additional Criteria For Historic Landmark Districts: A district is related by a pattern of either physical elements or social activities. Significance is determined by applying criteria in this chapter to the patterns and unifying elements. District designations will not be considered unless the application contains written approval of all property owners within the district boundaries. Properties that do not contribute to the significance of the historic landmark district may be included within the boundaries, as long as the noncontributing elements do not noticeably detract from the district's sense of time, place and historic development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location, and/or information potential.

(C) Any site listed on the State or National Register of Historic Places shall be deemed to qualify for local designation under this Chapter, but shall not be locally designated until an application for designation is filed and processed pursuant to this chapter.

11-13-6: PROCEDURES FOR NOMINATION OF HISTORIC LANDMARKS AND DISTRICTS:

(A) Who May Nominate: The board, City Council, or the Westminster Historical Society may nominate a property, area or structure for designation as a historic landmark or historic landmark district or a property owner may nominate his or her own property. If a nomination is received from a party other than the property owner, the nominating party shall contact the owner or owners of such historic property, outlining the reasons for and the effects of designation as a historic property, and shall secure the consent of the owner or owners to such designation before the nomination is accepted as complete for review.

(B) The nominating party shall file an application with the director on forms prescribed by the board, and shall include the names of all owners of property included in the proposed designation, and shall be accompanied by all information required by the board. The director shall transmit copies of the application to relevant City departments and the Westminster Historical Society for comment. If the nominating party is not the property owner, the director shall keep the owner informed of all steps in the designation proceedings and provide copies of documents that are filed with the City.

(C) Nomination Contents: Each such nomination shall include a description of the characteristics of the proposed historic landmark that justify its designation pursuant to this chapter, a description of the particular features that should be preserved, and shall include a legal description of the location and boundaries of the historic property. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this chapter.

11-13-7: PROCEDURES FOR DESIGNATION OF HISTORIC LANDMARKS AND HISTORIC DISTRICTS:

(A) Application:

1. Any completed application for designation, once reviewed by the director, shall be promptly referred to the board. The board shall hold a public hearing on the proposal not less than thirty (30) days nor more than sixty (60) days after the filing of the application to consider the adoption of the designation resolution. The hearing may be held less than thirty (30) days after submission of the application, upon mutual consent of the applicant and the board.

2. Notice of the public hearing shall be published and posted at least ten (10) days prior to the hearing.

3. The director shall review the proposed designation with respect to: a) its relationship to the comprehensive plan; b) the effect of the designation on the surrounding neighborhood; c) the criteria set forth in this chapter; and d) such other planning considerations as may be relevant to the proposed designation. The director shall provide written comments and recommendations regarding the proposed designation to the board no less than seven (7) days before the hearing.

(B) Public hearings shall be conducted as quasi-judicial hearings, following procedures comparable to those used by City Council, unless specific procedures are provided by board bylaw.

(C) The board recommendation to the City Council shall be made after the board has heard all interested parties and relevant evidence. With the consent of the nominating party, the board may continue the hearing from time to time as necessary to gather all relevant evidence to make its recommendation. The board shall consider the conformance or lack of conformance of the proposed designation with the purposes, standards and criteria of this chapter. The board shall either recommend approval, modification and approval, or disapproval of the proposal and shall promptly refer the proposal, with a copy of its report and recommendations, to the Council. If the landowner is not satisfied with the recommendation to the Council, the landowner may withdraw the application, or withdraw consent to the application made by another nominating party, prior to the Council's action on the proposed designation.

(D) Proceedings Before The Council:

1. Within thirty (30) days after the date of any referral from the board, the Council shall hold a public hearing on the proposed designation. Notice of the public hearing shall be published and posted at least four (4) days prior to the hearing.

2. The Council shall, by resolution, approve, modify and approve, or disapprove the proposed designation and shall issue written findings in accordance with and after considering the criteria as set forth for historic landmarks and historic landmark districts. Such designating resolution shall include a description of the characteristics of the site that justify its designation and a description of the features that should be preserved or enhanced, and shall include a legal description of the location and boundaries of the historic landmark. The designating resolution may also indicate alterations that would

have a significant impact upon, or be potentially detrimental to, the historic landmark. The owner(s) of the property nominated shall be notified of Council's decision. Once designated, the landmark shall be required to display appropriate signage as determined by the board, notifying the public of such designation.

(E) Recording The Designation:

1. The historic designation resolution of the City Council shall be recorded within the real estate records of the county in which the property is located as soon as possible after the effective date of the resolution.

2. Within fifteen (15) days after recording of the historic designation, the director shall send a copy of the resolution to the owner.

(F) A property designated as a historic landmark shall retain that designation in perpetuity, unless the property has lost its historic character as determined pursuant this chapter.

11-13-8: REVOCATION OF DESIGNATION:

(A) If a structure or physical feature on a designated historic landmark site was lawfully removed or demolished, the owner may apply to the board for revocation of designation. The board shall recommend revocation of a historic landmark designation if it determines that without the demolished structure or physical feature the site as a whole no longer meets the purposes and standards of this chapter and the board's review standards for designation.

(B) Upon the board's recommendation to revoke a designation, the director shall cause to be prepared a resolution including the legal description of the affected property stating notice of the revocation, and schedule the item for City Council review. Upon adoption by the City Council, the resolution shall be recorded within the real estate records of the county in which the property is located.

(C) The City Council may revoke designation of a historic landmark if the public benefits of alteration, removal or demolition of the landmark outweigh the public benefits of maintaining the designation.

11-13-9: SPECIAL DUTIES AND OBLIGATIONS OF OWNERS OF HISTORIC PROPERTIES:

(A) It shall be unlawful for owners of historic landmarks to allow:

1. The deterioration of exterior walls or other vertical supports;
2. The deterioration of roofs or other horizontal members;
3. The deterioration of external chimneys;
4. The deterioration or crumbling of exterior plasters, mortars, brick, stone or wood siding;
5. The ineffective waterproofing of exterior walls, roof, and foundations, including windows and doors;
6. The peeling of paint, rotting, holes and other forms of decay;
7. The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, steps, signs, accessory structures and landscaping to produce a detrimental effect on a historic landmark;
8. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

(B) Before an owner is cited for failure to maintain the historic landmark or structure in a historic landmark district, the board shall notify the property owner, lessee, or occupant of the need to repair or maintain, and shall assist the owner, lessee, or occupant in determining how to preserve the property, and shall give the owner a reasonable time to perform such work, which time shall not exceed one hundred twenty (120) days. The board may grant extensions of the time period for good cause.

11-13-10: CERTIFICATE OF HISTORIC APPROPRIATENESS:

(A) A certificate of historic appropriateness shall be required for any work other than maintenance and repair on a property subject to a historic designation. It shall be unlawful for any person to perform

any work, other than maintenance and repair without having first obtained a certificate of historic appropriateness.

(B) The director shall maintain a current record of: (1) designated historic landmarks; (2) historic landmark districts; and (3) all pending proposed designations.

(C) Upon any application for a permit to carry out any construction, alteration, removal or demolition of a building or other designated feature to a historic landmark or in a historic landmark district, which would materially alter the exterior of such a building, site or structure, or that involves more than ordinary maintenance and repair, the Department of Community Development shall not issue the requested permits until approved as provided herein, and shall promptly forward such application to the board.

