



## 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 7) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed agenda.

1. Swearing in of New Mayor
2. Pledge of Allegiance
3. Roll Call
4. Selection of Mayor Pro Tem
5. Swearing in of Mayor Pro Tem
6. Selection of New Councillor
7. Consideration of Minutes of Preceding Meetings
8. Report of City Officials
  - A. City Manager's Report
9. City Council Comments
10. Presentations
  - A. Proclamation for Jenny Segal, Ms. Wheelchair Colorado Week

**11. Citizen Communication (5 minutes or less)**

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.

**12. Consent Agenda**

- A. Grant Application to Adams County Open Space Program for the Metzger Farm
- B. Great Outdoors Colorado Agreement for Metzger Farm Grant
- C. Authorization of City Participation Payment for Clay Street Construction
- D. Appointment of Municipal Court Public Defender
- E. 2004 Wastewater Collection System Improvement Program
- F. Huron Street Demolition Contract Change Order
- G. CB No. 44 re Vacation of Easement within Apple Blossom Subdivision (Hicks-Price)

**13. Appointments and Resignations**

**14. Public Hearings and Other New Business**

- A. Public Meeting on 2005 and 2006 City Budget
- B. Public Hearing re Telecommunication Towers, Facilities, and Antennas
- C. Councillor's Bill No. 47 re Telecommunication Towers, Facilities, and Antennas
- D. Councillor's Bill No. 48 re Supplemental Appropriation for Open Space Land Purchases

**15. Business and Passage of Ordinances on Second Reading**

- A. CB No. 42 re Westminster Landscape Regulations (Dittman-Dixion)
- B. CB No. 45 re Code Modifications to Reclaimed/Non-Potable Water System (Dixon-McNally)

**16. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business**

- A. City Council
- B. Executive Session
  1. Economic Development Matter

**17. Adjournment**

## **GENERAL PUBLIC HEARING PROCEDURES ON NON-LAND USE MATTERS:**

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. (Amended Res 45, 2000)

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. (Res. 39, 1984, 84, 1997)

## **GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS**

**A.** The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.

**B.** Any person 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. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.

**C.** The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.

**D.** The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.

**E.** When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.

**F.** City Staff enters A copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;

**G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);

**H.** Staff presents any additional clarification necessary and states the Planning Commission recommendation;

**I.** All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.

**J.** Final comments/rebuttal received from property owner;

**K.** Final comments from City Staff and Staff recommendation.

**L.** Public hearing is closed.

**M.** If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 12, 2004



**SUBJECT:** Swearing In Ceremony for Mayor McNally and new Mayor Pro Tem

**Prepared by:** Michele Kelley, City Clerk

**Recommended City Council Action**

Mayor McNally will be sworn into office by Westminster Municipal Court Judge John Stipech.

After the selection of the new Mayor Pro Tem, this Councillor will be sworn into office as Mayor Pro Tem by Westminster Municipal Court Judge John Stipech.

**Summary Statement**

- Recently, Mayor Ed Moss announced his resignation effective July 6, 2004, because of his appointment as a 17<sup>th</sup> Judicial District Court Judge.
- Per City Code and City Charter, the current Mayor Pro Tem will move into the position of Mayor and fill the office until November, 2005.
- Nancy McNally was elected by Council on November 10, 2003, to serve in the position of Mayor Pro Tem.
- Mayor McNally has requested Westminster Municipal Court Judge John Stipech to swear her in as Mayor.
- Subsequent to the Mayor being sworn-in, City Council will be selected a new Mayor Pro Tem.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

Should Council select a Mayor Pro Tem at this time?

**Alternative**

Since there is currently a vacancy in the position of Mayor Pro Tem, this action is required to officially swear into office the new Mayor, select a new Mayor Pro Tem and swear the new Mayor Pro Tem into office.

**Background Information**

The City Council meeting will begin with the swearing in of Nancy McNally as Mayor of the City of Westminster. This will be followed by the selection of the Mayor Pro Tem, and swearing in of the new Mayor Pro Tem.

The election of a Mayor Pro Tem is required to be accomplished by secret ballots without nominations.

**PROCEDURES FOR CITY COUNCIL MEETING**

The following sequence of events is to take place:

1. Upon completion of the swearing-in of the Mayor, the Mayor states that the first order of business shall be the election of the Mayor Pro Tem. This is to be accomplished by secret ballot and without nomination. In case of a tie, the City Clerk will disclose the names of the tie contestants and another ballot shall be taken. Until one person has received a majority, successive ballots will be taken.

**NOTE:** Consensus between the City Clerk and the City Attorney's office is that the intent of this rule is that the names of tied candidates will only be disclosed when they receive two or more votes.

2. The City Clerk announces the selection of the Mayor Pro Tem.
3. The Mayor requests that the newly elected Mayor Pro Tem be sworn-into office.
4. The newly sworn in Mayor Pro Tem will take his/her seat at the Council diaz and the Mayor presides over the remaining portion of the Council meeting.

Respectfully submitted,

J. Brent McFall  
City Manager

## MAYOR PRO TEM BALLOT

Chris Dittman

Sam Dixon

Butch Hicks

Tim Kauffman

Jo Ann Price

The election of a Mayor Pro Tem is required to be accomplished by secret ballots without nominations.

### PROCEDURES FOR CITY COUNCIL MEETING

The following sequence of events is to take place:

5. Upon completion of the swearing-in of the Mayor, the Mayor states that the first order of business shall be the election of the Mayor Pro Tem. This is to be accomplished by secret ballot and without nomination. In case of a tie, the City Clerk will disclose the names of the tie contestants and another ballot shall be taken. Until one person has received a majority, successive ballots will be taken.

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6. The City Clerk announces the selection of the Mayor Pro Tem.
7. The Mayor requests that the newly elected Mayor Pro Tem be sworn-into office.
8. The newly sworn in Mayor Pro Tem will take his/her seat at the Council diaz and the Mayor presides over the remaining portion of the Council meeting.



**WESTMINSTER**  
**COLORADO**  
**Agenda Memorandum**

City Council Meeting  
July 12, 2004



**Subject:** Procedure for Selection of New Councillor

**Prepared by:** Michele Kelley, City Clerk

**Summary Statement:**

- On June 28<sup>th</sup>, City Council accepted the resignation of Mayor Ed Moss effective July 6, 2004.
- Per City Charter requirements, a new Councillor is required to be appointed within 30 days of the vacancy, or an election would be required to elect a new Councillor.
- City Council has requested citizens to apply for this vacancy and the deadline of Friday, July 2<sup>nd</sup> was established.
- A total of 11 citizens have applied for this vacancy.
- City Council has conducted interviews beginning on Thursday, July 9th.
- City Council action is now necessary to select a person to fill this vacancy by August 5th.
- The newly selected Councillor will be sworn into office on the evening of the next regular Council meeting,
- Per Council Rules and Regulations, voting will be by written ballot.

Vacant positions on the City Council shall be appointed by Council from applicants who have completed the appropriate application form and interview process. Appointments shall be by written ballot unless this method is suspended by unanimous Council vote. A majority vote is necessary to make an appointment. If no single applicant obtains a majority vote after the first ballot, all persons receiving no votes, and the person receiving the smallest number of votes will be removed from nomination. This process will be repeated after each ballot until a majority vote is received by one applicant. After seven (7) ballots with no one person appointed, the Council will consider all candidates again and begin the process of elimination of candidate names after every seven ballots.

In order to be appointed, a Council candidate will be required to get 4 votes.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue:**

No policy issue identified.

**Alternative:**

Per City Charter 5.7 (b), if a Councillor is not selected within 30 days a special election would be required. This alternative is not recommended as the cost of conducting a special election would be approximately \$30,000 if a polling place election is conducted or approximately \$80,000 if a mailed ballot election is held and the timing for an election would require two to three months before a Councillor is elected and sworn into office.

**Background Information:**

The eleven candidates to date are:

David Davia	11141 Bryant Court
William DeVoe	7524 Benton Street
Daniel Golightly II	10521 Parfet Court
Christopher Gray	7410 Raleigh Street
Jerell Klaver	10429 Iris Way
Scott Major	7044 Yates Street
Ken Morfit	9054 West 103 <sup>rd</sup> Avenue
Tim Nicholl	4122 West 76 <sup>th</sup> Avenue
Steven Shelton`	10479 Kline Street
Larry Dean Valente	3755 West 81st Avenue
Bruce Vezina	5040 West 102 <sup>nd</sup> Avenue

Ballots will be preprinted with all candidate names for Council to use, and will be available during the Council meeting of July 12<sup>th</sup>.

Respectfully submitted,

J. Brent McFall  
City Manager

# COUNCILLOR CANDIDATES BALLOT

David Davia

William DeVoe

Daniel Golightly

Christopher Gray

Jerell Klaver

Scott Major

Ken Morfit

Tim Nicholl

Steven Shelton

Larry Dean Valente

Bruce Vezina

Vacant positions on the City Council shall be appointed by Council from applicants who have completed the appropriate application form and interview process. Appointments shall be by written ballot unless this method is suspended by unanimous Council vote. A majority vote is necessary to make an appointment. If no single applicant obtains a majority vote after the first ballot, all persons receiving no votes, and the person receiving the smallest number of votes will be removed from nomination. This process will be repeated after each ballot until a majority vote is received by one applicant. After seven (7) ballots with no one person appointed, the Council will consider all candidates again and begin the process of elimination of candidate names after every seven ballots.

In order to be appointed, a Council candidate will be required to get 4 votes.



CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, JULY 12, 2004 AT 7:00 P.M.

SWEARING IN OF MAYOR

Westminster Municipal Court Judge John Stipech was called to administer the Oath of Office of Mayor to Nancy McNally.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor McNally, Councillors Dittman, Dixon, Hicks, Kauffman and Price were present at roll call. J. Brent McFall, City Manager; Leslie Annand, Assistant City Attorney; and Michele Kelley, City Clerk, were also present. Absent none.

SELECTION AND SWEARING IN OF MAYOR PRO TEM:

Mayor McNally stated that the election of Mayor Pro Tem would be by written ballot with no nominations. The first ballot showed a majority vote for Tim Kauffman. Judge John Stipech swore Mayor Pro-Tem Kauffman into office.

SELECTION OF NEW COUNCILLOR

Mayor McNally read the procedures for voting for Councillor. The following names were placed into nomination to fill the vacancy on City Council: David Davia, William DeVoe, Daniel Golightly II, Christopher Gray, Jerell Klaver, Scott Major, Ken Morfit, Tim Nicholl, Steven Shelton, Larry Dean Valente, and Bruce Vezina. Voting was by written ballot and David Davia received a majority vote on the first ballot.

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by Dixon to approve the minutes of the meeting of June 28, 2004 with no corrections or additions. The motion carried unanimously.

CITY MANAGER COMMENTS

Brent McFall, City Manager, commented on his appreciation of Council and the great work they perform.

CITY COUNCIL COMMENTS

Councillors Hicks, Dixon, and Price congratulated Mayor McNally on her appointment as Mayor.

Councillor Hicks congratulated Tim Kauffman on his appointment as Mayor Pro-Tem.

Councillors Dittman and Dixon, and Mayor Pro-Tem Kauffman stated they were impressed with the quality of the Council candidates, and hope the candidates will volunteer for Boards and Commissions or other volunteer work with the City.

Mayor McNally commented on the FasTracks public meeting to be held on Wednesday, July 14 at City Park Recreation Center, and the All Ears event before the concert at City Park on Thursday, July 15.

PROCLAMATION FOR JENNY SIEGLE, MS. WHEELCHAIR COLORADO

Councillor Dittman presented a certificate to Jenny Siegle, proclaiming July 26—30 as Jenny Seigle Ms. Wheelchair Colorado Week in Westminster.

CITIZEN COMMUNICATION

Nathan Harvey, Y-Vote coordinator and Kaitlyn Pulhamus, 9443 West 99<sup>th</sup> Place, a student at Standley Lake High School, addressed Council on requesting either a Council resolution or a letter of support from the Mayor. A battle of the bands EVENT is planned for the Westminster Faire when Y-Vote will be educating 18 to 25 year old citizens about registering and voting in this year's elections.

Jeanne Rinne, 3180 W 76<sup>th</sup> Ave #214B, addressed Council on a park bench at Thornton park.

CONSENT AGENDA

The following items were considered as part of the consent agenda: Grant Application to Adams County Open Space Program for the Metzger Farm; Great Outdoors Colorado Agreement for Metzger Farm Grant; Authorization of City Participation Payment for Clay Street Construction with Liberty Home Building for \$71,631.50; Appointment of Municipal Court Public Defender; 2004 Wastewater Collection System Improvement Program with Farner Enterprises for \$220,342; Huron Street Demolition Contract Change Order with Fiore and Sons for \$58,328; and CB No. 44 re Vacation of Easement within Apple Blossom Subdivision.

Mayor McNally 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. There was no request.

Councillor Dittman moved, seconded by Price to adopt the consent agenda items as presented. The motion carried unanimously.

PUBLIC MEETING ON 2005 AND 2006 CITY BUDGET

At 7:40 p.m. the public meeting was opened for citizen comments regarding the 2005 and 2006 City budget. There were no public comments. The public meeting was declared closed at 7:41 p.m.

PUBLIC HEARING RE TELECOMMUNICATION TOWERS, FACILITIES, AND ANTENNAS

At 7:41 p.m. the public hearing was opened on amendments to the City's ordinance regarding Telecommunication Towers, Facilities, and Antennas. Dave Shinneman, Planning Director, entered a copy of the Agenda Memorandum and other related items into the record. Sharon Widener, Assistant City Attorney was also present. Tanya Ishikawa, 9671 W 106<sup>th</sup> Avenue, addressed Council. The public hearing was declared closed at 7:45 p.m.

COUNCILLOR'S BILL NO. 47 TELLECOMMUNICATION TOWERS/FACILITIES/ANTENNAS

Councillor Dixon moved, seconded by Price to pass Councillor's Bill No. 47 on first reading providing formal standards for the regulation of telecommunication facilities in the City. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 48 RE SUPPLEMENTAL APPROPRIATION OPEN SPACE PURCHASE

Mayor Pro-Tem Kauffman moved, seconded by Price to pass Councillor's Bill No. 48 on first reading appropriating \$2,852,453 into the Open Space Land Purchases Account as a result of the sale of the City property purchased with Open Space Funds to the Academy of Charter Schools. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 42 RE 2004 WESTMINSTER LANDSCAPE REGULATIONS

Councillor Dittman moved, seconded by Dixon pass Councillor's Bill No. 42 on second reading, as amended adopting the City of Westminster Landscape Regulations 2004; amending Title XI, Chapter 5, Section 12, Application Format and Content for Landscape and Irrigation Drawings and Private Improvements Agreement; amending Title XI, Chapter 6, Section 5 (E), Construction of Improvements; amending Title XI, Chapter 7, Section 5, Provisions for the Requirement of Landscaping; and amending Title XI, Chapter 12, Section 7 (C), Landscaping. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 45 RE CODE MODIFICATION RECLAIMED/NON-POTABLE WATER

Councillor Price moved, seconded by Dixon to pass Councillor's Bill No. 45 on second reading as amended implementing modifications to the City Code regarding the reclaimed/non-potable water system. Upon roll call vote, the motion carried unanimously.

EXECUTIVE SESSION

Mayor McNally stated there would be an executive session to discuss an economic development matter.

ADJOURNMENT:

The meeting was adjourned at 7:49 P.M.

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 12, 2004



**SUBJECT:** Proclamation for Jenny Siegle, Ms. Wheelchair Colorado Week

**Prepared By:** Mary Joy Barajas, Executive Secretary

**Recommended City Council Action**

Proclaim July 26—30 as Jenny Siegle Ms. Wheelchair Colorado Week in Westminster and present the proclamation to Jenny Siegle.