(D) The board shall review any permit applications so forwarded to it to determine whether a certificate of historic appropriateness for the work proposed should be issued.

(E) Applications shall contain such information as is required by the board, so as to assure full presentation of pertinent facts for proper consideration of the application. The application shall be accompanied by plans and specifications showing the proposed exterior appearance, including color, texture of materials and architectural design and detail. Drawings or photographs showing the property in the context of its surroundings shall also be required. In addition, the applicant shall file with his/her application the names and addresses of abutting property owners, including properties across the street from the property.

(F) An application shall be promptly referred to the board. The board shall hold a public hearing on the proposal not less than thirty (30) days, nor more than sixty (60) days after the filing of the application to consider the adoption of the designation resolution. The hearing may be held less than thirty (30) days after submission of the application, upon mutual consent of the applicant and the board.

(G) Notice of the public hearing shall be published and posted at least ten (10) days prior to the hearing.

(H) In determining whether to issue a certificate of historic appropriateness the board shall consider:

1. The effect of the proposed change on the general architectural and/or historic character of the structure or district;
2. The architectural style, arrangement, textures and materials used on existing and proposed structures and their relation to other structures in the district, if applicable;
3. The uniqueness of the structure and how it ties in with the history of the area;
4. The size of the structure, its setbacks, its site, location, and the appropriateness thereof, when compared to existing nearby structures and the site;
5. The effects of the proposed work in creating, changing, destroying or otherwise affecting the exterior architectural features of the structure upon which such work is done;
6. The effect of the proposed work on the protection, enhancement, perpetuation and use of the structure, area or district;
7. The condition of existing improvements and whether they are a hazard to the public health or safety;
8. The economic viability of maintaining the structure or area as is;
9. Whether the property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment;
10. Whether the historic character of a property is being retained and preserved;
11. Visual compatibility with designated historic structures located on the property in terms of design, finish, material, scale, mass and height. When the subject site is within a historic landmark district, the board must also find that the proposed development is visually compatible with the development on adjacent properties. For the purposes of this chapter, the term "compatible" shall mean consistent with, harmonious with, and/or enhances the mixture of complementary architectural styles either of the architecture of an individual structure or the character of the surrounding structures.

(I) Limitations On Alterations: The following criteria shall apply to all alterations or changes:

1. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

2. The removal or alteration of any historical material or distinctive features shall be avoided when possible.

3. Deteriorated historic features shall be repaired rather than replaced when possible. When the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

4. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

5. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

6. New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property and shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic landmark and its environment would be unimpaired. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

7. All historic or contributing buildings, structures, and sites shall be recognized as products of their own time and place. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, site or environment. These changes may have acquired significance in their own right, and shall be retained and preserved. Alterations that have no historical basis and which seek to create an earlier or non-local appearance shall be discouraged.

8. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration to the defining characteristics, as identified in the application for designation, of the building, structure, or site and its environment, or to use the property for its originally intended purpose.

(J) Board Action: The board shall approve or disapprove the application in whole or in part. Any decision of the board approving or disapproving a certificate of historic appropriateness shall be final in thirty (30) days. The board shall issue a Certificate of Historic Appropriateness for any proposed work on a designated historical landmark only if the board can determine that the proposed work would not detrimentally alter, destroy, or adversely affect any feature that was found by the board in the original designation to contribute to the designation of the property as a landmark.

11-13-11: RELOCATION OF AN HISTORIC LANDMARK:

It shall be unlawful for any person to relocate a historic landmark, a contributing structure on a historic site, a building or structure within a historic landmark district; a structure onto a historic site; or a structure onto property in a historic landmark district without having first obtained a certificate of historic appropriateness. In addition to the alterations criteria in this chapter, the board shall apply the following criteria in considering applications for relocating a historic landmark, a contributing structure on a historic site, a building or structure within a historic landmark district; a structure onto a historic site; or a structure onto property in a historic landmark district:

(A) With regard to the original site, the board will review for compliance with all of the following criteria:

1. Documentation showing the structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property;

2. Whether the structure makes a substantial contribution to its present setting;

3. Whether plans are specifically defined for the site to be vacated and have been approved by City Staff;

4. If the structure can be moved without significant damage to its physical integrity and the applicant can show the relocation activity is the best preservation method for the character and integrity of the structure;

5. Whether the structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and re-siting;

6. Whether a structural report submitted by a licensed structural engineer experienced in preservation of structures adequately demonstrates the soundness of the structure proposed for relocation.

(B) With regard to the new location, the board will review for compliance with all of the following criteria:

1. The building or structure must be compatible with its proposed site and adjacent properties and if the receiving site is compatible in nature with the structure or structures proposed to be moved.

2. The structure's architectural integrity is consistent with the character of the receiving neighborhood.

3. The relocation of the historic structure would not diminish the integrity or character of the neighborhood of the receiving site.

4. A relocation plan has been submitted and approved by the City Staff, including posting a bond, to ensure the safe relocation, preservation and repair (if required) of the structure, site preparation and infrastructure connections.

11-13-12: DEMOLITION OF A HISTORIC LANDMARK:

It shall be unlawful for any historic landmark or property in a historic landmark district to be demolished without having first obtained a certificate for demolition. If a certificate for demolition is requested on any basis other than that of an imminent hazard or economic hardship, a certificate of demolition will not be issued until all criteria in subsection (A) of this section are met.

(A) Review Criteria For Total Demolition: Applicants requesting a certificate of demolition must provide data to clearly demonstrate that the situation meets all of the following criteria:

1. The structure proposed for demolition is not structurally sound despite evidence of the owner's efforts to properly maintain the structure; and

2. The structure cannot be rehabilitated or reused on-site to provide for any reasonable beneficial use of the property; and

3. The structure cannot be practically moved to another site; and

4. The applicant demonstrates that the proposal mitigates to the greatest extent practical the following:

(a) Any impacts that occur to the visual character of the neighborhood where demolition is proposed to occur.

(b) Any impact on the historic importance of the remaining structure(s) located on the property and adjacent properties.

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(c) Any impact to the architectural integrity of the remaining structure(s) located on the property and adjacent properties.

5. In the case of archeological sites, consideration will be given to whether information can be recovered as part of the demolition process.

(B) Review Criteria For Partial Demolition:

1. The partial demolition is required for the renovation, restoration or rehabilitation of the structure; and

2. The applicant must mitigate, to the greatest extent possible:

(a) Impacts on the historic importance of the structure(s) located on the property.

(b) Impacts on the architectural integrity of the structure(s) located on the property.

11-13-13: ACTION OF BOARD UPON DENIAL OF CERTIFICATE OF HISTORIC APPROPRIATENESS:

(A) If the proposed certificate of historic appropriateness to alter, relocate or demolish is denied, the board, acting with all due diligence, shall explore with the applicant available means for substantially

preserving the historic landmark that was affected by the determination. These investigations may include by way of example and not of limitation:

1. Feasibility of modification of plans.
2. Feasibility of any alternative use of the structures that would substantially preserve the original character.

(B) One year after denial of a certificate of historic appropriateness for demolition, if no feasible use or ownership is found for the structure, the owner may request a waiver of all or a part of the restraint of demolition. The board will include the following factors in their consideration of the request:

1. Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the property owner to make necessary repairs, to find an appropriate user, or to find a purchaser for the property; and
2. The adequacy of the property owner's efforts to locate available assistance for making the property functional without demolition.