**Summary Statement**

- Jenny Siegle was crowned Ms. Wheelchair Colorado on April 2, 2004.
- Jenny is a resident of Westminster and graduated from Westminster High School in 2000.
- Jenny will be traveling to Richmond, Virginia on July 27, 2004 to compete in the Ms. Wheelchair America competition.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

None identified.

**Alternative**

None identified.

**Background Information**

Jenny Siegle has been a resident of Westminster since 1987. She was a nominee of the 1999-2000 Metro Mayors and Commissioners Youth Award. Jenny recently graduated from the University of Northern Colorado with a degree in journalism. She has also completed internships with KUSA Channel 9 and most recently the WB Channel 2.

Jenny was nine months old when she came down with a case of the flu, and acquired Transverse Myelitis, a neurological disorder caused by inflammation around the spinal cord. This inflammation caused irreparable damage. It has not stopped Jenny from becoming an exceptional young person who has a wonderful list of accomplishments that we all are very proud of.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

**WHEREAS, Westminster resident, Jennifer “Jenny” Siegle, was crowned Ms. Wheelchair Colorado on April 2. Jenny has been a resident of Westminster since 1987, graduating from Westminster High School in 2000; and**

**WHEREAS, Jenny will be traveling to Richmond, Virginia on July 27<sup>th</sup> to compete in the national competition for Ms. Wheelchair America; and**

**WHEREAS, Jenny graduated on May 8, 2004 from the University of Northern Colorado with a degree in journalism; and**

**WHEREAS, Jenny was a 1999-2000 nominee for the Metro Mayors and Commissioners Youth Award. Jenny was nominated by her guidance counselor at Westminster High School; and**

**WHEREAS, The Ms. Wheelchair Colorado competition seeks to recognize disabled women who are community leaders. Jenny will spend the next year on an educational campaign advocating the rights of the disabled; and**

**WHEREAS, Jenny is a wonderful example of a young person who has overcome many physical obstacles to achieve her goals; and**

**WHEREAS, The Westminster City Council would like to send with Jenny well wishes for her success at the national competition in Richmond, Virginia, July 27 – August 1, 2004.**

**NOW, THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, on behalf of the entire Westminster City Council and Staff, do hereby proclaim the week of July 26-30, 2004, as**

**Jenny Siegle, 2004 Ms. Wheelchair Colorado Week**

**in the City of Westminster and recognize Jenny’s accomplishments and those of the Ms. Wheelchair Colorado organization.**

**Signed and presented this 12<sup>th</sup> day of July, 2004**

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**Mayor Nancy McNally**



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 12, 2004



**SUBJECT:** Grant Application to Adams County Open Space Program for the Metzger Farm

**Prepared By:** Lynn Wodell, Open Space Coordinator

**Recommended City Council Action:**

Authorize Staff to submit a grant application for approximately \$500,000 to the Adams County Open Space Program for the acquisition of the Metzger Farm

**Summary Statement:**

- The Adams County Open Space Program provides grants to eligible jurisdictions for open space, trail and park projects.
- The City has successfully received a total of \$1,002,500 from Adams County for the acquisition of the Metzger Farm in the Fall 2003 and Spring 2004 cycles.
- Staff recommends applying for an additional grant from Adams County in the Fall 2004 cycle for the Metzger Farm project.

**Expenditure Required:** \$ 200 for cost of color copying the application

**Source of Funds:** Open Space Fund Budget

**Policy Issues**

Should Staff apply for one more grant from Adams County Open Space Program in the Fall Cycle of 2004?

**Alternatives**

Not apply in this cycle. Staff does not recommend this alternative because the City has received very positive feedback from the Adams County Open Space Advisory Board and Board of County Commissioners encouraging the City to apply again this fall for the Metzger Farm project.

**Background Information**

The Adams County Open Space Grant Program continues to fund projects throughout Adams County in two grant cycles each year. The creation and use of the open space tax funds was approved by Adams County voters on November 2, 1999 for seven years only. The tax will end in 2006. A ballot issue is anticipated on this November's election to extend the tax. The City has received two grants from Adams County's for the Metzger Farm acquisition. In the Fall 2003 Cycle, a grant of \$500,000 was received and in the Spring 2004 Cycle, a grant of \$502,500 was received. These funds will be available to the City as soon as the property is under contract. At a \$10 million purchase price for the Metzger Farm, the support from Adams County, the City and County of Broomfield and Great Outdoors Colorado are necessary to accomplish the acquisition of the entire 160 acre farm located in Westminster. This will allow the City to leverage its open space funds to accomplish not only this goal, but other open space acquisitions as well.

Respectfully submitted,

J. Brent McFall  
City Manager





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 12, 2004



**SUBJECT:** Great Outdoors Colorado Agreement for Metzger Farm Grant

**Prepared By:** Lynn Wodell, Open Space Coordinator

**Recommended City Council Action:**

Authorize the City Manager to execute the necessary agreements and documents in order to accept the Great Outdoors Colorado Trust Fund grant of \$500,000 to be utilized toward the acquisition of the Metzger Farm.

**Summary Statement:**

- City Council is requested to authorize the City Manager to execute and Staff to submit the necessary documentation required by Great Outdoors Colorado in order to receive the \$500,000 grant for the acquisition of the Metzger Farm located at W. 120<sup>th</sup> Avenue and Lowell Boulevard.
- City County authorized Staff to submit an application to Great Outdoors Colorado for a Regional Local Government Land Acquisition Grant for the acquisition of the 160 acre Metzger Farm in partnership with the City and County of Broomfield.
- The Great Outdoors Colorado Board of Trustees awarded a grant of \$500,000, which will be available upon closing on the acquisition of the Metzger Farm.
- In order to receive this grant, the City must enter into a Grant Agreement and submit the necessary documentation to Great Outdoors Colorado some of which must be submitted prior to entering into the purchase and sale agreement for the property.

**Expenditure Required:** Matching Funds: \$500,000

**Source of Funds:** \$250,000 City Open Space Land Purchases Account and  
\$250,000 City and County of Broomfield

**Policy Issues**

Should the City accept the \$500,000 grant from Great Outdoors Colorado, enter into the Grant Agreement and submit the necessary documentation for this future joint acquisition with the City and County of Broomfield?

**Alternative**

Council could choose not to accept the \$500,000 grant from Great Outdoors Colorado because there are major requirements to receive the grant. Staff does not recommend this alternative because the \$500,000 grant is a significant award that will assist in making this open space purchase a reality.

**Background Information**

The City has been successful in applying for and receiving grants for the future acquisition of the Metzger Farm including this \$500,000 grant from Great Outdoors Colorado and \$1,002,500 in grants from Adams County Open Space Program. Receiving open space grants from Great Outdoors Colorado is highly competitive and difficult to because of the limited funds, number of applications, the complicated application process and complexity of meeting GOCO's requirements after the award is made.

Receipt of this \$500,000 grant from Great Outdoors Colorado will allow the City to continue to leverage its open space tax dollars and add Great Outdoors Colorado along with Adams County as a partner in the preservation of this key property.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 12, 2004



**SUBJECT:** Authorization of City Participation Payment for Clay Street Construction

**Prepared By:** Mikele Wright, Senior Civil Engineer

**Recommended City Council Action**

Authorize the payment of \$71,631.50 to Liberty Home Building at Summit Point for City participation in the developer's construction of Clay Street in the vicinity of Cobblestone Park between West 81<sup>st</sup> Avenue and West 82<sup>nd</sup> Avenue, and charge the expense to the New Development Participation Capital Improvement Project of the General Capital Improvement Fund.

**Summary Statement**

- It was the City's desire to provide enhanced access to Cobblestone Park, which is located east of Federal Boulevard at 82<sup>nd</sup> Avenue.
- City Staff determined that the most feasible means of achieving this new access would be to direct the developer of Summit Pointe Subdivision, Filing No. 2 to construct an extension of Clay Street at the same time that streets were installed within the subdivision.
- A portion of this Clay Street extension abuts Cobblestone Park, a public park. In accordance with City Code, the City is obligated to pay for one-half of the width of local or collector roadways that are adjacent to City-owned property.
- City Council appropriated funds for this street construction participation payment in the 2002 City budget.
- Liberty Home Building at Summit Point, the developer of Summit Pointe Subdivision, Filing No. 2, completed the installation of the Clay Street connection and submitted invoices to the City in the amount of \$71,631.50. Staff has reviewed the invoices and has determined that the payment is appropriate.

**Expenditure Required:** \$71,631.50

**Source of Funds:** New Development Participation Capital Improvement Project in the General Capital Improvement Fund

**Policy Issues**

Should the City Council authorize the expenditure of this street participation payment at this time?

**Alternatives**

Staff is unable to offer a feasible and fair alternative to the proposed action. Adequate funds have been previously appropriated for this expense, and representations have been made to the developer that the City would provide reimbursement for the cost of the portion of the street that is the City's responsibility once the work was successfully completed.

**Background Information**

The Official Development Plan (ODP) for the Summit Pointe Subdivision, Filing No. 2 required Clay Street to be constructed between West 81<sup>st</sup> Avenue and West 82<sup>nd</sup> Place. Clay Street abuts Summit Pointe Subdivision, Filing No. 2 on the east and Cobblestone Park on the west.

Chapter 6 of Title XI of the Westminster Municipal Code allows for the developer of Summit Pointe Subdivision, Filing No. 2 to establish a recovery or participation by the City for half of the cost of constructing Clay Street. Since the City owns Cobblestone Park, the City agreed to pay for 50% of the actual total cost of constructing Clay Street, as stated in the Public Improvements Agreement for Summit Pointe Subdivision, Filing No. 2, dated December 9, 2002.

Once the work on Clay Street was started, it was determined that there would be a conflict with some existing mature trees along the Allen Ditch near West 81<sup>st</sup> Avenue. City Staff wanted to preserve these trees, so change orders in the amount of \$3,731.50, or 5.5% of the originally estimated cost to the City, was approved. These costs are included in the \$71,631.50 amount.

The construction of Clay Street was completed earlier this year, and, in accordance with the terms of the City Code, the developer has submitted all invoices for the portion of the work that is the City's financial obligation. City Staff has reviewed these invoices, and it has been determined that the \$71,631.50 requested payment is appropriate.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 12, 2004



**SUBJECT:** Appointment of Municipal Court Public Defender

**Prepared By:** Matt Lutkus, Deputy City Manager for Administration

**Recommended City Council Action**

Authorize the Mayor to execute an agreement with Linda D. Lauchli for Municipal Court Defender services for the 12-month period beginning July 14, 2004.

**Summary Statement**

- Ten individuals and law firms responded to the City's request for proposals for Public Defender services. Four of these were disqualified because of incomplete or late proposals. Of the remaining six, four were selected for an interview and one of the four subsequently withdrew.
- Interviews by a four-member selection panel were conducted on June 29, 2004.
- Based on a review of the candidates' qualifications, the oral interviews and contacts with references, the selection panel is recommending that the Council approve a contract with Linda D. Lauchli. Ms. Lauchli has considerable criminal law experience as a prosecutor and a defense attorney over the past 20 years.
- The proposed contract is identical to the contract that the City currently has with Beth Ann Faragher.

**Expenditure Required:** \$17,200

**Source of Funds:** General Fund Municipal Court Operating Budget

**Policy Issues**

Should the City continue to contract for public defender services?

**Alternatives**

Negotiate with several attorneys to perform public defender services. Staff does not recommend this process due to the administrative burden and the expenses that would be incurred.

**Background Information**

Public defender services are provided to indigent defendants in Municipal Court in cases where jail time may be imposed if a defendant is convicted. The judge presiding over each case can refer a defendant to the Public Defender when justified by the defendant's financial circumstances.

On April 21, 2004, Beth Ann Faragher, the current Municipal Court Public Defender, advised the City that she would be vacating her position effective July 21, 2004. A number of publications and online services were used to inform potential applicants of the opening, including the Denver Post, the Colorado Lawyer, and the City's website. Information on the position vacancy was also disseminated through a direct mailing to attorneys with practices officed in Westminster.

At the May 3, 2004 Study Session, Councillor Jo Ann Price agreed to participate on a selection panel. Others on the panel were Court Administrator Carol Barnhardt, Ms. Faragher, and Deputy City Manager for Administration Matt Lutkus. The panel reviewed the proposals from the six candidates who met the bid criteria and selected four for an interview. One candidate withdrew due to the fact that she had obtained other employment since the time that she submitted her proposal. Each of the other three candidates participated in an interview that covered approximately 20 questions. As a result of this process, the panel is recommending that Council approve a contract with Linda Lauchli based on her extensive experience in criminal law and her keen interest in providing this service to indigent defendants.

The position has been funded at \$17,200 annually. This budget is comprised of a salary of \$13,440 for one four-hour court session per week and \$3,760 for a jury trial representation. The proposed agreement with Ms. Lauchli calls for jury trial representation to be billed at \$50 per hour.

As part of this contract, Ms. Lauchli has arranged for back up attorney services to be provided by Caroline Stapleton.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

## **AGREEMENT FOR PUBLIC DEFENDER SERVICES**

THIS AGREEMENT is made this 12<sup>th</sup> day of July 2004, by and between the CITY OF WESTMINSTER, State of Colorado, a home rule City (the "City"), and **Linda D. Lauchi** (the "Public Defender").

### WITNESSETH

WHEREAS, the City desires to employ Linda D. Lauchi as Public Defender for the City of Westminster as provided by City Charter, Chapter IV, Section 4.13(b); and

WHEREAS, the City and the Public Defender have agreed upon the terms and conditions of such employment.

NOW, THEREFORE, in consideration of the mutual covenants of the parties contained herein, the parties agree as follows:

### SECTION 1. TERM

A. The initial term of this Agreement shall be from July 14, 2004 until July 14, 2005. On each subsequent anniversary date, this Agreement shall automatically renew for an additional one (1) year term unless the City or the Public Defender has previously elected to terminate the Agreement pursuant to paragraph 1.B. below.

B. Either party may elect to terminate this Agreement upon ninety (90) days advance written notice to the other. In the event of termination, the Public Defender shall be paid at the rates provided for herein for all services actually rendered through the effective date of termination, and for any services rendered beyond the termination date that are reasonably necessary to conclude any services rendered beyond the termination date that are reasonably necessary to conclude any representation commenced prior to the date of the notice of termination and which have been agreed to in writing by the City.

### SECTION 2. COMPENSATION

A. Fees. Public defense of all cases in Municipal Court shall be provided by the Public Defender at a Fixed Monthly Rate of \$1,120.00. Such Fixed Monthly Rate shall be for a total of fifty-six (56) four-hour days, up to a maximum of 224 hours annually. On a monthly basis, the public defender shall submit an itemized billing to the Municipal Court Administrator for payment. Such billing shall include the monthly installment payment and detailed information on all cases handled and jury trials held including hours spent in-court, name(s) of defendant(s), case number, and status of case.

B. Statistical Reports: On a quarterly basis, or as requested, the Public Defender shall submit to the Municipal Court Administrator, detailed statistics of all cases handled.

C. Jury Trials. In addition to the fees set forth in paragraph 2.A. above, the Public Defender shall be paid an hourly rate of Fifty Dollars (\$50) per hour for in-court time required for jury trials. The in-court time for jury trials shall be in addition to the 224 annual hours for general public defense referred to in § 2. A. above.

D. Services. The following services are to be provided by the Public Defender:

1. Attorney time as may be appropriate and necessary for serving as public defender in court and for all necessary case preparation, motions, trials and miscellaneous office activities.
2. Attorney time related to the attendance of meetings requested by the Municipal Court Administrator or other City Staff for the purpose of discussing Municipal Court procedures or such other matters reasonably related to the delivery of the public defender services.
3. Attorney time related to the review of proposed witness lists and selection of witnesses, provided, however, the Public Defender shall endeavor to establish a system for the routine processing of subpoenas returned to the public defender's office by the Public Defender's support staff.