11-13-14: HARDSHIP EXEMPTION:

The board may exempt a property from the requirement of obtaining a certificate of historic appropriateness if the board finds that the property owner has shown the historic designation creates or would create an undue hardship.

(A) An exemption based on non-economic hardship may be found by the board when designation creates a situation substantially inadequate to meet the applicant's needs because of specific health and/or safety issues.

(B) An exemption based on economic hardship may be found by the board applying the following standards:

1. The applicant's knowledge of the designation at the time of acquisition, or whether the property was designated subsequent to acquisition;
2. The current level of economic return on the property as considered in relation to the following:
 - (a) The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years.
 - (b) The infeasibility or feasibility of alternative uses that can earn a reasonable economic return for the property.
 - (c) Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.

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(C) Board Determination Of Economic Hardship: The board shall hold a public hearing as soon as practical, after notice, to take final action on the application.

1. Finding Of Economic Hardship: If after reviewing all of the evidence, the historic preservation board finds that the application of the standards set forth in subsection (B) of this subsection results in economic hardship, then the board shall issue a certificate of demolition.

2. Denial Of Economic Hardship: If the board finds that the application of the standards set forth in subsection (B) of this section does not result in economic hardship, then the certificate of demolition shall be denied.

(D) Willful Or Negligent Acts: Economic hardship does not include self-created hardships, willful or negligent acts by the owner, purchase of the property for substantially more than the market value, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.

11-13-15: UNSAFE OR DANGEROUS CONDITIONS EXEMPTED:

Nothing in this chapter shall be construed to prevent any measures of construction, alteration, removal, or demolition necessary to correct the unsafe or dangerous condition of any structure, other feature, or parts thereof where such condition is declared unsafe or dangerous by the City and where the proposed measures have been declared necessary by the chief building official to correct the condition, as long as only such work that is necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining a certificate of historic appropriateness under this chapter, but a certificate is required for permanent alteration, removal, or demolition.

11-13-16: ENFORCEMENT AND PENALTIES:

(A) It shall be unlawful for any person to violate a provision of this Chapter or the terms of a certificate of historic appropriateness. Any person, either as owner, lessee, occupant, or otherwise, who violates any of the provisions of this Title, or any amendment thereof, or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him by the provisions of this Title, shall be subject to the fines provided by Section 1-8-1 of this Code.

(B) In addition:

1. Alterations to a designated historic landmark or historic landmark district without an approved certificate of historic appropriateness will result in a one-year moratorium on all building permits for the subject property.

2. Moving or demolishing or allowing demolition by neglect of a designated structure without an approved certificate of historic appropriateness will result in a five (5) year moratorium on all moving, demolition, or building permits for the structure and for the property at the structure's original location.

3. In addition to the other remedies provided in this chapter, the City Attorney may commence an action at law or equity in any court of competent jurisdiction to enforce the provisions of this chapter.

11-13-17: CITY COUNCIL REVIEW OF DESIGNATION, ALTERATION, REMOVAL AND DEMOLITION: Nothing in this Chapter shall prevent the City Council from revoking a historic landmark designation in order to carry out specified public purposes with benefits to the public that outweigh the benefits of maintaining the historic landmark designation.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 17th day of March, 2003. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of March, 2003.

A BILL FOR AN ORDINANCE AMENDING TITLE 5 OF THE WESTMINSTER MUNICIPAL
CODE CONCERNING AMUSEMENT CENTERS
THE CITY OF WESTMINSTER ORDAINS:

Section 1. Chapter 9 of Title 5, Westminster Municipal Code, is hereby amended to read as follows:.

5-9-1: LICENSE REQUIRED: It shall be unlawful for any person to operate or conduct any place of amusement or recreation offering to the public for a fee the use of any pool or billiard table or any other amusement game, without first obtaining a license therefor pursuant to this Chapter. LICENSES SHALL NOT BE TRANSFERABLE, AND UPON A CHANGE OF OWNER OR CHANGE OF LOCATION, A NEW LICENSE MUST BE OBTAINED.

5-9-2: LICENSE APPLICATION:

~~(A) Original or renewal application for premises with a total of seven (7) or more tables or games:~~

~~— (1) The applicant shall submit a verified application to the City Clerk on forms provided by the City Clerk. The application shall include complete plans and specifications for the interior of the premises to be licensed, a copy of the lease or other evidence of the applicant's right to possession of the premises, and information concerning the zoning of the location of the premises and the fee and tax required by this Chapter.~~

~~— (2) The application shall be reviewed by the City Manager, who, within ten (10) days after receipt of the application and after such additional investigation as he may deem necessary, shall schedule a public hearing before the Special Permit and License Board.~~

~~— (3) Notice of such hearing shall be mailed to the applicant by the City Clerk not less than ten (10) days before the hearing date. Notice of such public hearing shall also be given by publication in a newspaper of general circulation in the community once, not less than ten (10) days prior to the hearing date and by posting a notice of hearing upon the premises for at least ten (10) days prior to the hearing. Publication and posting shall be done by the City Clerk.~~

~~(4) The City Clerk shall propose the boundaries of the neighborhood in writing to the Special Permit and License Board with a copy to the applicant. If a majority of the Board or the applicant disputes the proposed neighborhood boundaries, the issue shall be considered by the Board at a public meeting. A dispute of the boundaries by the applicant must be filed within ten (10) days of the letter notifying the applicant of the boundaries established.~~

~~— (5) Prior to the hearing, the City or its designee shall circulate appropriate petitions to determine the needs of the community for such a facility and the desires of its citizens regarding such a facility within the neighborhood surrounding the applicant. The petition form shall be approved by the City.~~

~~— (6) At least five (5) days prior to the public hearing, the City Clerk shall send the petition and investigation results to the applicant and make them available to other interested parties.~~

~~(7) After such public hearing, the Special Permit and License Board shall grant or deny the license and may impose reasonable conditions on the license.~~

~~(8) In determining whether to grant or deny the license, the Board shall take into consideration:~~

~~(a) The character of the applicant;~~

~~(b) The applicant's prior experience and qualifications to operate such a business;~~

~~(c) The needs of the community for such a facility and the desires of its citizens regarding such a facility including any petitions or remonstrances evidencing such desires;~~

~~(d) Pedestrian safety;~~

~~(e) Traffic volume and adequacy of parking and access;~~

~~(f) Essential character of the neighborhood and the applicant's effect on the peace of the neighborhood.~~

~~(g) Compliance of the facility with all applicable zoning and building regulations;~~

~~(h) Police activity in comparable businesses;~~

~~(i) Architectural compatibility with the character of the neighborhood.~~

~~(9) The Special Permit and License Board may require additional security guards for applicants with more than fifty (50) tables or machines.~~

~~(B) Original or renewal application for premises with a total of six (6) tables, games or machines or less:~~

CONDITIONS FOR APPLICATIONS FOR AN ORIGINAL LICENSE OR A RENEWAL:

~~(1)(A)~~ The applicant shall submit a verified application to the City Clerk, on forms provided by the City Clerk, and accompanied by the fee and tax required by this Chapter.