E. Clerical and Secretarial Services. All clerical, secretarial, and word processing services including costs of all mailings necessary to perform the Public Defender's duties under this Agreement are included as part of the Public Defender's Fixed Monthly Rate and there shall be no additional charges for these services.

F. Linda D. Lauchli shall be solely responsible for the performance of all legal duties enumerated herein, however, the Public Defender may use back-up attorney(s) approved by the Municipal Court Administrator for emergency and back up services.

G. Special Public Defenders. The Public Defender shall have the authority to engage, with the approval of the Municipal Court Administrator, the services of a special public defender under circumstances in which a conflict or other ethical or legal impediment would justify the appointment of such a public defender. The special public defender shall be retained by the Public Defender as an independent subcontractor to the Public Defender. The City will pay for the services of the special public defender in the situation where there are co-defendants and the Public Defender is already representing one of the defendants

**SECTION 4. OTHER TERMS AND CONDITIONS OF EMPLOYMENT**

A. Independent Contractors. The Public Defender shall be an independent contractor and shall determine the means and methods of accomplishing duties hereunder, including the authority to exercise judgment and discretion necessary to meet her ethical obligation as Public Defender.

B. Modification. City Council may fix any other terms and conditions of service as, from time to time it may determine, relating to the performance of the duties of the Public Defender, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter, or any other law. If any other such new terms or conditions impose additional responsibilities upon the Public Defender, not contemplated herein, additional compensation shall be provided therefore as agreed to by the parties. This agreement may not be modified except in a writing duly authorized and executed by the parties hereto.

C. Conflicts. The Public Defender agrees not to represent any third party who may have an actual or potential conflict of interest with the City or with any City employee acting in his or her official capacity.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this \_\_\_ day of \_\_\_\_\_ 2004.

CITY OF WESTMINSTER, COLORADO

By: \_\_\_\_\_

BY: \_\_\_\_\_

Nancy J. McNally, Mayor

Address: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

: \_\_\_\_\_  
City Attorney





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 12, 2004



**SUBJECT:** 2004 Wastewater Collection System Improvement Program

**Prepared By:** Richard A. Clark, Utilities Operations Manager  
Andy Mead, Utilities Operations Coordinator

**Recommended City Council Action**

Authorize the City Manager to execute a contract with Farner Enterprises to complete the specified Wastewater Collection System Improvement work as described in the project documentation; authorize a project budget of \$191,602 with a 15% contingency budget of \$28,740 and charge the appropriate budget account in the Utilities Division Operations Budget.

**Summary Statement**

- This project consists of replacing approximately 2,200 linear feet of six-inch sanitary sewer lines with eight-inch sewer line, installing thirteen four-foot diameter sanitary sewer manholes, and reconnecting existing sanitary sewer services to the proposed sanitary sewer lines.
- Formal bids were issued, and a bid opening took place on June 22, 2004. A total of seven contractors bid on this project.
- Adequate funds were budgeted for this expense in the 2004 Utilities Fund Budgets.
- The lowest responsible bid was received from Farner Enterprises.

**Expenditure Required:** \$220,342

**Source of Funds:** Utilities Fund Capital Improvement Budget, Wastewater Major Repairs

**Policy Issue**

Should the City utilize Utility Fund monies to complete the needed wastewater collection system improvements utilizing a contractor to perform this work as specified in the contract documents?

**Alternative**

Delay this sanitary sewer line replacement project and continue use of the existing line. This is not recommended because of the additional maintenance costs and assume responsibility for any damages that may occur due to a complete line failure.

**Background Information**

The project consists of replacing approximately 2,200 linear feet of six-inch sanitary sewer lines with eight-inch sewer line, installing thirteen four-foot diameter sanitary sewer manholes, and connecting the existing sanitary sewer services. The work also includes removal and disposal of existing sanitary sewer pipe and manholes. The project is located on Newton Street, from 73<sup>rd</sup> Avenue to 7450 Newton Way; Wilson Court from 73<sup>rd</sup> Avenue to 7400 Wilson Court; and Osceola Street from 76<sup>th</sup> Avenue to 77<sup>th</sup> Avenue (see attached map). This project is expected to start in late July and should be completed by August 30, 2004.

Pavement replacement is not part of this contract. Pavement repairs will be addressed under the City's 2004 Asphalt Rehabilitation contract. Newton and Wilson Streets will receive a standard trench patch. Osceola Street will be reconstructed, since the street was already impacted by a watermain replacement project earlier this spring. Those costs are estimated at \$30,000, but the amounts will not be final until the sewer project is complete. These costs will also be paid out of the Wastewater Major Repairs CIP account.

Funds have been budgeted annually for sanitary sewer replacements at a rate of \$50,000 per year. Sufficient funds have accumulated to fund this replacement project. The initial purpose of the funding was to replace 6-inch sewerlines as required for either operations shortcomings or in advance of substantial street improvement projects. These three streets have had sanitary sewer backup occurrences in the prior year and need complete replacement to resolve the problem. In the future, CIP funding for condition based local sewer replacements will be requested. The sewers in the most deteriorated condition will be addressed first, using an appropriate technology as identified by the inspection/assessment process.

The 2004 Wastewater Collection System Improvement Project was advertised on Demand Star and in the *Daily Journal* with a mandatory pre-bid meeting on June 15, 2004. Seven bids were received and read at the public bid opening on June 22, in the City Council Chambers. Farner Enterprises was the apparent low responsible bidder. The City has utilized the services of Farner Enterprises in past years for similar sewer line projects and has been satisfied with their work.

<u>Bidder</u>	<u>Bid Amount</u>
Farner Enterprises	\$191,602
T Lowell Construction	\$196,000
Trainor Construction	\$205,118
B T Construction	\$211,310
New Design Construction	\$253,377
Proto Construction/Paving	\$305,991
Concrete Works of CO	\$377,941
Engineer's Estimate	\$219,789

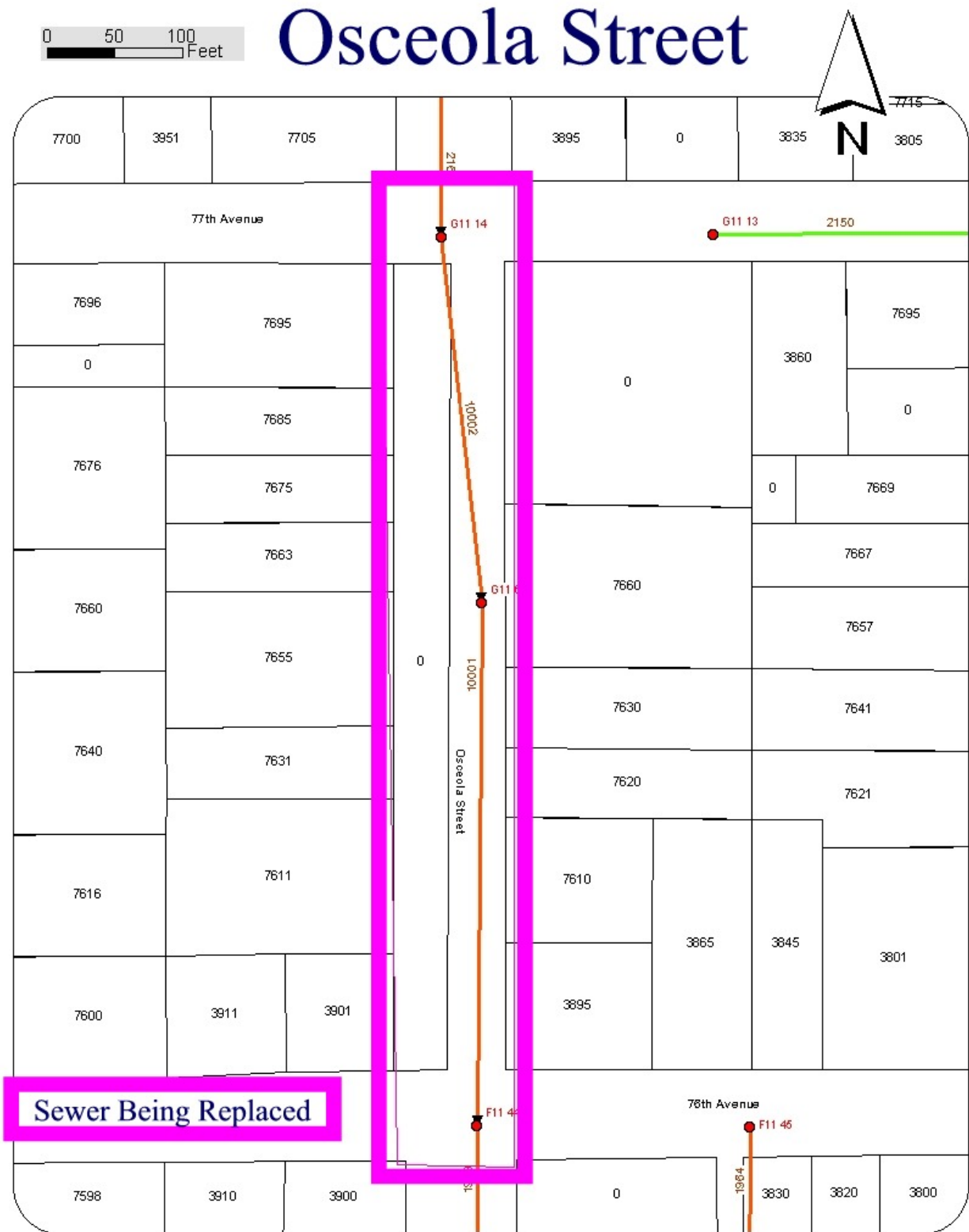
The sanitary sewer in the project location for sewer line replacement has been identified as needing replacement due to the deterioration and poor condition of the existing pipe. In addition, the pipe is not large enough to handle the current flows and should be upsized to relieve this condition. Utilizing trenchless technology (relining the existing 6-inch sewer lines) is not considered a viable option since the lined pipe would be undersized for the necessary sewer flows that run through this pipe.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments







**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 12, 2004



**SUBJECT:** Huron Street Demolition Contract Change Order

**Prepared By:** Stephen C. Baumann, Assistant City Engineer

**Recommended City Council Action**

Authorize the City Manager to sign a contract change order with Fiore and Sons, Inc in the amount of \$58,328 for remediation of hazardous materials found in buildings being demolished at Huron Street and 136<sup>th</sup> Avenue, and charge the total to the 136<sup>th</sup> Avenue and I-25 Project Account.

**Summary Statement**

- In May of 2004, City Council awarded a \$79,254 contract to Fiore and Sons, Inc., for clearing of land and demolition of five buildings at the northeast corner of Huron Street and 136<sup>th</sup> Avenue in preparation for the reconstruction of Huron Street. Prior to the start of demolition, a detailed inspection determined that a significant amount of asbestos-containing material was present in one of those buildings. A second building, structurally unsound and thus not safe to perform extensive inspection and sampling, will have to be demolished in a fashion that assumes the presence of asbestos-containing materials, according to the Colorado Department of Health and Environment (CDPHE). These changes in the demolition plan will result in higher than anticipated costs for the demolition work.
- Fiore solicited bids on the necessary asbestos remediation work from three subcontractors, all licensed for such work under the CDPHE's regulations. The bids ranged from \$58,328 to \$96,760, with the lowest proposal by MacBestos, Inc. Staff is recommending that the additional work be accomplished by change order to Fiore and Sons' contract, bringing the revised contract amount to \$137,582. Funds are available in the 136<sup>th</sup> Avenue and I-25 Interchange Project for this additional expense.

**Expenditure Required:** \$58,328

**Source of Funds:** 136<sup>th</sup> Avenue and I-25 Interchange Project Account

**Policy Issue**

Shall the City expand the scope of the demolition project to include the additional remediation work?

**Alternatives**

An alternative to revising the Fiore contract would be to ignore the subcontractor bids secured by Fiore and re-bid the entire demolition project. The new information makes the project bigger than originally planned, and this could be a reason to repackage the plans and specifications and bid the project all over again. The only advantage to doing so would be the potential for a lower project cost. The disadvantages include a delay of perhaps six or more weeks in getting the demolition project started, and a resultant delay in starting the Huron Street reconstruction project. Staff does not believe that a lower bid will be achieved, and therefore does not recommend this alternative.

**Background Information**

In May of 2004, City Council awarded a contract to Fiore and Sons, Inc., for the demolition and clearing of the new Huron Street right-of-way north of 136<sup>th</sup> Avenue along the east side of existing Huron Street based on Fiore's low bid of \$79,254. The clearing and demolition needs to be done in advance of the roadway work, now scheduled to begin in July of 2004. Only one of the five structures to be removed was thought to have asbestos-containing materials at that time based on sampling and testing done by Yeh and Associates, and environmental permitting firm working for the City's roadway design engineering consultant.

Prior to the actual start of work, and with the advice of the CDPHE, it became apparent that other structures would need to be tested more extensively than had been done by Yeh. Testing by yet another environmental engineer determined that much of the structure at 13610 Huron Street had asbestos in the textured plaster of the walls and ceilings. In addition, an old house on the property, too unstable to be entered and inspected, had been determined by Yeh to be of an age that preceded the use of asbestos-containing materials and that it could be disposed of as regular demolition materials. CDPHE disagreed and mandated that without extensive testing to prove otherwise, demolition had to be done assuming asbestos was present. Since the structure is too dangerous to enter for sampling purposes, the special demolition will have increased costs, unknown to the City and Fiore at the time Fiore bid the project.

Because the contract was awarded before these complications became clear, the City requested that Fiore secure proposals for the new and more extensive hazardous material abatement from three subcontractors. Those proposals are given here:

Mac-Bestos, Inc	\$58,328
Diamond Hills Services	\$83,532
LVI Environmental Services, Inc	\$96,670

Utilizing the low bid of MacBestos, Inc., Fiore's revised contract amount is \$137,582. The increased cost is for environmental conditions that were there all along but weren't discovered in a timely fashion. The bid process gives assurance that the costs are in a range that the City would have paid under the original contract had those conditions been discovered and included in the original plans that Fiore bid. The cost of the follow-up analyses that brought these conditions to light will not be paid for by the City, so any damages are primarily those associated with potential delay of the Huron Street project. At this point, the City's contractor for the Huron Street project believes this short delay on the demolition contract will not affect their schedule negatively. If the City were to repackage and re-bid the entire demolition project to incorporate the new remediation requirements, that process would add six to eight weeks to the start of the demolition contract and definitely impact the schedule for the Huron Street roadway improvement project.

Staff is recommending that a change order to Fiore's contract in the amount of \$58,328 be approved to deal with the more extensive remediation effort that is now necessary. Funds for the change are available in the 136<sup>th</sup> Avenue Interchange capital project account.

Respectfully submitted,

J. Brent McFall  
City Manager





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 12, 2004



**SUBJECT:** Second Reading of Councillor's Bill No. 44 re Vacation of Easement within Apple Blossom Lane Subdivision

**Prepared By:** Melanie Walter, Senior Civil Engineer

**Recommended City Council Action:**

Pass Councillors Bill No. 44 on second reading vacating a certain easement located within Lot 36, Block 10 of the Apple Blossom Lane Subdivision.

**Summary Statement**

- Pass the attached Councillor's Bill on second reading to vacate a certain easement located within Lot 36, Block 10 of the Apple Blossom Lane Subdivision.
- This Councillor's Bill was passed on first reading on June 28, 2004.

**Expenditure Required:** \$0

**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **44**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Hicks-Price**

A BILL

FOR AN ORDINANCE VACATING A PORTION OF A UTILITY EASEMENT WITHIN LOT 36, BLOCK 10 OF THE APPLE BLOSSOM LANE SUBDIVISION

WHEREAS, certain easement was dedicated on the final plat for Apple Blossom Lane Subdivision, Book 5, Page 110, Map 156, File 10, and Reception No. 456049 in the County of Adams; and

WHEREAS, this portion of utility easement is not necessary for maintaining the City of Westminster's utility lines; and

WHEREAS, the vacation is necessary since no utility lines were constructed within the utility easement and no utility lines will be constructed within the utility easement in the future.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the portion of utility easement in Sections 2 and 3 hereof.

Section 2. Legal Description of Utility Easements: The southerly 10-feet of Lot 36, Block 10 as platted and recorded on Book 5, Page 110, Map 156, Reception No. 456049, County of Adams, State of Colorado.

Section 3. 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 28<sup>th</sup> day of June, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12<sup>th</sup> day of July, 2004.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 12, 2004



**SUBJECT:** Public Meeting on 2005 and 2006 City Budget

**Prepared By:** Barbara Opie, Assistant to the City Manager

**Recommended City Council Action**

Hold a public meeting on the 2005 and 2006 City Budget and receive citizen comments.

**Summary Statement**

City Staff is currently preparing budget information for both 2005 and 2006. This public meeting is intended to focus on both 2005 and 2006 citizen requests, comments and suggestions. The public meeting is an informal opportunity for the public to provide input to the City Council on the City Budget.

City Council officially adopted the City's first two-year budget with the 2003/2004 Budget in October 2002; a mid-year review and amendment process occurred in October 2004. Departments prepare their proposed 2005 and 2006 Budgets through the summer, working to reflect the current economic conditions and community needs. The Departments' efforts culminate in the distribution of the Proposed Budget to City Council at the beginning of September. A public meeting was held on June 14; a public hearing is scheduled for September 13 so that citizens will have one more opportunity to comment and provide feedback on the 2005 and 2006 City Budget. City Council must adopt the budget by the October 25 City Council meeting, in accordance with the City Charter.

It is important to keep in mind that although the City's economic climate has been improving, current revenue projections show that 2005 and 2006 Sales and Use Tax revenues from the City's vase three percent tax will remain well below 2001 actual tax collection.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Listen to citizen requests, comments and suggestions as they pertain to the 2005 and 2006 budget.

**Alternative**

Council could choose to not conduct a public meeting at this time. This is not recommended as providing citizens an opportunity for input early on in the budget process plays an important role in assuring that the budget reflects community needs.

**Background Information**

In April, City Council reviewed the goals for 2005 and 2006. The City Council Goals are listed below:

- Financially Sound City Government
- Balanced, Sustainable Local Economy
- Revitalized Aging Neighborhoods and Commercial Areas
- Beautiful City
- Safe and Secure Community

The direction provided by City Council assists City Staff as they develop the 2005 and 2006 City Budget. Other considerations that go into developing a comprehensive budget are department priorities that strive to achieve Council goals identified in the Strategic Plan, the City's fiscal status, maintain existing service levels, and citizen or neighborhood input.

In November of 2000, Westminster voters approved a City Charter amendment that allows the City Council to adopt a formal two-year budget. City Council officially adopted the City's first two-year budget with the 2003/2004 Budget. Staff is again preparing a two-year budget for City Council's consideration for 2005/2006.

A Proposed Budget will be submitted to City Council at the beginning of September for review. After reviewing the Proposed Budget for several weeks, City Council is scheduled to conduct a two-part Budget Retreat on the evening of Friday, September 17 and Monday, September 20. City Council will deliberate on final funding decisions on staffing levels, programs, services, and capital projects at this Budget Retreat.

Two public meetings and one formal public hearing will be held on the 2005 and 2006 Proposed City Budget to solicit citizen input. One public meeting was held June 14; a second public meeting is scheduled for July 12 and a public hearing is scheduled for September 13.

Monday's public meeting was advertised in the *Westminster Window* and *Westsider*; on cable Channel 8, *City Edition*, *Weekly Edition* and the City's website; and at various public meetings.

Respectfully submitted,

J. Brent McFall  
City Manager



WESTMINSTER  
COLORADO

Agenda Memorandum

City Council Meeting  
July 12, 2004



**SUBJECT:** Public Hearing and Action re Councillor's Bill No. 47 re Telecommunication Towers, Facilities, and Antennas

**Prepared By:** Sharon Widener, Assistant City Attorney and Dan Osborn, Planner II

**Recommended City Council Action:**

1. Hold a public hearing.
2. Pass Councillor's Bill No. 47 on first reading to provide formal standards for the regulation of telecommunication facilities in the City.

**Summary Statement:**

- This item was brought before City Council at Study Session on June 7, 2004.
- No additional issues were identified by City Council for follow up by Staff.
- In October 2001, Qwest Communications applied for a right-of-way permit to locate a 50-foot tower on the corner of 72<sup>nd</sup> and Depew Street. It is Qwest's position that cellular facilities have the right to locate in public rights-of-ways. After lengthy research and review of the Denver vs. Qwest case, staff believes that the City can regulate, although not prohibit, the design and placement of towers in the public right-of-way. Staff communicated this to Qwest and indicated that staff would not support their tower location. Qwest did not pursue the application. There has been no further contact between City staff and Qwest regarding this permit application.
- The City has received, and will continue to receive, numerous requests for the construction and installation of cellular towers, facilities, and antennas. This ordinance will revise the City's existing regulations in order to respond to the need for such facilities and to respond to applications in a timely fashion. The intent of the revised regulations is to provide for the necessary telecommunications facilities while addressing issues as to the aesthetic appeal, safety, and maintenance of the site and structures.
- The ordinance will provide formal standards for the placement of telecommunication facilities in the City. Telecommunication facilities have generally been approved using the standards for Official Development Plan approvals. This ordinance includes specialized definitions and additional requirements applicable to telecommunication facilities.
- The proposed approval process incorporates site development requirements and additional requirements such as assurance of structural stability for towers, assurance of compliance with federal regulations, and financial assurances for potential maintenance, safety standards, and the possible abandonment of equipment.
- The proposed ordinance encourages:
  - Co-location of antennas instead of the proliferation of towers.
  - "Stealth" locations for antennas such as towers, steeples, and existing structures.
  - The use of alternate sites rather than public rights-of-way.
- Applications can generally be approved administratively. If the application is denied, the applicant may appeal to the Planning Commission. The proposed ordinance would authorize the City Manager to negotiate the use of City-owned sites so that the City controls placement on its own facilities.
- The format for the proposed ordinance was compiled by staff from a variety of sources including the City's current antenna and tower ordinance; the City of Lakewood cellular ordinance; the Greater Metro Telecommunications Consortium model ordinance; the Pinellas County, Florida cellular ordinance; and input from the City's Telecommunications Consultant, attorney Ken Fellman.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

### **Planning Commission Recommendation:**

The Planning Commission reviewed this proposal on June 22, 2004, and voted unanimously (7-0) to recommend City Council approve the revised telecommunication ordinance within the Municipal Code with the following changes:

- Under Section (F)7, include name, address, and telephone number of the property owner;
- Under Section (G)5, allow stone and stucco as acceptable building materials for fence columns in addition to brick.

No one spoke in favor or in opposition to this proposal.

### **Policy Issue**

Should the City adopt a more formal method and standards for the approval and location of telecommunication facilities?

### **Alternative**

The City Council could deny the revised telecommunication ordinance within the Westminster Municipal Code and continue to use the current Code. This procedure has worked well to date and there have been few controversies with applicants. However, requests for these facilities continue to rise and new requests come forward for facilities within City rights-of-way. With these new requests there will be a need for clearer regulations in regards to facilities within rights-of-way. The existing regulations (11-4-11) are silent as to whether or not a cell tower would be allowed within City right-of-way.

### **Background Information**

Currently the approval and processing of applications for cellular facilities fall under the purview of three different boards of review (e.g., Board of Adjustment and Appeals, for height and setback variances, Special Permit and License Board for districts other than Planned Unit Development, and Planning Commission for Official Development Plans). The proposed ordinance will allow cellular facilities to be reviewed by the Planning Commission using the Official Development Plan (ODP) review process used by all other new development within the City. The review and approval process will follow the Preliminary and Official Development Plan process and the conditions contained in the proposed revision of Section 11-4-11 of the Westminster Municipal Code. An applicant must also obtain a building permit and comply with the Building Code. Approval may be obtained administratively for facilities that are not proposed in the right-of-way, meeting the industry's desire for a speedy approval process. However, applications for facilities in public right-of-way would require a public hearing before the Planning Commission. The administrative approval option should help to encourage locations other than right-of-way. The ability to locate in right-of-way is now mandated, according to *City and County of Denver v. Qwest Corp., 18 P.3d 748 (Colo. 2001)*, but may not be considered desirable from land use or aesthetic considerations.

In addition to the streamlined review process, Staff is proposing:

- Expanded definitions specific to cellular facilities;
- Prerequisites for approval requiring the applicant to certify the facility is necessary for service, is locatable, conforms with Federal Communications Commission regulations, and provides a performance bond, letter of credit or financial guarantee for the City's use should the applicant fail to comply with any of its obligations;
- Additional application information insuring that facilities will be maintained in compliance with the ODP, Building Codes and applicable Federal regulations;

**SUBJECT:** Public Hearing and Action re Councillor's Bill No. 47 re Telecommunication Towers, Facilities, and Antennas Page 3

- Design Standards specific to cellular facilities to ensure thoughtful placement and design within the built environment;
- Abandonment, repair, and removal provisions.

The intent of the new regulations is to encourage techniques that would avoid unnecessary proliferation of new towers, while recognizing the need for facilities to serve the community's need and desire for modern telecommunication. Co-locations, use of "disguised" facilities such as existing towers, steeples, light poles or buildings, and placement on or near existing structures would be encouraged.

Telecommunication facilities are governed by the Telecommunication Act of 1996 and the Federal Communication Commission that preempts some areas of regulation. Therefore, the facility's owners would be required to show that Federal requirements are met and will be required to comply with site safety rules such as stability of the structure and maximum heights when located near streets or buildings and to provide financial responsibility in case of unmet maintenance needs or abandoned equipment. Locations on City property other than rights-of-way can still be encouraged so that the City can control the specifics of siting, aesthetics and obtain possible payments.

Currently, only the City of Boulder has a comprehensive review process for cellular facilities similar to the proposed changes. Boulder allows placement of cellular facilities within right-of-way after a right-of-way permit and site plan have been approved in accordance with their adopted regulations. Other cities contacted during the research phase were the cities of Arvada, Thornton, Broomfield, Northglenn, and Federal Heights. None of these local municipalities have anticipated the need for a comprehensive ordinance and would review applications on a case-by-case basis within the existing framework of their Code.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **47**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE REGULATING TELECOMMUNICATION FACILITIES, TOWERS, AND ANTENNAS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 11-4-11, W.M.C., is hereby REPEALED AND REENACTED to read as follows:

**11-4-11: ANTENNAS AND TOWERS:**

~~(A) Cellular telephone exchanges, communications poles, antennas and towers, windmills, wind generators and similar structures shall be permitted only as a special use in all districts, except Planned Unit Development (PUD) districts, unless otherwise prohibited by this Code or by contract. No such structure shall be permitted in a PUD district unless such use is specifically stated in the Official Development Plan (ODP) or unless an amendment to the ODP to allow such structure has been approved as specified in this section. All such structures shall be subject to the following conditions:~~

~~— 1. A building permit shall be required and shall not be issued until the applicant has obtained a special use permit or unless the structure is authorized in the applicable ODP. Any design that lacks manufacturer's specifications shall not be permitted unless an engineering study indicates that the design will meet or exceed all applicable building code standards.~~

~~— 2. All parts of the structure, including supports, fences and guy wires, shall be set back from the property line the same distance as is required for a principal structure under this Code or the applicable ODP and shall not be closer to the front property line than the front of the existing principal structure on the property, if any. If the applicable ODP does not specify setbacks, an ODP amendment shall be obtained specifying the setbacks for the structure.~~

~~— 3. At the request of the applicant, an application for a special use permit or ODP amendment may be reviewed administratively and a decision thereon rendered by the City Manager pursuant to the criteria set forth below if the structure does not exceed the height limitations for a principal structure of the applicable district or ODP. If the applicable ODP does not include a height limitation for principal structures, an ODP amendment to specify the permitted height for the structure shall be required. Any decision by the City Manager, and any refusal by the City Manager to administratively approve a structure pursuant to this section, may be appealed to the Planning Commission who shall hear the case pursuant to the procedures set forth in section 11-5-13 of this Code. An appeal of any Planning Commission decision on a special use permit or ODP amendment to allow a structure pursuant to this section may be filed pursuant to section 3(B) of this Code.~~

~~— 4. In determining whether to grant or deny a special use permit or ODP amendment pursuant to this section, the decision maker shall consider, if applicable:~~

- ~~(a) Aesthetic impacts, including design and appearance of the structure and obstruction of view corridors;~~
- ~~(b) Quality and effectiveness of any landscaping and screening of the base of the structure;~~
- ~~(c) Real estate value impacts;~~
- ~~(d) Whether co use of the structure by governmental agencies and other persons is possible or permissible, based on legal, financial and technical considerations, in order to avoid the need for additional structures;~~



- ~~(e) Whether alternative sites are reasonably available, taking into consideration lease terms and conditions based upon industry and market standards; and~~
- ~~(f) Other specific public health and welfare concerns.~~

~~—5. The applicant shall demonstrate that all guy wires, cables and other accessory structures or equipment are located on property owned or leased by the applicant or that the owner of the property otherwise consents to the location of such structures and equipment.~~

~~—6. All structures and equipment shall be protected by a fence or wall not less than six feet in height from ground level, unless the decision maker waives this requirement as unnecessary to protect public safety concerns. Such fence or wall shall be constructed of wood or masonry and shall obscure the base of the structure.~~

~~—7. Ground mounted structures shall be screened by a landscaped planting strip of no less than 20 feet in width along all perimeter lines defining the boundaries of the proposed structure or, if landscaping is impractical, screening may be provided by a fence or wall which is architecturally compatible with the neighborhood, upon approval of the City Manager. Landscaping may include drought resistant vegetation, earth berms, planter boxes, and hedges and, for every twenty five linear feet of perimeter or part thereof, at least one shade, ornamental or canopy tree shall be planted. Existing trees directly adjacent to the perimeter may be counted. Additional landscaping may be required if deemed necessary by the decisionmaker to screen the base area of the structure. All vegetation shall be maintained in a healthy and growing condition. Automatic irrigation shall be provided, unless contractual arrangements are made with the City to ensure the proper maintenance of the landscaping.~~

~~—8. A cellular telephone exchange may be co located with other uses, subject to all requirements of this section.~~

~~(B) Antennas or towers up to the maximum height specified for principal structures in the applicable zoning district or ODP which are used by FCC licensed amateur radio operators shall be permitted in any district, subject to the requirements of this section, except subsections (A)(3) and (A)(7). The Board of Adjustment and Appeals shall establish permissible structure heights if an ODP fails to specify height limitations and shall hear applications for variances from height and setback requirements. The Board shall follow the same criteria as the decision maker considering a non amateur radio structure and shall also balance amateur radio communications interests with other local interests.~~

~~(C) Television or radio antennas less than five feet above the highest point of the structure used for receiving regularly scheduled programming shall not be subject to subsection (A) above.~~

~~(D) The limitations of this section may be waived by the City Council in the case of a structure owned or operated by a governmental entity or public utility if it is demonstrated that the public good cannot be adequately served within the limitations of this section.~~

~~**(E) DEFINITIONS.**~~

~~—1. "Cellular Telephone Exchange" shall mean an unmanned facility which consists of equipment for the reception, switching, and transmission of cellular telephone communications. Such facility may have elevated (either building mounted or ground mounted) transmitting and receiving antennas, cellular base station equipment, and interconnection equipment.~~

~~—2. "Decision maker" shall mean the City Manager, the Planning Commission, the City Council, or the Board of Adjustment and Appeals as the context may require.~~

**11-4-11: ANTENNAS AND TOWERS AND TELECOMMUNICATION FACILITIES:**

**(A) INTENT AND PURPOSE:** IN ORDER TO ACCOMMODATE THE COMMUNICATION NEEDS OF RESIDENTS AND BUSINESSES WHILE PROTECTING THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE OF THE COMMUNITY, THE CITY COUNCIL FINDS THAT THESE REGULATIONS ARE NECESSARY TO:

2. PROMOTE COMPETITION IN THE PROVISION OF TELECOMMUNICATIONS SERVICES;

3. FACILITATE THE PROVISION OF WIRELESS TELECOMMUNICATIONS SERVICES TO THE RESIDENTS AND BUSINESSES OF THE CITY;

4. MINIMIZE ADVERSE VISUAL EFFECTS OF TOWERS THROUGH CAREFUL DESIGN AND SITING STANDARDS;

5. ENCOURAGE AND MAXIMIZE THE USE OF EXISTING AND APPROVED TOWERS, BUILDINGS, AND OTHER STRUCTURES TO ACCOMMODATE NEW WIRELESS TELECOMMUNICATIONS ANTENNAS IN ORDER TO REDUCE THE NUMBER OF TOWERS NEEDED TO SERVE THE COMMUNITY; AND

6. SECURE FAIR AND REASONABLE COMPENSATION TO THE CITY AND ITS RESIDENTS FOR THE USE OF ANY APPROPRIATE PUBLIC PROPERTY FOR USE AS A SITE FOR WIRELESS TELECOMMUNICATIONS FACILITIES.