~~(2)(B)~~ The application shall be reviewed by the City Manager who shall have the power to grant or deny such license, TO REQUEST AN INVESTIGATION BY THE POLICE DEPARTMENT, and to impose reasonable limitations and restrictions on any license so granted. The City Manager shall evaluate the application under the criteria set forth BELOW, AND THE RESULTS OF AN INVESTIGATION BY THE POLICE DEPARTMENT, IF ANY. ~~in paragraph 8 of subsection (A) of this section.~~

1. THE CHARACTER OF THE APPLICANT;
2. THE APPLICANT'S PRIOR EXPERIENCE AND QUALIFICATIONS TO OPERATE SUCH A BUSINESS;
3. THE NEEDS OF THE COMMUNITY FOR SUCH A FACILITY AND THE DESIRES OF ITS CITIZENS REGARDING SUCH A FACILITY, INCLUDING ANY PETITIONS OR REMONSTRANCES EVIDENCING SUCH DESIRES;
4. PEDESTRIAN SAFETY;
5. TRAFFIC VOLUME AND ADEQUACY OF PARKING AND ACCESS;
6. ESSENTIAL CHARACTER OF THE NEIGHBORHOOD AND THE APPLICANT'S EFFECT ON THE PEACE OF THE NEIGHBORHOOD;
7. COMPLIANCE OF THE FACILITY WITH ALL APPLICABLE ZONING AND BUILDING REGULATIONS;
8. POLICE ACTIVITY IN COMPARABLE BUSINESSES;
9. ARCHITECTURAL COMPATIBILITY WITH THE CHARACTER OF THE NEIGHBORHOOD.

5-9-3: FEES AND TAXES:

~~(A) The application fee for an original license for seven (7) or more tables, games or machines shall be Four Hundred Fifty Dollars (\$450). This fee shall be non-refundable. There shall be no license fee for six (6) tables, games or machines or less. nor shall there be a license fee if the hearing for the amusement center license is held concurrently with a hearing for an application for a liquor license.~~

~~(A) (B)~~ There shall be no APPLICATION fee for a NEW OR renewal license.

~~(B) (C)~~ The licensee shall annually remit a tax or excise of Forty Dollars (\$40) per pool or billiard table or coin-operated amusement game or device, payable at the time of filing an application for an original or renewal license or when a new table or game or device is added to the premises. If a license is obtained or a pool or billiard table or coin-operated amusement game or device is added by the licensee after June 30 of a particular year, the tax or excise shall be Twenty Dollars (\$20) each.

5-9-4: RENEWAL:

(A) All licenses issued pursuant to this Chapter shall expire December thirty first of the year for which issued, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required taxes.

(B) The renewal application shall be reviewed by the City Manager who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. The City Manager shall evaluate the application under the criteria set forth for original applications.

(C) FAILURE TO PAY REQUIRED FEES OR TAXES SHALL BE GROUNDS TO DENY RENEWAL, AND NO RENEWAL LICENSE SHALL BE ISSUED UNTIL SUCH FEES AND TAXES ARE PAID.

5-9-5: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION:

(A) Upon HIS OWN MOTION, OR UPON COMPLAINT BY THE POLICE CHIEF, THE CITY MANAGER ~~the motion of the City Manager or, upon its own motion, the Special Permit and License Board~~ may cancel, suspend or revoke any license at any time on the grounds that it is:

1. Detrimental to the public health, safety or welfare due to the location of the amusement center,
2. Because of the proximity of said location to schools, churches, or other places where the public may congregate,
3. Based on the criteria set forth in section 5-9-2(B)2. ~~5-9-2(A)(8);~~
4. Based on violation of the provisions of this Code or any other law.
5. Based on the provisions of Chapter 1 of this Title.

~~(B) A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(C)~~ (B) A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice ~~and hearing~~. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title AND SHALL INFORM THE LICENSEE THAT HE MAY REQUEST, IN WRITING TO THE CITY CLERK, A HEARING BEFORE THE SPECIAL PERMIT AND LICENSE BOARD PURSUANT TO SUBSECTION (E) BELOW. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.

~~(D)~~(C) An application for a new license may be denied by the City Manager, upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with THE ZONING OR BUILDING CODE ~~provisions of this code such as zoning or the building code~~, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.

~~(E)~~(D) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

~~(F)~~(E) The Special Permit and License Board shall conduct A HEARING ON an appeal of the denial of a new license, THE CANCELLATION, DENIAL OF RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE ~~or a hearing~~ pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

~~(G)~~(F) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.

~~(H)~~(G) Any premises licensed pursuant to this Chapter, including the parking lots and streets and sidewalks adjacent to the premises which become the location of frequent or repeated violations of the City's ordinances including but not limited to disturbances, assaults, thefts, malicious mischief and disorderly conduct is hereby declared to be a nuisance which shall be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this code and the license of said premises shall be revoked.

5-9-6: TRANSFER; CHANGE IN NATURE OF BUSINESS:

(A) ~~Transfer of Business or Stock:~~

~~— (1) Within (30) days after the transfer of ownership of an amusement center, or of the transfer of ownership of ten percent (10%) or more of the capital stock of the corporation, the new owner of the stock or business shall file with the City Clerk a written report of the transfer on forms provided by the City Clerk. The report shall be accompanied by an investigation fee of Two Hundred and Fifty Dollars (\$250.00).~~

~~— (2) Upon receipt of the report of transfer, the City Clerk shall report the transfer to the City Manager, after sufficient investigation by the Police Department, and the City Manager may approve the transfer or, in his sole discretion, recommend to the Special Permit and License Board that a public hearing be held regarding the transfer, at which parties in interest may be heard.~~

~~— (3) The Special Permit and License Board shall conduct the hearing after proper notice is given. Posting, publication, and notice requirements shall be the same as are required for a hearing on an original application.~~

~~— (4) At the hearing, all interested parties may appear and be heard, provided, however, that the Board shall consider only the character of the proposed new owner or owners and whether the new owner or owners comply with all requirements of the code and rules and regulations adopted pursuant to the Code.~~

~~(B) Change in Nature of Business:~~

~~— (1) At least thirty (30) days prior to the commencement of expansion, remodeling, or other change in the nature of the licensed business, the owner shall submit an application for a change in the nature of the business to the City Clerk on forms provided by the City Clerk. The application shall be reviewed by the City Manager, who, within ten (10) days shall determine whether the proposed change in the nature of the business is significant. For purposes of this subsection, "significant change" shall include, but shall not be limited to: (a) an increase or decrease in the total size or capacity of the licensed premises; (b) the sealing off, creation of or relocation of a common entryway, doorway, or passage or other means of public ingress or egress; or (c) any material change in the interior of the premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application. The term does not include painting and redecorating of premises; the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment, and other similar changes.~~

~~(2) After investigation by the City Manager, he may approve the proposed change or, in his sole discretion, recommend to the Special Permit and License Board that a public hearing be held regarding the proposed change, at which parties in interest may be heard. The Special Permit and License Board shall conduct the hearing after proper notice is given. Posting, publication, and notice requirements shall be the same as are required for a hearing on an original application. Criteria for approval shall be as for an original application. Petitioning shall be at the discretion of the Special Permit and License Board.~~