**(B) APPLICABILITY:**

1. THE PROVISIONS OF THIS CHAPTER SHALL APPLY THROUGHOUT THE CITY OF WESTMINSTER, AND IT SHALL BE UNLAWFUL FOR A TOWER, ANTENNA, OR TELECOMMUNICATIONS FACILITY TO BE PLACED EXCEPT IN COMPLIANCE WITH THESE PROVISIONS.

2. ANTENNAS OR TOWERS UP TO THE MAXIMUM HEIGHT SPECIFIED FOR PRINCIPAL STRUCTURES IN THE APPLICABLE ZONING DISTRICT OR ODP WHICH ARE USED BY FCC-LICENSED AMATEUR RADIO OPERATORS SHALL BE PERMITTED IN ANY DISTRICT, SUBJECT TO THE REQUIREMENTS OF THIS SECTION. THE APPLICANT MUST APPLY FOR AN OFFICIAL DEVELOPMENT PLAN (ODP), ODP AMENDMENT, OR ODP WAIVER TO ESTABLISH PERMISSIBLE STRUCTURE HEIGHTS IF AN ODP FAILS TO SPECIFY HEIGHT LIMITATIONS.

3. TELEVISION OR RADIO ANTENNAS LESS THAN FIVE FEET ABOVE THE HIGHEST POINT OF THE EXISTING PRINCIPAL STRUCTURE SHALL NOT BE SUBJECT TO SUBSECTIONS (D) THROUGH (H) BELOW.

4. THE LIMITATIONS OF THIS SECTION MAY BE WAIVED BY THE CITY MANAGER IN THE CASE OF A STRUCTURE OWNED OR OPERATED BY A GOVERNMENTAL ENTITY OR PUBLIC UTILITY IF IT IS DEMONSTRATED THAT THE PUBLIC GOOD CANNOT BE ADEQUATELY SERVED WITHIN THE LIMITATIONS OF THIS SECTION.

**(C) DEFINITIONS:**

1. **ALTERNATIVE TOWER STRUCTURE** MEANS MAN-MADE TREES, CLOCK TOWERS, BELL STEEPLES, LIGHT POLES, BUILDINGS, AND SIMILAR ALTERNATIVE DESIGN MOUNTING STRUCTURES THAT ARE COMPATIBLE WITH THE NATURAL SETTING AND SURROUNDING STRUCTURES, AND CAMOUFLAGES OR CONCEALS THE PRESENCE OF ANTENNAS OR TOWERS. THIS TERM ALSO INCLUDES ANY ANTENNA OR ANTENNA ARRAY ATTACHED TO THE ALTERNATIVE TOWER STRUCTURE.

2. **ANTENNA** MEANS ANY EXTERIOR TRANSMITTING OR RECEIVING DEVICE MOUNTED ON A TOWER, BUILDING, OR STRUCTURE AND USED IN COMMUNICATIONS THAT RADIATE OR CAPTURE ELECTROMAGNETIC WAVES, DIGITAL SIGNALS, ANALOG SIGNALS, RADIO FREQUENCIES (EXCLUDING RADAR SIGNALS), WIRELESS TELECOMMUNICATION SIGNALS OR OTHER COMMUNICATION SIGNALS.

3. **CO-LOCATION** MEANS THE PLACEMENT OF ANTENNAS OR OTHER TELECOMMUNICATIONS FACILITIES BY TWO OR MORE TELECOMMUNICATIONS PROVIDERS IN THE SAME LOCATION OR ON THE SAME TOWER OR ALTERNATIVE TOWER STRUCTURE.

4. **TELECOMMUNICATIONS FACILITIES** MEANS THE PLANT, EQUIPMENT, AND PROPERTY, INCLUDING BUT NOT LIMITED TO, CABLES, WIRES, CONDUITS, DUCTS, PEDESTALS, ANTENNA, TOWERS, ALTERNATIVE TOWER STRUCTURES, ELECTRONICS AND OTHER APPURTENANCES USED TO TRANSMIT, RECEIVE, DISTRIBUTE, PROVIDE, OR OFFER TELECOMMUNICATION SERVICES.

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5. **TELECOMMUNICATIONS SUPPORT FACILITIES** MEANS SUPPORT BUILDING STRUCTURES, AND EQUIPMENT CABINETS CONTAINING ELECTRICAL AND MECHANICAL EQUIPMENT AND DEVICES USED FOR THE RECEPTION OF OR TRANSMISSION OF VOICE, DATA, IMAGE, GRAPHIC AND VIDEO PROGRAMMING INFORMATION BETWEEN OR AMONG POINTS BY WIRE, CABLE, FIBER OPTICS, LASER, MICROWAVE, RADIO, SATELLITE, OR SIMILAR FACILITIES.

6. **TOWER** SHALL MEAN ANY STRUCTURE DESIGNED AND CONSTRUCTED PRIMARILY FOR THE PURPOSE OF SUPPORTING ONE OR MORE ANTENNAS, INCLUDING SELF-SUPPORTING LATTICE TOWERS, GUY TOWERS, AND MONOPOLE TOWERS. THE TERM INCLUDES RADIO AND TELEVISION TRANSMISSION TOWERS, MICROWAVE TOWERS, COMMON CARRIER TOWERS, CELLULAR TELEPHONE TOWERS, AND OTHER SIMILAR STRUCTURES. THIS TERM ALSO INCLUDES ANY ANTENNA OR ANTENNA ARRAY ATTACHED TO THE TOWER STRUCTURE.

**(D) REVIEW AND APPROVAL PROCESS:**

1. A USE OF LAND FOR A TELECOMMUNICATION FACILITY MUST BE APPROVED IN AN OFFICIAL DEVELOPMENT PLAN (ODP), AMENDED ODP, OR ODP WAIVER, INCLUDING FACILITIES LOCATED ON PUBLIC PROPERTY, OR RIGHTS OF WAY. IF THE APPLICABLE ODP DOES NOT INCLUDE A HEIGHT LIMITATION FOR THE PRINCIPAL STRUCTURE, AN ODP AMENDMENT OR WAIVER TO SPECIFY THE PERMITTED HEIGHT FOR THE FACILITY SHALL BE REQUIRED.

2. A TELECOMMUNICATION FACILITY MUST RECEIVE A BUILDING PERMIT, AND BE IN COMPLIANCE WITH THE BUILDING CODE ADOPTED BY THE CITY.

3. AN APPLICATION SHALL BE REVIEWED BY THE CITY MANAGER OR HIS DESIGNEE(S), WITH THE EXCEPTION OF TELECOMMUNICATION FACILITIES PROPOSED TO BE LOCATED ABOVE-GROUND ON PUBLIC RIGHTS-OF-WAY WHICH MUST BE APPROVED AT A PUBLIC HEARING BEFORE THE CITY PLANNING COMMISSION PURSUANT TO THE PROCEDURES SET FORTH IN TITLE 11, CHAPTER 5.

**(E) PREREQUISITES FOR APPROVAL:** NO ODP, ODP AMENDMENT, OR ODP WAIVER RELATING TO A TELECOMMUNICATIONS FACILITY SHALL BE APPROVED UNLESS THE FOLLOWING FINDINGS HAVE BEEN MET:

1. SUCH FACILITY IS NECESSARY TO PROVIDE ADEQUATE SERVICES TO LOCATIONS THAT THE APPLICANT IS NOT ABLE TO SERVE WITH EXISTING APPROVED FACILITIES;

2. THE APPLICANT CERTIFIES THAT THE FACILITY CONFORMS TO ALL APPLICABLE REGULATIONS PROMULGATED BY THE FEDERAL COMMUNICATIONS COMMISSION, THE FEDERAL AVIATION ADMINISTRATION, AND ANY OTHER FEDERAL AGENCY WITH JURISDICTION;

3. THE FACILITY WILL BE DESIGNED AND CONSTRUCTED IN A MANNER WHICH MINIMIZES VISUAL IMPACT AND PRESERVES VIEW CORRIDORS;

4. THE LOCATION OF THE FACILITY IS THE MOST APPROPRIATE SITE AMONG THOSE AVAILABLE WITHIN THE TECHNICALLY FEASIBLE AREA FOR THE LOCATION OF A TELECOMMUNICATION FACILITY;

5. THE APPLICANT HAS CONSIDERED WHETHER CO-USE IS POSSIBLE OR PERMISSIBLE, BASED ON LEGAL, FINANCIAL, AND TECHNICAL CONSIDERATION IN ORDER TO AVOID THE NEED FOR ADDITIONAL STRUCTURES; AND

6. THE APPLICANT HAS SATISFACTORILY ADDRESSED THE DESIGN STANDARDS HEREIN.

**(F) APPLICATION:** AN APPLICATION FOR A TELECOMMUNICATION FACILITY SHALL FOLLOW THE PROCEDURES AND REQUIREMENTS AS SET FORTH IN TITLE 11, CHAPTER 5 OF THE WESTMINSTER MUNICIPAL CODE. IN ADDITION, THE APPLICATION SHALL CONTAIN THE FOLLOWING:

1. (A) CERTIFICATION THAT THE TELECOMMUNICATION FACILITY IS OR WILL BE IN COMPLIANCE WITH THE CURRENT STANDARDS AND REGULATIONS OF THE FAA, THE FCC, AND ANY OTHER AGENCY OF THE FEDERAL GOVERNMENT WITH AUTHORITY TO REGULATE TELECOMMUNICATIONS FACILITIES; AND

(B) A WRITTEN AGREEMENT FROM THE OWNER THAT, IF SUCH STANDARDS AND REGULATIONS ARE CHANGED, THE OWNERS OF THE TELECOMMUNICATION FACILITIES SHALL BRING SUCH FACILITIES INTO COMPLIANCE AND THAT THE FACILITIES WILL BE BROUGHT INTO COMPLIANCE WITHIN THE TIME FRAME MANDATED BY THE CONTROLLING FEDERAL AGENCY. THE OWNER ALSO WILL AGREE IN WRITING, THAT IF THE FACILITY CAUSES INTERFERENCE WITH PUBLIC SAFETY COMMUNICATIONS, THE OWNER WILL CORRECT THIS INTERFERENCE AT THE OWNER'S EXPENSE. THE OWNER WILL FURTHER AGREE IN WRITING THAT FAILURE TO DO SO SHALL AUTHORIZE THE CITY TO SHUT DOWN THE FACILITY UNTIL COMPLIANCE IS DEMONSTRATED.

2. A WRITTEN AGREEMENT BY THE OWNER THAT THE OWNER OF A TOWER SHALL ENSURE THAT IT IS MAINTAINED IN COMPLIANCE WITH STANDARDS CONTAINED IN APPLICABLE LOCAL BUILDING CODES, AS AMENDED FROM TIME TO TIME. EVIDENCE MAY CONSIST OF A STRUCTURAL REPORT BY A COLORADO LICENSED PROFESSIONAL ENGINEER DEMONSTRATING THAT THE FACILITY WILL COMPLY WITH APPLICABLE STRUCTURAL STANDARDS.

3. AN ACKNOWLEDGMENT BINDING THE APPLICANT, THE PROPERTY OWNER (IF OTHER THAN THE APPLICANT) AND THE APPLICANT'S AND OWNER'S SUCCESSORS IN INTEREST TO PROPERLY MAINTAIN THE EXTERIOR APPEARANCE OF AND TO ULTIMATELY REMOVE THE TOWER, ANTENNA AND OTHER TELECOMMUNICATIONS FACILITIES IN COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER AND THE APPLICABLE ODP.

4. AN ACKNOWLEDGMENT BY THE OWNER OF THE PROPERTY THAT THE CITY MAY ENTER ON THE PROPERTY AND UNDERTAKE ANY MAINTENANCE OR REMOVAL ACTIVITIES IF:

(A) THE CITY HAS PROVIDED THE APPLICANT WRITTEN NOTICE REQUESTING THE WORK NEEDED TO COMPLY WITH THIS CHAPTER AND PROVIDING THE APPLICANT AT LEAST FORTY-FIVE DAYS TO COMPLETE IT. SUCH NOTICE SHALL BE SENT TO THE ADDRESS ON THE ODP; AND

(B) THE CITY SHALL NOT BE REQUIRED TO PROVIDE ADVANCE NOTICE IF THERE IS A SIGNIFICANT RISK TO THE PUBLIC HEALTH AND SAFETY REQUIRING IMMEDIATE REMEDIAL MEASURES.

5. AN AGREEMENT TO POST A PERFORMANCE BOND, LETTER OF CREDIT OR OTHER FINANCIAL GUARANTEE AS LISTED IN 11-6-4(A)(2), AT THE TIME A PERMIT IS ISSUED, IN AN AMOUNT TO BE SET BY THE CITY, REASONABLY RELATED TO THE COSTS THAT THE CITY MAY INCUR SHOULD THE APPLICANT FAIL TO COMPLY WITH ANY OF ITS OBLIGATIONS PURSUANT TO SUBSECTION (H) (CONCERNING REMOVAL OF ABANDONED FACILITIES). THE BOND, LETTER OF CREDIT, OR OTHER FINANCIAL GUARANTEE SHALL REMAIN IN EFFECT FOR A PERIOD OF TEN YEARS FROM THE DATE OF PERMIT ISSUANCE. OR IN THE CASE OF FACILITIES LOCATED IN A PUBLIC RIGHT OF WAY, UNTIL SUCH FACILITIES ARE REMOVED.

6. IF THE APPLICANT SEEKS A PERMIT TO LOCATE ON LEASED PROPERTY, APPLICANT SHALL OBTAIN AND SUBMIT A WRITTEN STATEMENT OF THE LANDLORD INDICATING THAT THE LANDLORD IS PERMITTED TO ENTER INTO LEASES OF THE SAME PROPERTY WITH OTHER TELECOMMUNICATIONS PROVIDERS.

7. THE IDENTITY AND LEGAL STATUS OF THE APPLICANT WITH THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PROPERTY OWNER AND OFFICER, AGENT, OR EMPLOYEE RESPONSIBLE FOR THE APPLICATION AND WITH WHOM COMMUNICATIONS MAY BE EXCHANGED.

8. INFORMATION SUFFICIENT TO DETERMINE THAT THE APPLICANT HAS RECEIVED OR HAS APPLIED FOR ANY OPERATING LICENSE OR OTHER APPROVALS REQUIRED BY THE FCC TO PROVIDE TELECOMMUNICATIONS SERVICES OR FACILITIES WITHIN THE CITY.

9. A SITE PLAN, TO SCALE, THAT SHOWS THE RELATIVE SHAPE, SIZE, AND LOCATION OF THE PROPOSED TELECOMMUNICATIONS FACILITIES, WHICH SHALL INCLUDE:

(A) A DESIGN DESCRIPTION, INCLUDING HEIGHT ABOVE GRADE, MATERIALS, AND COLOR FOR THE PROPOSED ANTENNA ON A TOWER OR ALTERNATIVE TOWER STRUCTURE;

(B) A LANDSCAPING AND VISUAL MITIGATION PLAN, DETAILING HOW SCREENING FROM THE PUBLIC VIEW WILL BE ACCOMPLISHED, AND HOW DESIGN CHARACTERISTICS WILL HAVE THE EFFECT OF REDUCING OR ELIMINATING VISUAL OBTRUSIVENESS, HOW THE LANDSCAPING WILL BE MAINTAINED, AND WHO IS RESPONSIBLE FOR THE MAINTENANCE;

(C) PROPOSED INGRESS AND EGRESS;

(D) PROXIMITY OF THE TOWER OR OTHER TELECOMMUNICATIONS FACILITY TO RESIDENTIAL STRUCTURES AND RESIDENTIAL DISTRICT BOUNDARIES;

(E) NATURE OF USES ON ADJACENT AND NEARBY PROPERTIES WITHIN TWO HUNDRED (200) FEET OF CELLULAR FACILITY;

(F) SURROUNDING TOPOGRAPHY; AND

(g) TREE COVERAGE WITHIN TWO HUNDRED (200) FEET OF CELLULAR FACILITY.

**(G) DESIGN STANDARDS:** AN APPLICATION SHALL BE REVIEWED TO DETERMINE THAT ALL REQUIRED INFORMATION HAS BEEN SUBMITTED AND THAT THE FOLLOWING STANDARDS HAVE BEEN MET. THE APPLICANT HAS THE BURDEN OF PERSUASION ON EACH ISSUE.

1. AT LEAST TEN FEET OF HORIZONTAL CLEARANCE MUST EXIST BETWEEN ANY ANTENNA AND ANY POWER LINES; MORE CLEARANCE MAY BE REQUIRED TO MEET COLORADO PUBLIC UTILITIES COMMISSION STANDARDS.

2. NO GUY WIRES EMPLOYED MAY BE ANCHORED WITHIN THE AREA IN FRONT OF ANY PRIMARY STRUCTURE ON A PARCEL.

3. ALL TELECOMMUNICATION FACILITIES AND TELECOMMUNICATIONS SUPPORT FACILITIES MUST BE DESIGNED OR SITED SO THAT THEY ARE SET BACK A MINIMUM OF TWO HUNDRED (200) FEET FROM THE NEAREST RESIDENTIAL PROPERTY LINE AND DO NOT POSE A POTENTIAL HAZARD TO NEARBY RESIDENCES OR SURROUNDING PROPERTIES OR IMPROVEMENTS. TELECOMMUNICATION FACILITIES ADJACENT TO NON-RESIDENTIAL USES SHALL BE SET BACK A DISTANCE EQUAL TO AT LEAST THE HEIGHT OF THE TOWER FROM ANY ADJOINING LOT LINE.

IF THE APPLICABLE ZONING DISTRICT SETBACK REQUIREMENTS ARE GREATER THAN THE HEIGHT OF THE TOWER, THE MORE RESTRICTIVE SETBACK MUST BE MET. GUYS AND ACCESSORY BUILDINGS MUST SATISFY THE MINIMUM ZONING SETBACK REQUIREMENTS.

4. TOWERS, TELECOMMUNICATIONS FACILITIES, TELECOMMUNICATIONS SUPPORT FACILITIES, ALTERNATIVE TOWER STRUCTURES, LANDSCAPING, FENCING, ETC. SHALL BE MAINTAINED IN ACCORD WITH THE ODP.

5. ALL STRUCTURES AND EQUIPMENT SHALL BE SCREENED AND PROTECTED BY A FENCE OR WALL NOT LESS THAN SIX (6) FEET IN HEIGHT FROM GROUND LEVEL, UNLESS OTHER SCREENING METHODS ARE APPROVED OR WAIVED THROUGH THE ODP PROCESS. SUCH FENCE OR WALL SHALL BE CONSTRUCTED FROM MASONRY OR VINYL FENCING MAY BE USED WITH BRICK, STONE, STUCCO, OR MASONRY COLUMNS. THE FENCE OR WALL MUST EFFECTIVELY SCREEN THE TELECOMMUNICATION STRUCTURE AND EQUIPMENT.

6. AT A TOWER SITE, THE DESIGN OF THE BUILDINGS AND RELATED TELECOMMUNICATIONS FACILITIES SHALL USE MATERIALS, COLORS, TEXTURES, SCREENING, AND LANDSCAPING THAT WILL BLEND THE FACILITIES TO THE NATURAL SETTING AND TO THE BUILT ENVIRONMENT.

7. IF AN ANTENNA IS INSTALLED ON A STRUCTURE OTHER THAN A TOWER, THE ANTENNA AND SUPPORTING TELECOMMUNICATIONS FACILITIES MUST BE OF A NEUTRAL COLOR THAT IS IDENTICAL TO OR CLOSELY COMPATIBLE WITH THE COLOR OF THE SUPPORTING STRUCTURE SO AS TO MAKE THE ANTENNA AND RELATED FACILITIES AS VISUALLY UNOBTRUSIVE AS POSSIBLE.

8. TELECOMMUNICATION FACILITIES, INCLUDING ALTERNATIVE TOWER STRUCTURES, TO BE LOCATED ABOVE-GROUND AND LOCATED ADJACENT TO THE TRAVELED PORTIONS OF STREETS OR SIDEWALKS: THE SETBACK MUST BE A MINIMUM EQUAL TO THE HEIGHT OF THE PROPOSED FACILITY, AND SHALL NOT EXCEED THE HEIGHT STANDARD UTILITY POLES IN THE VICINITY.

9. ALL PARTS OF THE STRUCTURE, INCLUDING SUPPORTS, FENCES, AND GUY WIRES, SHALL BE SET BACK FROM THE PROPERTY LINE THE SAME DISTANCE AS IS REQUIRED FOR A PRINCIPAL STRUCTURE UNDER THIS CODE OR THE APPLICABLE ODP AND SHALL NOT BE CLOSER TO THE FRONT PROPERTY LINE THAN THE FRONT OF THE EXISTING PRINCIPAL STRUCTURE ON THE PROPERTY, IF ANY. IF THE APPLICABLE ODP DOES NOT SPECIFY SETBACKS, AN ODP AMENDMENT OR WAIVER SHALL BE OBTAINED SPECIFYING THE SETBACKS FOR THE STRUCTURE.

10. ADDITIONAL SETBACK MAY BE REQUIRED TO CONTAIN ON-SITE ALL ICE FALL OR DEBRIS FROM TOWER FAILURE AND/OR TO PRESERVE PRIVACY OF ADJOINING RESIDENTIAL AND PUBLIC PROPERTY. ADDITIONALLY, TELECOMMUNICATION FACILITIES SHALL BE CONSTRUCTED SO AS TO MINIMIZE THE POTENTIAL SAFETY HAZARDS AND LOCATED IN SUCH A MANNER THAT IF THE FACILITY SHOULD FALL, IT WILL REMAIN WITHIN THE PROPERTY BOUNDARIES AND AVOID HABITABLE STRUCTURE, PUBLIC RIGHTS-OF-WAY, UTILITY LINES AND OTHER TELECOMMUNICATION FACILITIES.

11. LANDSCAPING SHALL BE ACCOMPLISHED WITH A BUFFER OF PLANT MATERIALS THAT EFFECTIVELY SCREENS THE VIEW OF THE TELECOMMUNICATIONS SUPPORT FACILITY FROM ADJACENT PROPERTY AND IN ACCORDANCE WITH CITY LANDSCAPING STANDARDS. ALL VEGETATION SHALL BE MAINTAINED IN A LIVING CONDITION. AUTOMATIC IRRIGATION SHALL BE PROVIDED TO ENSURE THE ON-GOING MAINTENANCE OF THE LANDSCAPING.

12. THE USE OF ANY PORTION OF A TELECOMMUNICATIONS FACILITY FOR SIGNS FOR PROMOTIONAL OR ADVERTISING PURPOSES, INCLUDING BUT NOT LIMITED TO COMPANY NAME, PHONE NUMBERS, BANNERS, STREAMERS, AND BALLOONS IS PROHIBITED. THE CITY MAY REQUIRE THE INSTALLATION OF SIGNAGE WITH SAFETY AND CONTACT INFORMATION.

13 TOWERS SHALL NOT BE ARTIFICIALLY LIGHTED, UNLESS REQUIRED BY THE FAA OR OTHER APPLICABLE AUTHORITY.

14. NO PORTION OF ANY ANTENNA ARRAY MAY EXTEND BEYOND THE PROPERTY LINE.

15. SUFFICIENT ANTI-CLIMBING MEASURES MUST BE INCORPORATED INTO EACH FACILITY TO REDUCE POTENTIAL FOR TRESPASS AND INJURY. BY WAY OF EXAMPLE, AND NOT OF LIMITATION, SECURITY FENCING TOGETHER WITH A LACK OF PEGS OF THE BOTTOM PORTION OF THE TOWER, SHALL BE CONSIDERED SUFFICIENT ANTI-CLIMBING MEASURES. THERE SHALL BE NO PERMANENT CLIMBING PEGS WITHIN FIFTEEN FEET OF THE GROUND. MOTION-ACTIVATED OR STAFF-ACTIVATED SECURITY LIGHTING AROUND THE BASE OF A TOWER OR ACCESSORY STRUCTURE ENTRANCE MAY BE PROVIDED IF SUCH LIGHTING DOES NOT PROJECT OFF-SITE.

16. THE DECISION MAKER SHALL CONSIDER, IF APPLICABLE, THE FOLLOWING CRITERIA IN DETERMINING WHETHER TO APPROVE AN ODP OR ODP AMENDMENT PURSUANT TO THIS SECTION:

(a) AESTHETIC IMPACTS, INCLUDING DESIGN AND APPEARANCE OF THE STRUCTURE AND OBSTRUCTION OF VIEW CORRIDORS;

(b) QUALITY AND EFFECTIVENESS OF ANY LANDSCAPING AND SCREENING OF THE BASE OF THE STRUCTURE;

(c) WHETHER CO-USE OF THE STRUCTURE BY GOVERNMENTAL AGENCIES AND OTHER PERSONS IS POSSIBLE OR PERMISSIBLE, BASED ON LEGAL, FINANCIAL AND TECHNICAL CONSIDERATIONS, IN ORDER TO AVOID THE NEED FOR ADDITIONAL STRUCTURES; AND

(d) WHETHER ALTERNATIVE SITES ARE REASONABLY AVAILABLE, TAKING INTO CONSIDERATION LEASE TERMS AND CONDITIONS BASED UPON INDUSTRY AND MARKET STANDARDS.

**(H) CO-LOCATION:** THE SHARED USE OF EXISTING TOWERS OR OTHER ALTERNATIVE TOWER STRUCTURES SHALL BE PREFERRED TO THE CONSTRUCTION OF NEW FACILITIES. THE APPLICATION FOR ANY ODP OR ODP AMENDMENT SHALL INCLUDE EVIDENCE THAT REASONABLE EFFORTS HAVE BEEN MADE TO CO-LOCATE WITHIN AN EXISTING TELECOMMUNICATION FACILITY OR UPON AN EXISTING ALTERNATIVE TOWER STRUCTURE WITHIN A REASONABLE DISTANCE, REGARDLESS OF MUNICIPAL BOUNDARIES, OF THE SITE. THE APPLICANT MUST DEMONSTRATE THAT THE PROPOSED TELECOMMUNICATION FACILITY CANNOT BE ACCOMMODATED ON EXISTING TELECOMMUNICATIONS FACILITIES DUE TO ONE OR MORE OF THE FOLLOWING REASONS:

1. THE PLANNED EQUIPMENT WOULD EXCEED THE STRUCTURAL CAPACITY OF EXISTING AND APPROVED TELECOMMUNICATIONS FACILITIES OR OTHER ALTERNATIVE TOWER STRUCTURES, CONSIDERING EXISTING AND PLANNED USE FOR THOSE FACILITIES;

2. THE PLANNED EQUIPMENT, IF CO-LOCATED, WOULD CAUSE RADIO FREQUENCY INTERFERENCE WITH OTHER EXISTING OR PLANNED EQUIPMENT, OR EXCEED RADIO FREQUENCY EMISSION STANDARDS WHICH CANNOT BE REASONABLY PREVENTED;



3. EXISTING OR APPROVED TELECOMMUNICATIONS FACILITIES OR OTHER ALTERNATIVE TOWER STRUCTURES DO NOT HAVE SPACE ON WHICH PROPOSED EQUIPMENT CAN BE PLACED SO IT CAN FUNCTION EFFECTIVELY AND REASONABLY;

4. OTHER TECHNICAL REASONS MAKE IT IMPRACTICABLE TO PLACE THE EQUIPMENT PROPOSED BY THE APPLICANT ON EXISTING FACILITIES OR STRUCTURES;

5. THE LAND OWNER OR OWNER OF THE EXISTING TELECOMMUNICATION FACILITY OR OTHER ALTERNATIVE TOWER STRUCTURE REFUSES TO ALLOW SUCH CO-LOCATION OR REQUESTS AN UNREASONABLY HIGH FEE FOR SUCH CO-LOCATION COMPARED TO CURRENT INDUSTRY RATES;

6. NO EXISTING TOWERS OR ALTERNATIVE TOWER STRUCTURES ARE LOCATED WITHIN THE GEOGRAPHIC AREA REQUIRED TO MEET THE APPLICANT'S ENGINEERING REQUIREMENTS;

7. EXISTING TOWERS OR ALTERNATIVE TOWER STRUCTURES ARE NOT OF SUFFICIENT HEIGHT TO MEET THE APPLICANT'S ENGINEERING REQUIREMENTS;

8. EXISTING TOWERS OR ALTERNATIVE TOWER STRUCTURES DO NOT HAVE SUFFICIENT STRUCTURAL STRENGTH TO SUPPORT APPLICANT'S PROPOSED ANTENNAS AND RELATED EQUIPMENT; AND

9. ANY OTHER REASON, IN THE REASONABLE DISCRETION OF THE CITY MANAGER OR HIS DESIGNEE.

**(I) ABANDONMENT; REPAIR; REMOVAL:**

1. AT THE TIME OF SUBMISSION OF THE APPLICATION FOR A TELECOMMUNICATION FACILITY, THE APPLICANT SHALL EXECUTE AN AGREEMENT IN A FORM ACCEPTABLE TO THE CITY, TO REMOVE ALL ANTENNAS, DRIVEWAYS, STRUCTURES, BUILDINGS, EQUIPMENT SHEDS, LIGHTING, UTILITIES, FENCING, GATES, ACCESSORY EQUIPMENT OR STRUCTURES, AS WELL AS ANY TOWER OR STRUCTURE USED AS A TELECOMMUNICATIONS FACILITY IF SUCH FACILITY BECOMES TECHNOLOGICALLY OBSOLETE OR CEASES TO PERFORM ITS ORIGINALLY INTENDED FUNCTION FOR MORE THAN ONE HUNDRED AND EIGHTY (180) DAYS. UPON REMOVAL, THE LAND SHALL BE RESTORED AND RE-LANDSCAPED, AT THE OPERATOR'S EXPENSE, TO THE LEVEL OF FINISH OF THE ADJACENT LANDSCAPED AREA.