~~**5-9-7: 5-9-6: HOURS OF OPERATION; AGE LIMITATION:**~~

~~(A) 1. Except for premises licensed for the sale of fermented malt beverages, malt, vinous or spirituous liquor for consumption on the premises, premises licensed pursuant to this Chapter shall be open to the public not earlier than TEN O'CLOCK (10:00) eleven o'clock (11:00) and not later than eleven o'clock (11:00) P.M ON MONDAYS THROUGH THURSDAYS AND SUNDAYS; AND ON FRIDAYS AND SATURDAYS SHALL BE OPEN TO THE PUBLIC NO EARLIER THAN TEN O'CLOCK (10:00) A.M. AND NOT LATER THAN MIDNIGHT (12:00 AM). daily. An adult twenty one (21) years of age or older shall be present on and responsible for management of the premises during all hours of operation.~~

~~2. PRIVATE EVENTS: LICENSED AMUSEMENT CENTERS MAY CONDUCT PRIVATE EVENTS OUTSIDE THE HOURS OF OPERATION STATED IN 5-9-6(A) IN COMPLIANCE WITH THE FOLLOWING:~~

a. THE CENTER MAY NOT BE LICENSED FOR THE SALE OF FERMENT MALT BEVERAGES, MALT, VINOUS OR SPIRITUOUS LIQUOR, NOR MAY ANY OF THE SAME BE SOLD, SERVED, OR CONSUMED ON THE PREMISES.

b. IF MINORS ARE IN ATTENDANCE, THERE MUST BE ONE (1) ADULT SUPERVISOR FOR EVERY EIGHT (8) MINORS.

c. MINORS MUST REMAIN IN THE BUILDING AND MUST NOT BE ALLOWED TO LEAVE AND RE-ENTER DURING THE EVENT.

d. PARTICIPANTS MUST NOT BE ALLOWED TO CONGREGATE OR LOITER IN THE PARKING LOT OR NEARBY AREAS AND MUST COMPLY WITH THE REGULATION OF NIGHTTIME JUVENILE LOITERING, SECTION 6-3-11

e. THE CENTER MUST NOT ALLOW ANY FORM OF ENTERTAINMENT OTHER THAN THOSE AMUSEMENT DEVICES FOR WHICH IT IS LICENSED.

f. THE CENTER MUST REPORT THE EVENT TO THE CITY CLERK IN WRITING, WITH A COPY TO THE POLICE DEPARTMENT, AT LEAST SEVENTY-TWO (72) HOURS IN ADVANCE.

“PRIVATE EVENT” MEANS AN EVENT FOR WHICH THE CENTER HAS CLOSED THE PREMISES TO THE GENERAL PUBLIC.

(B) Unless the licensee of the premises maintains a full-time ~~City-licensed~~ security guard, OR HAS TWELVE OR LESS AMUSEMENT DEVICES, it shall be unlawful for a licensee or any other person in charge of the licensed premises to permit any pool or billiard table or coin-operated amusement games or devices to be used by any person under the age of sixteen (16) years or to allow any such persons to congregate or remain upon the licensed premises unless accompanied by a parent or legal guardian. Such security guard shall be in addition to the adult manager of the premises. This section shall not apply to premises licensed for the sale of fermented malt beverages, malt, vinous or spirituous liquor for consumption on the premises.

(C) When operating a total of ~~six (6)~~ TWELVE (12) or less of the AMUSEMENT devices referred to in THIS CHAPTER, ~~5-9-2 (B)~~, premises used principally for the conduct of another business, including, but not limited to grocery store, convenience store, drugstore, bowling alley or tavern shall not be subject to the provisions of this section.

~~5-9-8: 5-9-7: SECURITY GUARDS:~~

(A) The owner of any premises licensed pursuant to this Chapter shall maintain security guards ~~licensed pursuant to Title V, Chapter 13 of this Code~~. The number of security guards required shall be calculated as follows:

1. Premises licensed for the sale of fermented malt beverages, or malt, vinous or spirituous liquor for consumption on the premises: For THIRTEEN (13) ~~seven (7)~~ to fifty (50) tables or machines, one (1) guard on duty during all hours of operation; for more than fifty (50) tables or machines, one (1) or more additional guards may be required for such hours as the CITY MANAGER ~~Special Permit and License Board~~ may decide based on, but not limited to, the number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels.

2. All other premises: For ~~seven (7)~~ THIRTEEN (13) to fifty (50) tables or machines, one (1) guard on duty during all hours of operation; for more than fifty (50) tables or machines, one (1) or more additional guards may be required for such hours as the CITY MANAGER ~~Special Permit and License Board~~ may decide based on, but not limited to, the number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels.

(B) For premises licensed for more than fifty (50) machines or tables, any requirements for security guards in excess of one (1) security guard, imposed pursuant to subsection (A) of this section, shall be stated on the license. These conditions shall be reviewed annually by the City Manager upon application for renewal of the license or at any time at the request of the City Council, ~~the Special Permit and License Board~~, or the Chief of Police based on a finding that security measures are insufficient to protect

the public health, safety and welfare. ~~Upon recommendation by the City Manager, the Special Permit and License Board~~ THE CITY MANAGER may adjust these conditions based on, but not limited to, the following factors: The number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels. The City Manager's DECISION ~~recommendation~~ regarding additional security shall be mailed to the licensee. The licensee MAY request a hearing on the matter before the Special Permit and License Board within ten (10) days after the letter is mailed to the licensee. FAILURE TO TIMELY REQUEST A HEARING SHALL BE DEEMED A WAIVER OF A HEARING. ~~the Special Permit and License Board may adopt the City Manager's recommendation without a public hearing.~~

5-9-9: 5-9-8: PROHIBITED ACTS:

(A) It shall be unlawful for any licensee or his agent knowingly to do, to encourage, to participate or to permit any of the following acts on the premises of any place licensed pursuant to this Chapter or on any parking lot, street or sidewalk adjacent to the premises:

1. Gamble or to permit gambling upon any pool or billiard table or coin-operated amusement game or device. The licensee is hereby specifically charged with knowledge of and made liable for the use of all tables, games and devices on the premises in any manner constituting a violation of this section.

2. ~~Except for those premises licensed under the Colorado Beer Code or Colorado Liquor Code, To~~ permit any person TO USE, SELL, OR DISTRIBUTE ANY ILLEGAL OR DANGEROUS DRUG, CHEMICAL SUBSTANCE, OR NARCOTIC. ANY PREMISE LICENSED UNDER THE COLORADO BEER CODE OR COLORADO LIQUOR CODE SHALL CONFORM TO SAID CODE AND SHALL NOT ALLOW THE USE, SALE OR DISTRIBUTION OF BEER OR ALCOHOL TO ANY MINOR. ~~under the influence of any alcoholic beverage, dangerous drug, chemical substance or narcotic to be or remain upon the premises.~~

3. Any disturbance, unlawful or disorderly act, or activity offensive to the senses of the average citizen, or to the residents of the neighborhood to be committed by any person or group of persons upon the premises.

(B) It shall be unlawful for any licensee to fail to comply with the following requirements:

1. Any licensee and its employees shall immediately report to the Police Department any unlawful or disorderly act, conduct or disturbance committed on the premises. Failure to comply with the requirements of this Section may be considered by the CITY MANAGER ~~licensing authority~~ in any action relating to revocation, suspension or nonrenewal of a license. Repeated failure to comply with the requirements of this section shall constitute prima facie grounds for the suspension, revocation or nonrenewal of a license.

2. Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign to be provided by the City Clerk's Office which shall be in the following form:

"WARNING: CITY OF WESTMINSTER POLICE MUST BE NOTIFIED OF ALL DISTURBANCES IN THIS ESTABLISHMENT AND ON THE GROUNDS AND PARKING LOT WHICH ARE A PART OF THIS ESTABLISHMENT."

(C) It shall not be a defense to a prosecution under this Section that the licensee was not personally present on the premises at the time such unlawful or disorderly act, conduct or disturbance was permitted, encouraged or participated in; provided, however, that an agent, servant or employee of the licensee shall not be responsible hereunder when absent from the premises and not on duty.

5-9-10: 5-9-9: PENALTY: It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title VIII of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 17th day of March, 2003. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of March, 2003.

A BILL FOR AN ORDINANCE AMENDING THE REGULATION OF DOOR-TO-DOOR SOLICITORS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Chapter 6 of Title 5, Westminster Municipal Code, is hereby amended to read as follows:

5-6-1: INTENT: THE CITY COUNCIL FINDS THAT IT IS IN THE INTEREST OF THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC TO ENHANCE PRIVACY OF PERSONS IN THEIR HOMES BY PREVENTING SOLICITORS FROM SOLICITING IN RESIDENTIAL AREAS WHERE THE RESIDENT HAS POSTED A “NO SOLICITING,” “NO TRESPASS,” “NO HANDBILLS” SIGN OR SIMILAR RESTRICTION.

~~5-6-1:~~ **5-6-2: DEFINITIONS:**

(A) “Nonprofit” means peddling or soliciting on behalf of a nonprofit corporation as demonstrated by the corporation’s certificate of tax-exempt status. ~~If a certificate has not yet been issued, the City Clerk may accept an application for a certificate of tax exempt status as proof of the nonprofit nature of the organization, so long as the certificate is provided within a reasonable time.~~

(B) “Peddler” means any person, whether as volunteer, owner, agent, consignee or employee, who engages in a temporary business of selling and delivering amusements or goods, within the City, and who, in furtherance of such purpose, leases, uses or occupies any tent, temporary structure, stand, or outdoor location on private property, for the exhibition and sale of such goods or amusements. This definition includes all persons engaged in said activities who occupy any single location within the City for more than ten (10) minutes at a time. This definition shall not include an individual who holds a general business or home occupation license from the City and operates indoors in full compliance with the zoning code of the City.

(C) “Solicitor” means any person, whether as volunteer, owner, agent, consignee or employee, who travels by foot, wagon, motor vehicle, pushcart, or any other method of transportation from house to house or street to street selling or offering to sell services, food, beverages, goods or merchandise, distributing goods or information ABOUT SUCH SERVICES, FOOD, BEVERAGES, GOODS, OR MERCHANDISE, or soliciting funds or other forms of assistance. A person is not a solicitor unless he or she knocks on doors or otherwise attempts to contact or speak to the occupants of a private residence.

(D) “Stand” means any table, bench, booth, rack, handcart or any other fixture or device which is not required to be licensed and registered by the department of motor vehicles, used for the display, storage or transportation of articles offered for sale by a peddler.

~~5-6-2:~~ **5-6-3: LICENSE REQUIRED; VIOLATION:**

(A) It shall be unlawful for any person to engage in the business of a peddler within the city limits of Westminster without first obtaining a license as provided herein.

~~(B) It shall be unlawful for any person to engage in the business of a solicitor in a residential area within the city limits of Westminster without first obtaining a license as provided herein.~~

~~(B)~~ (B) IT SHALL BE UNLAWFUL FOR ANY PERSON TO SOLICIT OR ATTEMPT TO SOLICIT OR TO INVITE OR ATTEMPT TO DISCUSS, VERBALLY OR IN WRITTEN FORM, IDEAS AND ISSUES, OR DISTRIBUTE WRITTEN INFORMATION, AT ANY PRIVATE RESIDENCE WHICH HAS BEEN POSTED WITH A SIGN STATING “NO SOLICITATIONS,” “NO TRESPASS” OR A SIGN WITH SIMILAR MEANING.

~~(D)~~ (C) UPON CONVICTION, A VIOLATION OF THIS CHAPTER SHALL BE PUNISHED AS STATED IN SECTION 1-8-1 OF THIS CODE. A VIOLATION AT EACH RESIDENCE OR UPON EACH DAY SHALL BE CONSIDERED A SEPARATE VIOLATION.

(D) NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO ALTER OR AMEND SECTION 6-3-5 OF THIS CODE.

~~(C)~~(E) A peddler or solicitor shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trade, merchant or auctioneer.

~~5-6-3:~~ 5-6-4: EXEMPTIONS:

(A) ~~Solicitation on behalf of a candidate for elective public office or a measure to be placed on the ballot or which has been placed on the ballot in the next election shall be exempt from the application of this Chapter.~~ THE DISCUSSION OR INVITATION TO DISCUSS, EITHER VERBALLY OR IN WRITTEN FORM, A PUBLIC OR PRIVATE ISSUE OR POLITICAL OR RELIGIOUS IDEAS, SHALL NOT BE CONSIDERED TO BE SOLICITATION GOVERNED BY THIS CHAPTER. IT SHALL BE A VIOLATION OF THIS CHAPTER TO SOLICIT FUNDS TO BE PAID DIRECTLY TO THE PERSON ENGAGED IN DISCUSSION OF IDEAS OR ISSUES

(B) Solicitation on behalf of a governmental entity shall be exempt from the application of this Chapter.

(C) This ordinance shall not apply to yard sales, garage sales or estate sales in a residential area unless such a sale is subject to the sales and use tax provisions of this Code. This shall not be construed to allow such a sale to exceed a three-day period or to allow the sale of food, beverages or amusements in conjunction with the sale. No loud speakers, tents, public toilet facilities or other portable structures are permitted. Auctions are prohibited except where permitted by zoning. Any professional or compensated agent of the owner of the items to be sold shall be licensed pursuant to this Code. Such license shall be conditioned upon the professional or compensated agent's sale or auction for sale of property owned only by the owner of the premises at which the sale is conducted. Children selling drinks, such as lemonade, at their own homes shall be exempted from the application of this Chapter.

~~5-6-4:~~ 5-6-5: LICENSE APPLICATION:

(A) An applicant for a license under this Chapter shall file with the City Clerk a verified application in writing on a form to be furnished by the City Clerk, which shall include the following information:

1. The name ~~and description~~ of the applicant, ~~including date of birth of the individual.~~
- ~~—(2) In the case of an applicant on behalf of a corporation or other entity, the name, address and telephone number of the agent for service of process.~~
- ~~(3)~~2. The residential address and telephone number of an individual applicant and the business address and telephone number.
- ~~(4)~~3. A brief description of the nature of the business ~~or solicitation.~~
- ~~(5)~~4. The dates or length of time for which the right to do business is desired stated in number of days, weeks, or months, up to a maximum of one year.
- ~~(6) If a vehicle is to be used, a description of the same, together with the license number or other means of identification.~~
- ~~(7)~~ 5. The location in which the applicant will be conducting business if a license is granted and written permission from the owner of the property or, if the applicant is the owner or lessee, evidence of ownership or a lease. If the applicant is not the property owner, the name, address and telephone number of the owner shall be provided. ~~If the applicant applies for a solicitor's license, the streets or area in which this activity will be conducted shall be identified.~~
- ~~(8) A statement of whether the applicant has been convicted of any crime, misdemeanor or violation of any federal, state or municipal law, the nature of the offense and the punishment or penalty assessed therefor.~~

~~(9)~~ 6. A brief statement of the nature and character of the signage or advertising shall be attached to said application as exhibits thereto.

~~(10)~~ 7. When requested, a list of the individuals or employees who will be operating on behalf of the licensee within the City.

~~(11)~~ 8. Documentation of nonprofit corporate status and nonprofit tax status, if applicable.

~~(12)~~ Such other reasonable information as to the identity or character of the applicants and person or persons managing or supervising the applicant's business as may be determined by the City Manager to be necessary for the protection of the public good.

~~5-6-5:~~ 5-6-6: INVESTIGATION AND ISSUANCE:

(A) Upon receipt of an application FOR A PEDDLER'S LICENSE (TEMPORARY USE PERMIT), the application shall be referred to the Chief of Police and to the Department of Community Development for processing as specified by this section.

(B) The Chief of Police shall cause such investigation of the applicant and the applicant's business to be made as he deems necessary for the protection of the public and return his recommendation to the City Clerk. If the investigation discloses that the applicant has been convicted of crimes that were not disclosed on the application, the Chief of Police shall recommend denial of the application. If the applicant has disclosed convictions on the application, the Chief of Police shall make his recommendation to the City Clerk based on the nature of the offenses, the length of time since the convictions and any other information relevant to the protection of the public. The Chief of Police may also base his recommendation upon other identifiable threats to public safety.

(C) The applicant shall apply for a sales and use tax license.

~~(D)~~ If the application is for a stationary location, approval by the Department of Community Development for a temporary use permit is required in order to do business in the proposed location. If a temporary use permit is required, then the applicant is eligible only for a peddler's license.

~~(E)~~ Upon receipt and review of recommendations from the Chief of Police and the Department of Community Development, the City Manager shall approve, approve with conditions, or deny the application. The City Manager shall endorse his decision on the application and his reasons for same and shall notify the applicant of the decision and whether issuance of the license is authorized.

~~(F)~~ If the application is approved by the City Manager, upon posting the bond required by this Chapter and payment of the prescribed license fee by the applicant, the license shall be issued.

~~(G)~~ (D) Each licensee shall carry his or her license at all times while peddling or soliciting and shall display it upon request.

~~(H)~~ (E) All licenses shall be issued in the individual's name except as otherwise provided herein. Any license issued to a firm, association or corporation shall include the name of the authorized representative of the firm, association or corporation which representative's name shall appear on the application, bond, badge, and license. No license shall be transferable or used by any other person, except as provided in this section. No other representative of the same firm, association or corporation shall use the same license, except as provided in this section.

(1) If a firm, association or corporation applies for and is granted an annual license at the fee set forth in this Chapter, it shall be entitled to obtain badges A LICENSE for up to and including ten employees under its annual license. The business shall comply with the bonding requirement under this Chapter, but need not obtain separate bonds for each employee.

~~—————(2) For every employee over ten, or in order to process a transfer of a badge LICENSE from one employee to another, a \$5.00 fee shall be charged to issue a new individual employee badge LICENSE.~~

~~—————(3) Each individual employee badge LICENSE shall exhibit the business name as well as the individual employee's name. Each employee soliciting pursuant to a business's annual license shall carry an individual badge LICENSE in his own name at all times.~~

(4 2) Each business applying for an annual license and wishing to license employees pursuant to such annual license shall provide such proof as may be required by the City Manager to demonstrate that it is a bona fide business entity separate from its alleged employees.

~~(5) For purposes of the investigation conducted by the Chief of Police pursuant to this Chapter, each individual employee of a business who desires a badge shall be considered an applicant and shall be investigated.~~

~~(F)~~ (F) A nonprofit corporation need not submit a separate application for each person peddling ~~or soliciting~~ on its behalf, but shall inform the City Clerk in writing of each individual who will be acting on behalf of the nonprofit corporation within the City.

~~(G)~~ (G) Issuance of a license under this Chapter does not in any way relieve a peddler from responsibility for obtaining permission from respective property owners to set up displays and sell goods on private property.

~~(H)~~ (H) A licensee under this chapter shall comply with all applicable laws of the City of Westminster and the State of Colorado.

~~(I)~~ (I) The duties of the City Manager may be delegated to the City Clerk except that the City Manager shall review all denials of applications prior to notification to the applicant.

~~5-6-6:~~ **5-6-7: FEES:** The following fees shall be charged upon application for a license as required by this Chapter:

<u>Commercial</u>	<u>Nonprofit</u>
\$ 5.00 per 1 day period	\$5.00 per 30 day period
\$ 15.00 per 7 day period	
\$ 50.00 per 30 day period	
\$500.00 per 365 day period	

~~5-6-7:~~ **5-6-8: BOND REQUIRED:**

(A) Before any license shall be issued an applicant pursuant to this Chapter, the applicant shall file with the City Clerk a cash bond, certified funds payable to the City or a surety bond payable to the City in the sum of one thousand dollars (\$1,000.00). If a surety bond is provided it shall be executed by the applicant as principal and at least one surety upon which service of process may be made in the State of Colorado. Such bond must be approved by the City Attorney, both as to form and as to the responsibility of the surety.

(B) Such bond shall be conditioned that:

(1) The applicant shall comply fully with the terms of its license, all applicable laws and regulations of the City, and state statutes regulating and concerning the applicant's business, and

(2) The City shall be indemnified against and held harmless from any liability that may be imposed upon the City by the licensee's operations within the City.

(C) In the event of a breach of the conditions of the surety bond, or in the event of a breach of this Code by a licensee who has provided a cash bond or certified funds, the entire amount shall be forfeited to the City, upon demand and without proof of actual damages, as liquidated damages to compensate the City for actual costs and delay as well as inconvenience and other harm to the City and the general public that is impossible to estimate with certainty at the time the license is issued. The City shall be entitled to collect interest and its attorney's fees related to enforcement of the surety bond.

(D) All licensees shall be personally liable to pay the City, its officials and employees, and their successors any judgments, claims, demand, losses, costs, expenses, or liabilities of any kind that the City or any of the persons above enumerated may sustain or that may be recovered from it or them, from or by

reason of the issuance of a license pursuant to this Chapter or by reason of any act, neglect, or thing done under or by virtue of the authority given in the license or this Chapter.

(E) All licensees shall be responsible for all acts or omissions of any persons acting on behalf of such licensee, whether as an employee, volunteer or other agent. Any violation of this ordinance by an employee, volunteer or other agent of a licensee resulting in damage to the City shall be grounds for forfeiture of the licensee's surety bond, cash bond or certified funds.

(F) The bond requirement shall be waived if peddling ~~or solicitation~~ is conducted on behalf of a nonprofit corporation.

(G) Forfeiture or loss of such bond shall be grounds for summary suspension of a license issued pursuant to this Chapter by the City Manager until such time as a new bond is provided.