2. IF UPON INSPECTION, THE CITY CONCLUDES THAT A TELECOMMUNICATIONS FACILITY FAILS TO COMPLY WITH THE APPROVED ODP OR CONSTITUTES A DANGER TO PERSONS OR PROPERTY, THEN UPON NOTICE BEING PROVIDED TO THE REPRESENTATIVE AS LISTED ON THE ODP OF A TELECOMMUNICATIONS FACILITY, THE OWNER, SHALL HAVE THIRTY DAYS TO BRING SUCH TELECOMMUNICATIONS FACILITY INTO COMPLIANCE WITH THE ODP. IF THE OWNER FAILS TO BRING SUCH FACILITY INTO COMPLIANCE WITHIN SAID THIRTY (30) DAYS, THE CITY MAY REMOVE THE FACILITY AT THE OWNER'S EXPENSE.

2. ANY TELECOMMUNICATION FACILITY THAT IS NOT OPERATED FOR A CONTINUOUS PERIOD OF 180 DAYS SHALL BE CONSIDERED ABANDONED. THE CITY, IN ITS SOLE DISCRETION, MAY REQUIRE AN ABANDONED TOWER, ANTENNA, OR ANY OTHER ANCILLARY TELECOMMUNICATIONS EQUIPMENT TO BE REMOVED WITHIN NINETY DAYS OF RECEIPT OF NOTICE FROM THE CITY NOTIFYING THE OWNER OF SUCH ABANDONMENT. UPON REMOVAL, THE SITE SHALL BE RESTORED OR RE-VEGETATED TO BLEND WITH THE SURROUNDING ENVIRONMENT.

IF SUCH REMOVAL IS NOT COMPLETED WITHIN SAID NINETY DAYS, THE CITY MAY REMOVE AND DISPOSE OF THE SAME AT THE OWNER'S EXPENSE. IF THERE ARE TWO OR MORE USERS OF A SINGLE TOWER OR ALTERNATIVE TOWER STRUCTURE, THEN THIS PROVISION SHALL NOT BECOME EFFECTIVE UNTIL ALL USERS CEASE USING THE TOWER.

4. ANY TELECOMMUNICATION FACILITY PLACED IN A PUBLIC RIGHT OF WAY SHALL BE REMOVED WITHIN 120 DAYS AFTER NOTIFICATION BY THE CITY THAT THE RIGHT OF WAY IS NEEDED BY THE CITY FOR THE EXPANSION, CONSTRUCTION, OR RECONSTRUCTION OF A STREET OR HIGHWAY OR OTHER USE BY THE CITY FOR ANY CITY PROJECT. SUCH REMOVAL SHALL BE AT THE SOLE EXPENSE OF THE OWNER AND IF OWNER FAILS TO REMOVE THE FACILITY WITHIN THE SAID 120 DAYS, THE CITY MAY REMOVE AND DESTROY THE FACILITY AND CHARGE THE COSTS TO THE OWNER.

**(J) LOCATIONS ON CITY PROPERTY:** WHEN IT IS IN THE INTEREST OF THE CITY, THE CITY MANAGER OR HIS DESIGNEE MAY, BUT IS NOT REQUIRED TO, NEGOTIATE AND ENTER INTO AN AGREEMENT WITH A TELECOMMUNICATIONS SERVICES PROVIDER FOR THE USE OF CITY-OWNED PROPERTY (EXCEPT PUBLIC RIGHTS-OF-WAY) FOR THE LOCATION OF TOWERS, ALTERNATIVE TOWER STRUCTURES, ANTENNAS, AND TELECOMMUNICATIONS FACILITIES. WHEN SO LOCATED, THE AGREEMENT MAY BE REVIEWED ADMINISTRATIVELY.

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 12<sup>th</sup> day of July, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26<sup>th</sup> day of July, 2004.

ATTEST

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 12, 2004



**SUBJECT:** Councillor's Bill No. 48 re Supplemental Appropriation for Open Space Land Purchases

**Prepared By:** Lynn Wodell, Open Space Coordinator

**Recommended City Council Action:**

Pass Councillor's Bill No. 48 on first reading appropriating \$2,852,453 into the Open Space Land Purchases Account as a result of the sale of the City property purchased with Open Space Funds to the Academy of Charter Schools.

**Summary Statement:**

- The City closed on the sale of 23.812 acres located at W. 120<sup>th</sup> Avenue and Lowell Boulevard to the Academy of Charter Schools for a total purchase price of \$2,852,453.
- The property was originally purchased using City Open Space Funds. In order for the proceeds from the sale to be used for open space acquisitions, a supplemental appropriation is required.

**Expenditure Required:** \$2,852,453

**Source of Funds:** Proceeds from the Sale to the Academy of Charter Schools

**Policy Issues**

Should the City Council authorize the appropriation of the proceeds from the sale of the property into the Open Space Land Purchases account for future open space acquisitions?

**Alternatives**

Council could decide not to authorize the appropriation of the proceeds from the sale to the Academy of Charter Schools into the Open Space Land Purchases Account at this time. Staff does not recommend this alternative because the proceeds from the sale are required for the purchase of additional high priority open space objectives and the sale of this land was predicated on these funds returning to the Open Space Fund.

**Background Information**

The 1998 purchase of the property sold to the Academy of Charter Schools was made using open space funds. When Council approved the sale of this City owned property earlier this year, it was anticipated that the proceeds from the sale would be used to purchase additional open space throughout the City. In order to accomplish this task, the funds need to be appropriated into the Open Space Land Purchases Account.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **48**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE INCREASING THE 2004 BUDGETS OF THE OPEN SPACE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THE FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2004 appropriation for the Open Space Fund initially appropriated by Ordinance No. 2977 in the amount of \$4,663,797 is hereby increased by \$2,852,453 which, when added to the fund balance as of the City Council action on July 12, 2004 will equal \$7,530,281. The actual amount in the Open Space Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation proceeds from the sale of open space land to Academy of Charter Schools.

Section 2. The \$2,852,453 increase in the Open Space Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Sale of Assets 5400.43040.0000	\$0	<u>\$2,852,453</u>	\$2,852,453
Total Change to Revenues		<u>\$2,852,453</u>	
EXPENSES			
Land Purchases			
54010900.76600.0000	\$998,484	<u>\$2,852,453</u>	\$3,850,937
Total Change to Expenditures		<u>\$2,852,453</u>	

Section 3. – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 4. This ordinance shall take effect upon its passage after the second reading.

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 12<sup>th</sup> day of July, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 26th day of July, 2004.

ATTEST:

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Mayor

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City Clerk



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
July 12, 2004



**SUBJECT:** Second Reading of Councillor's Bill No. 42 re City of Westminster Landscape Regulations 2004

**Prepared By:** Terri Hamilton, Planner II

**Recommended City Council Action:**

Adopt Councillor's Bill No. 42 on second reading as amended adopting the City of Westminster Landscape Regulations 2004; amending Title XI, Chapter 5, Section 12, Application Format and Content for Landscape and Irrigation Drawings and Private Improvements Agreement; amending Title XI, Chapter 6, Section 5 (E), Construction of Improvements; amending Title XI, Chapter 7, Section 5, Provisions for the Requirement of Landscaping; and amending Title XI, Chapter 12, Section 7 (C), Landscaping.

**Summary Statement:**

- Councillor's Bill No. 42 was passed on first reading June 28, 2004.
- In response to the letter received from the Home Builders Association (HBA) dated June 28, 2004, one additional change was made regarding landscape buffering between uses. Section V. E of the Landscape Regulations was amended to state buffering between uses is "generally required" rather than "required." This would allow for TMUND and infill developments where larger landscape buffers may not be appropriate. No other changes are recommended. A discussion of the other issues raised in the HBA letter will be discussed in the background section of this report.
- Attachments to this Agenda Memorandum include the June 28 letter from the Denver Home Builders Association (HBA).
- Two additional City staff have been identified, a Landscape Architect, and an Official Development Plan Inspector, to implement the additional level of landscape and irrigation plan review, and field inspections. Staff will bring these requests back to City Council for action at a later date.
- Should Council adopt the Landscape Regulations, they would become effective on September 1, 2004.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

### **Background Information**

As was stated in the summary section, one additional change was made to the Landscape Regulations in response to the second letter received from the HBA. It should be noted that all of the items below except for the issue on the moisture sensor requirement were addressed in the response to the HBA's first letter of May 17, 2004. However, the following responses are again provided below:

1. HBA Comment: Allow cobble in medium hydrozones.

Staff Response: No alteration proposed. We understand cobble does not require replacement as often as bark mulch however cobble (and other rock mulch) is not a water-wise choice for mulch, as it absorbs and holds heat to a much greater degree than bark mulch, and will subsequently increase the water needs of plants within rock mulch areas. Cobble mulch is not prohibited overall, but may be used in low hydrozones. Therefore, for any developers and landscape designers who prefer rock mulch to bark mulch, as long as the plant choice is within a low hydrozone, cobble mulch can be used. There are numerous choices of plants within low hydrozones, so City Staff does not believe this requirement to be overly restrictive.

2. HBA Comment: Request the City not require soil amendment in rear yards and similar areas.

Staff Response: Soil preparation is proposed to be installed in all portions of single-family yard areas that could be landscaped, prior to certificate of occupancy. Installation will be the responsibility of the developer of the lot and verification must be provided to the City regarding the amount of soil amendment installed. Frequently, the developer/builder of the lot already provides front yard landscaping (including soil amendment). With this proposed revision, the developer will also install the soil amendment in the remaining yard areas and the prospective homeowner will not have to undertake this task prior to completing their landscaping.

City Staff has researched the additional cost for this requirement, and based upon a 9,000 S.F. lot with 3,000 S.F. in building footprint, driveway, patio and sidewalk, and a remaining front yard of 3,000 S.F. and rear yard of 3,000 S.F.; the additional cost to the developer is approximately \$360-400. Not only can the developer obtain the soil amendment, installation and delivery cost at a savings based upon quantity of work to be performed, (and savings from a single delivery cost), but the installation of the soil amendment is easier to perform in rear and side yards, prior to finishing out the landscaping on the front yard, that is usually installed by the developer. Having the soil amendment in the remaining portions of the yard is not only a perk for the future homeowner, but it assures that this critical aspect of water conservation does indeed occur.

3. HBA Comment: Allow flexibility in the six-foot wall and six-foot berm requirement along arterials and highways.

Staff Response: No alteration proposed. There are only a handful of properties that will be subject to this requirement. Section III, "Adjustment of Requirements," will allow exceptions to be considered on a case-by-case basis. The current language will allow the City to be more consistent and equitable in application than if it is not an up-front requirement.

4. HBA Comment: Exclude Single-Family Attachment and Multi-family landscape areas from the requirement for moisture sensors or evapotranspiration based controls.

Staff Response: No change recommended. Current requirements exist for soil moisture sensors and the proposed code allows evapotranspiration based controls to meet the requirement as well.

Staff will be available at the Second Reading to handle any further questions.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments



BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. 42

SERIES OF 2004

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE ADOPTING THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS, 2004; AND AMENDING TITLE XI, CHAPTER 5, SECTION 12, APPLICATION FORMAT AND CONTENT FOR LANDSCAPE AND IRRIGATION DRAWINGS AND PRIVATE IMPROVEMENTS AGREEMENT; AND AMENDING TITLE XI, CHAPTER 6, SECTION 5 (E), CONSTRUCTION OF IMPROVEMENTS; AND AMENDING TITLE XI, CHAPTER 7, SECTION 5, PROVISIONS FOR THE REQUIREMENT OF LANDSCAPING; AND AMENDING TITLE XI, CHAPTER 12, SECTION 7 (C), LANDSCAPING.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City of Westminster Landscape Regulations, 2004, are hereby adopted and enforced as if fully set forth in the Westminster Municipal Code. Undeveloped properties with an Official Development Plan approved prior to September 1, 2004 will be allowed to proceed with the landscape and irrigation design requirements in effect prior to September 1, 2004.

Section 2. Title XI, Chapter 5, Section 12, W.M.C. is hereby AMENDED to read as follows:

**11-5-12: APPLICATION FORMAT AND CONTENT FOR LANDSCAPE AND IRRIGATION DRAWINGS AND PRIVATE IMPROVEMENTS AGREEMENT:**

(A) ~~As required in section 11-5-8 BY THE CITY OF WESTMINSTER PLAN SUBMITTAL DOCUMENT AND THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS, a landscape AND IRRIGATION planS shall be reviewed and approved in conjunction with the Official Development Plan BY THE CITY. The landscape plan shall be prepared by a qualified landscape architect or other person experienced in landscape design.~~

(B) ~~As determined by the City, redevelopment or change in use projects may be required to submit a landscape plan and irrigation construction drawings.~~ THE FORMAT AND CONTENT FOR LANDSCAPE AND IRRIGATION DRAWINGS AND PRIVATE IMPROVEMENTS AGREEMENT SHALL BE AS SPECIFIED BY THE CITY OF WESTMINSTER PLAN SUBMITTAL DOCUMENT, THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS, AND AS SET FORTH IN THE WESTMINSTER MUNICIPAL CODE.

(C) ~~Final landscape construction drawings in accordance with the approved Official Development Plan shall be submitted prior to beginning construction of any landscape areas.~~ NO CONSTRUCTION OF LANDSCAPE IMPROVEMENTS CAN OCCUR UNTIL THE CITY APPROVES THE LANDSCAPE AND IRRIGATION CONSTRUCTION PLANS, AND THE PRIVATE IMPROVEMENTS AGREEMENT.

(D) ~~The design of the irrigation plan shall be prepared by a qualified landscape architect or other person experienced in irrigation system design, and will be reviewed by the City for general layout only. The professionally developed irrigation drawings shall be submitted at the time of landscape construction drawing submittal and private improvements agreement. The technical details of the irrigation system design and operation shall be the responsibility of the private irrigation consultant, however the irrigation watering time shall not exceed eight (8) hours per day. Tap size(s) required shall be determined within these constraints and shall be subject to approval by the City.~~

~~(E)~~ (D) As-built LANDSCAPE AND irrigation drawings shall be presented BY THE DEVELOPER to the owners/owner's association/HOMEOWNERS ASSOCIATION and the City prior to final acceptance of the project.

~~(F) Prior to construction, a Private Improvements Agreement for landscaping, fencing and other private improvements shall be submitted to the City by the owner, and shall include the projected costs of improvements. One of the forms of security outlined in section 11-6-4 shall also accompany the public improvements agreement.~~

Section 3. Title XI, Chapter 6, Section 5, subsection (E), W.M.C., is hereby AMENDED to read as follows:

**11-6-5: DESIGN AND CONSTRUCTION OF IMPROVEMENTS:**

**(E) CONSTRUCTION OF IMPROVEMENTS.**

1. No construction of any public improvement shall commence until the City has issued a written notice to proceed.

2. The construction of all public and private improvements in areas of common ownership shall be completed in accordance with the approved construction drawings and specifications, the City of Westminster Standards and Specifications for the Design and Construction of Public Improvements, the City of Westminster Drainage Criteria Manual, THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS, and the City of Westminster Sitework Specifications.