~~5-6-8:~~ 5-6-9: TEMPORARY USE PERMITS:

(A) All uses conducted pursuant to this chapter shall conform to the zoning provisions of this Code, including the sign code, unless otherwise provided herein.

(B) A temporary use permit shall be required for all peddlers.

(C) If a temporary use permit is required, it shall be granted if the proposed temporary use meets the following criteria:

- (1) The temporary outdoor use is of a seasonal or special event nature.
- (2) All structures subject to any building, construction or fire codes comply with such codes, as appropriate.
- (3) All signs comply with the applicable provisions of this Code.
- (4) The location of the use is at least ten (10) feet from any public property or right-of-way.
- (5) If customers of a peddler are required to park in order to gain access to the peddler, that sufficient parking is available without interfering with the public rights of way on sidewalks or streets and without requiring customers to park on private property without the consent of the property owner.
- (6) Safe access is available by vehicle and pedestrian traffic to the peddler's location without requiring illegal or unsafe turning movements by vehicles or trespass across private property without the consent of the property owner.
- (7) If the applicant proposes a use that will occupy private property or cause vehicles or pedestrians to use or cross private property, then written proof of the applicant's right to use such property shall be required.
- (8) No use shall be permitted that:
 - a. Impedes access to the entrance of any adjacent building or driveway,
 - b. Is located in such a manner as to interfere with a fire hydrant, fire escape, bus stop, loading zone, or driveway of a fire station, police station, hospital or handicapped parking space or access ramp.

(D) The temporary use permit shall designate the specific location for the use and the time period for which the permit is issued. Permits may not be issued for any location for more than sixty (60) days per year.

(E) Services may not be rendered in a location pursuant to a temporary use permit.

(F) This ordinance shall not be construed to require a temporary use permit for the temporary outdoor extension of regular indoor commercial activity such as a sidewalk sale.

~~5-6-9:~~ 5-6-10: CONDITIONS OF OPERATION:

~~(A) Every resident of the City shall have the right to post a notice upon his real property, business or residence, including but not limited to apartments, condominiums, mobile homes, and detached~~

~~residences, to the effect that solicitors shall not solicit or attempt to solicit from the occupant or occupants thereof. It shall be unlawful to solicit from an occupant in violation of such a notice or without previous invitation so to do from the occupant thereof.~~

~~(B) All solicitation activities, whether conducted on foot or from a vehicle, shall be conducted in strict accordance with all traffic and parking laws.~~

~~(C)~~ (A) Peddlers shall be allowed to engage in their businesses between the hours of 7:00 A.M. and 10:00 P.M. unless otherwise stated in the conditions on their license. Solicitors shall be allowed to solicit in residential areas between the hours of 8:00 A.M. and 8:00 P.M.

~~(D)~~ (B) All trash or debris accumulation caused by a licensee's activities shall be collected and deposited in a proper trash container. Any accumulation of trash or debris that causes the City to incur expense in removing the accumulation shall be cause for the City to proceed against the licensee's surety bond.

~~(E)~~ (C) Sales and use taxes shall be paid upon the schedule set by this Code.

~~5-6-10-5-6-11:~~ ENFORCEMENT; LICENSE DENIAL, SUSPENSION, CANCELLATION, OR REVOCATION:

(A) It shall be the duty of any police officer, sales tax enforcement officer or code enforcement officer of the City to require any person subject to this Chapter to produce his license and to enforce the provisions of this Chapter against any person found to be violating the same.

(B) The Chief of Police shall report to the City Clerk all violations of this chapter and of this Code by licensees and the City Clerk shall maintain a record of the reports of violation therein.

(C) A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title, or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.

(D) A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing and shall be given by personal delivery to the licensee or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.

(E) An application for a new license may be denied by the City Manager upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this Code, such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.

(F) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

(G) The Special Permit and License Board shall conduct A HEARING OF an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

(H) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.

~~5-6-11:~~ 5-6-12: PENALTY: It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject

to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter 6.

~~5-6-12:~~ 5-6-13: LOUD SPEAKERS OR SOUND TRUCKS:

~~(A) It shall be unlawful for any person to operate, or cause to be operated, any sound truck on the public streets of the City with sound amplifying equipment in operation, except in conformance with the regulations set forth herein.~~

~~(B)~~ (A) The use of sound trucks with sound amplifying equipment in operation shall be subject to the following regulations:

1. The only sounds permitted to be amplified are music or human speech.
2. Operations are permitted for nine (9) hours each day. The permitted nine (9) hours of operation shall be between the hours of ten o'clock (10:00) A.M. and seven o'clock (7:00) P.M.
3. Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of less than twelve (12) miles per hour. When stopped to make sales, said sound amplifying equipment shall not be operated.
4. Sound shall not be issued within one hundred (100) yards of hospitals, or within 100 hundred (100) yards of churches during the hours services are being held, or within five hundred feet (500') of a school during the school year.
5. The human speech and music amplified shall not be profane, lewd, indecent or slanderous.
6. The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred (100) yards from the sound truck and so that said volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.
7. It shall be unlawful for any sound truck to amplify sound along any particular route more than one time during a twenty four (24) hour period.
8. It shall be unlawful for any sound truck to stop within twenty five feet (25') of an intersection when making a sale, or attempting to make a sale.
9. It shall be unlawful for any sound truck to double park, or park in a manner contrary to any ordinance relating to parking, when attempting a sale or making a sale.
10. It shall be unlawful for any sound truck to make a U turn in any block.
11. It shall be unlawful for any driver of a sound truck to drive his vehicle backward to make or attempt to make a sale.
12. It shall be unlawful for any driver of a sound truck to sell to any person who is standing in the street.
13. It shall be unlawful for any driver of a sound truck to permit any person to hang on the vehicle, or permit any person to ride in or on the vehicle, except a bona fide assistant or assistants.
14. All sound trucks must be equipped with four (4) way flashing lights, both parking and taillights. Trucks must have lights flashing while seeking or making a sale.

~~(C)~~ (B) It shall be unlawful for any person to use or cause to be used, a sound truck with its sound amplifying equipment in operation in the City without having paid an annual registration fee of \$5 per vehicle and filed a registration statement with the City Clerk in writing and having it approved by the City Manager and City Clerk. This statement shall be filed in duplicate and include the following information:

1. Name and address of the registrant,
2. Name and address of person having direct charge of the sound truck,
3. Name and address of all persons who will use or operate the sound truck,
4. The purpose for which the sound truck will be used,
5. A general statement as to the areas of the City in which the sound truck will be used,
6. The proposed hours of operation of the sound truck,
7. The number of days of proposed operation of the sound truck,

~~(D)~~ (C) DEFINITIONS:

1. "Sound truck" shall mean any vehicle, or horse-drawn vehicle, having mounted, thereon, or attached thereto, any sound amplifying equipment.
2. "Sound amplifying equipment" shall mean any machine or device for the amplification of the human voice, music or any other sound. "Sound amplifying equipment" shall not be construed

as including standard automobile radios when used and heard only by the occupants of the vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

~~5-6-13:~~ 5-6-14: SOLICITATION ON OR NEAR STREET OR HIGHWAY: This chapter shall not apply to sales or solicitation on or near streets or highways. See Title IX, Chapter 4 of this Code.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 17th day of March, 2003. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24th day of March, 2003.