Section 4. Title XI, Chapter 7, Section 5, W.M.C., is hereby AMENDED to read as follows:

**11-7-5: PROVISIONS FOR THE REQUIREMENT OF LANDSCAPING:**

~~(A) Landscaping shall be defined and shall primarily refer to planted, green areas but may also include decorative paving (other than sidewalks and drives), water features, streams and grass channels as approved by the City. ALL PROPERTIES WITHIN THE CITY OF WESTMINSTER ARE REQUIRED TO PROVIDE LANDSCAPING ACCORDING TO THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS AND THE WESTMINSTER MUNICIPAL CODE.~~

~~(B) The City shall have the authority to require landscaping in new development and redevelopment projects according to the City's Landscape Regulations as may be approved from time to time by City Council. When a change in use occurs which involves an Official Development Plan, Amendment to the Official Development Plan, or Official Development Plan Waiver, the site should be brought up to current development standards whenever possible and within reason, as determined by the City. SPECIFIC REGULATIONS PERTAINING TO THE LANDSCAPING OF PROPERTY AS WELL AS THE LONG TERM MAINTENANCE OF LANDSCAPING IS REQUIRED ACCORDING TO THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS AND THE WESTMINSTER MUNICIPAL CODE.~~

~~(C) Enforcement of the landscape required by these regulations and/or as shown on the Official Development Plan PERTAINING TO LANDSCAPING shall be as provided by section 1-8-1 of the Westminster Municipal Code.~~

(D) The property owner, OWNERS, OR OWNERS ASSOCIATION is responsible for the installation AND MAINTENANCE of landscaping ON THEIR PROPERTY, PROPERTY HELD IN JOINT OR MULTIPLE OWNERSHIP, AND ADJACENT PUBLIC RIGHT-OF-WAY, UNLESS DETERMINED OTHERWISE BY THE CITY in the right of way of all arterial and collector streets abutting their development, and occasionally of local streets. The property owner is also responsible for installation of the landscaping in common areas including detention pond areas.

~~(E) The property owner or owners association is responsible for the maintenance of landscaping in the right of way of all arterial and collector streets within or abutting their development, and occasionally of local streets. The owner or owners association is responsible for the maintenance of landscaping in common areas including detention pond areas.~~

~~(F)~~ (E) The property owner, OWNERS, or owners association shall be responsible for the ~~continual~~ ~~adequate~~ maintenance of landscaping required by and shown on ~~the~~ ANY Official Development Plan(s) and site plan(s) accompanying Official Development Plan waivers.

~~(G) All landscaping and required buffering shall be continually maintained including irrigation, weeding, pruning and materials replacement, in a substantially similar manner as originally approved. The following survival standards shall apply to all landscaping and required buffering:~~

~~— 1. A minimum of 75 percent of the required landscape area must be covered by living plant material such as ground covers, low growing shrubs or grass within two years after installation and thereafter. Non living groundcovers such as redwood bark, wood chip mulch, boulders, cobble or river rock shall be limited to a small area, not to exceed 25 percent of the landscape area. All non living groundcovers shall be placed over a suitable weed barrier or filter fabric.~~

~~— 2. Non living ground covers, such as rock or mulch, must be 100 percent in tact after one year and 100 percent in tact thereafter.~~

~~— 3. Trees, shrubs, groundcovers and grass must have a 100 percent ongoing survival rate.~~

~~— 4. Any dead or severely damaged (as determined by the City) plant material shall be replaced within 6 months of notification by the City.~~

~~(H) All areas to be seeded, sodded, or otherwise planted in all nonresidential developments and areas of common ownership in residential developments (including right of way areas) shall have soil preparation per City specifications and an automatic sprinkler system.~~

(I) The owner is required to check with the City to determine the proximity of the development to the City's reclaimed water system. Projects within 300' of the system may be required to tie into the system.

~~(J) Trees and shrubs shall not be placed where they will obstruct the visual line of sight on a public right of way. No plants or other landscape items shall block free access to a fire hydrant. All plantings and landscaping shall also be in accordance with all applicable provisions of the City's Uniform Fire and Building Codes.~~

~~(K) At the intersection of a private drive with a public street, and at the intersection of two public streets, vehicular sight triangles shall be designated in order to insure that there are no visibility obstructions for motorists. (See section 8-4-6(B).) Sight triangles shall be shown on all Official Development Plans and shall conform with the City engineering document entitled, "Intersection Sight Distance Criteria." All shrubs, boulders, etc. within the sight triangle must be maintained below a height of thirty inches (30"), and all tree branches in these areas must be pruned to a minimum height of eight feet (8') above the curb. Evergreen trees shall not be placed within the sight triangle.~~

Section 5. Title XI, Chapter 12, Section 7, subsection (C), W.M.C., is hereby AMENDED to read as follows:

**11-12-7: SITE MAINTENANCE:**

**(C) Landscaping.**

1. ALL LANDSCAPE AREA AND LANDSCAPE MATERIALS SHALL BE MAINTAINED ACCORDING TO THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS AND CITY CODE. All landscape areas shall be landscaped with approved landscaping, including grass, shrubs, and trees. All landscaping areas shall be maintained and all dead or severely damaged plant materials shall be replaced with plant materials as required by the City of Westminster Landscape Regulations. All turf areas shall be maintained so that no grass or weeds exceed six (6) inches in height. ~~Landscape areas are defined as the general landscape area, right of ways and detention or pond areas. Driveways, hardscape parking areas, patios or walks are not included as landscape areas.~~ LANDSCAPE AREA AND LANDSCAPE IMPROVEMENTS/MATERIALS ARE DEFINED IN THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS. LANDSCAPE AREA WILL NOT INCLUDE TREE CANOPY, BARE DIRT, WEEDS, ARTIFICIAL TURF, OR HARDSCAPE IMPROVEMENTS.

2. Within five (5) years of the adoption of this Code, all single-family detached and duplex residential rental properties shall be provided with one (1) tree and three (3) shrubs in the front yard landscape area. AS REQUIRED BY THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS, ~~A~~ a minimum of ~~seventy five (75)~~ FIFTY (50) percent of ~~the front lawn~~ EACH YARD area ADJACENT TO A STREET, OR PUBLIC OR PRIVATE PARK OR OPEN SPACE shall be ~~covered by living plant material such as grass, shrubs, or ground cover~~ LANDSCAPE AREA. REMAINING YARD AREA NOT LANDSCAPE AREA SHALL BE HARDSCAPE AS DEFINED IN THE LANDSCAPE REGULATIONS.

3. Within five (5) years of the adoption of this Code, all single-family attached and multi-family residential rental properties shall be provided with one (1) tree and three (3) shrubs per 1,000 square feet of landscaping area AND A MINIMUM OF THIRTY (30) PERCENT OF THE LOT SHALL BE LANDSCAPE AREA AS DEFINED BY THE LANDSCAPE REGULATIONS. REMAINING YARD AREA NOT LANDSCAPE AREA SHALL BE HARDSCAPE AS DEFINED IN THE LANDSCAPE REGULATIONS., ~~except that p~~Properties with an existing landscape plan as part of an approved Official Development Plan shall be maintained as required by such plan.

Section 6. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 7. This ordinance shall take effect upon its passage after second reading.

Section 8. 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 28<sup>th</sup> day of June, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12<sup>th</sup> day of July, 2004 AS AMENDED.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



# Agenda Item 15 B

**WESTMINSTER**  
**COLORADO**

## Agenda Memorandum

City Council Meeting  
July 12, 2004



**SUBJECT:** Second Reading Councillor's Bill No. 45 re Code Modifications to Reclaimed/Non-potable Water System

**Prepared By:** Kipp Scott, Water Quality Administrator  
Mike Happe, Water Resources and Treatment Manager

### Recommended City Council Action

Adopt Councillor's Bill No. 45 on second reading as amended implementing modifications to the City Code regarding the reclaimed/non-potable water system.

### Summary Statement

- This Councillor's Bill was passed on first reading on June 28, 2004
- City Council action is requested to adopt Councillors Bill No 45 on second reading with the following modifications:
  - The non-potable system name has been changed where appropriate, to the reclaimed/non-potable system throughout the document, where appropriate.
  - New irrigation taps may be required to be installed to reclaimed/non-potable standards in anticipation of future transfer to the reclaimed/non-potable system where the reclaimed/non-potable system does not currently exist but will be developed in the future.
  - Customers who have installed potable irrigation systems to reclaimed/non-potable standards, in anticipation of future system availability, will be notified when the reclaimed/non-potable system is developed in their area. Upon notification of availability, the customer will be allowed 180 days to connect to the reclaimed/non-potable system.
- The reclaimed water system was constructed as a cost effective alternative to developing raw water to help meet the ultimate demand of the City of Westminster. The value of this utility to Westminster is approximately 60 million dollars.
- The 2003 Reclaimed Water Master Plan, reconfirmed the premise of the system, which was a customer base to utilize 2,600 acre feet of irrigation demand, thereby reducing demand on the raw water system. The potential to under utilize the reclaimed system has been identified if the City is not aggressive in developing new customers on the system.
- Operational experience over the last three years has identified areas of improvement necessary in the Municipal Code that regulates the use of reclaimed water.

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Deleted: Resolution No. 40 approving the addition of one full-time Reclaimed System Analyst and the reclassification of one full time Capital Projects Coordinator position to Reclaimed System Coordinator to support non-potable water system development and administration was passed and adopted on June 28, 2004.

**Expenditure required:** \$0

**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager  
Attachment

BY AUTHORITY

ORDINANCE NO. **3134**

COUNCILLOR'S BILL NO. **45**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Dixon - McNally**

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING RECLAIMED/NON-POTABLE WATER REGULATIONS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title VIII, Chapter 12, W.M.C., is hereby AMENDED to read as follows:

**CHAPTER 12 RECLAIMED/NON-POTABLE WATER REGULATIONS**

**8-12-1: DEFINITIONS:** For the purpose of this chapter certain words and terms used herein are defined as follows:

~~(A) CONSUMER: any person, city facility, firm or corporation receiving water from the city reclaimed waterworks.~~

~~(B)~~ (A) MAINS: the main pipes and connections forming a part of the city ~~reclaimed~~ RECLAIMED/NON-POTABLE waterworks.

~~(C)~~ (B) METER: the device, appropriate to the premise served, installed to measure the amount of water passing through it, with an accuracy of between ninety five percent (95%) and one hundred one percent (101%) of actual quantities delivered. ~~the term shall also include detector devices for water passing through fire service lines.~~

~~(D)~~ (C) METER SERVICE CHARGE: the fee for maintaining the meter, reading the meter, periodically billing the account, and processing payments.

(D) RECLAIMED/NON-POTABLE WATER: WATER USED FOR PURPOSES OTHER THAN HUMAN CONSUMPTION THAT IS NOT TREATED TO POTABLE WATER STANDARDS. THIS INCLUDES WATER FROM DITCHES, LAKES, PONDS, OR THE RECLAIMED TREATMENT SYSTEM.

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(E) RECLAIMED WATER: that water, which originates from the city's reclaimed water treatment facility and is distributed through the reclaimed water distribution system for the express purpose of non-potable uses.

(F) SERVICE COMMITMENT: the average ANNUAL water service provided to one single family detached dwelling unit (CURRENTLY 140,000 GALS./YR.).

(G) SERVICE PIPE: a branch pipe with its fittings and connections through which water is taken.

(H) STREET: any street, avenue, alley, lane or other thoroughfare.

(I) TAP: an opening or connection in the mains through which water is taken.

(J) USER: the owner of the property upon which the ~~reclaimed~~ NON-POTABLE water is to be utilized.

(K) HIGH WATER LANDSCAPE: LANDSCAPE THAT REQUIRES GREATER THAN 9 GALLONS PER SQUARE FOOT ANNUALLY.

(L) LOW WATER LANDSCAPE: LANDSCAPE THAT REQUIRES 9 GALLONS OF WATER PER SQUARE FOOT OR LESS ANNUALLY AND IS WATERED USING WATER SAVING IRRIGATION TECHNOLOGIES SUCH AS DRIP, MICRO SPRAY, OR SUBSURFACE.

(M) AGRONOMIC RATE MEANS THE RATE OF APPLICATION OF NUTRIENTS TO PLANTS THAT IS NECESSARY TO SATISFY THE PLANTS' NUTRITIONAL REQUIREMENTS WHILE STRICTLY MINIMIZING THE AMOUNT OF NUTRIENTS THAT RUN OFF TO SURFACE WATERS OR WHICH PASS BELOW THE ROOT ZONE OF THE PLANTS.

(N) COMMERCIAL USER MEANS A PERSON WHO USES NON-POTABLE WATER IN THE OPERATION OF A BUSINESS. PATRONIZED BY THE PUBLIC, OR WHO PROVIDES SERVICES TO THE PUBLIC.

(O) DIRECT REUSE MEANS THE USE OF RECLAIMED DOMESTIC WASTEWATER, WHICH, AFTER TREATMENT, HAS NOT BEEN DISCHARGED INTO WATERS OF THE STATE.

(P) INDUSTRIAL USER MEANS A PERSON WHO USES RECLAIMED WATER FOR INDUSTRIAL PROCESSES OR IN THE CONSTRUCTION PROCESS.

(Q) IRRIGATION SYSTEM MEANS THE FACILITIES, PIPING AND OTHER EQUIPMENT USED BY A LANDSCAPE IRRIGATION USER.

(R) LANDSCAPE IRRIGATION MEANS IRRIGATION OF AREAS OF GRASS, TREES, AND OTHER VEGETATION THAT ARE ACCESSIBLE TO THE PUBLIC INCLUDING BUT NOT LIMITED TO PARKS, GREENBELTS, GOLF COURSES, AND COMMON AREAS AT APARTMENT, TOWNHOUSE, COMMERCIAL/BUSINESS PARKS, AND OTHER SIMILAR COMPLEXES.

(S) LANDSCAPE IRRIGATION USER MEANS A PERSON WHO USES NON-POTABLE WATER FOR THE PURPOSE OF LANDSCAPE IRRIGATION.

(T) PERSON MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, STATE OR POLITICAL SUBDIVISION THEREOF, FEDERAL AGENCY, STATE AGENCY, MUNICIPALITY, COMMISSION, OR INTERSTATE BODY.

(U) POINT OF COMPLIANCE MEANS A POINT IDENTIFIED BY THE TREATER IN THE NON-POTABLE WATER TREATMENT OR TRANSMISSION SYSTEM AFTER ALL TREATMENT HAS BEEN COMPLETED PRIOR TO DILUTION AND BLENDING.

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(V) RECLAIMED WATER IS WASTEWATER THAT HAS RECEIVED SECONDARY TREATMENT BY A DOMESTIC WASTEWATER TREATMENT FACILITY AND SUCH ADDITIONAL TREATMENT TO ENABLE THE WASTEWATER TO MEET THE STANDARDS FOR APPROVED USES, EITHER RESTRICTED OR UNRESTRICTED USE.

(W) RESTRICTED ACCESS MEANS CONTROLLED AND LIMITED ACCESS TO THE AREAS WHERE RECLAIMED WATER IS BEING USED AND MEETS THE CATEGORY 1 STANDARDS AS DEFINED IN THE COLORADO CODE OF REGULATIONS ("C.C.R.") SECTION 84.7. RESTRICTED USE MEANS LANDSCAPE IRRIGATION WITH RECLAIMED DOMESTIC WASTEWATER THAT MEETS THE REQUIREMENTS OF C.C.R. SUBSECTIONS 84.6.B., 84.7, AND 84.8.

(X) TRANSMISSION SYSTEM MEANS THE TREATER'S FACILITIES THAT TRANSPORT TREATED NON-POTABLE WATER BETWEEN THE TREATER AND USERS.

(Y) TREATER MEANS A PERSON WHO TREATS AND PROVIDES RECLAIMED WATER TO AN APPLICATOR/USER FOR THE PURPOSE OF LANDSCAPE IRRIGATION, COMMERCIAL OR INDUSTRIAL USE. THE TREATER AND THE APPLICATOR/USER MAY BE THE SAME ENTITY.

(Z) UNRESTRICTED ACCESS MEANS UNCONTROLLED ACCESS TO THE AREAS WHERE RECLAIMED WATER IS BEING USED AND MEETS THE CATEGORY 2 STANDARDS AS DEFINED IN C.C.R. SECTION 84.7. UNRESTRICTED USE MEANS LANDSCAPE IRRIGATION WITH RECLAIMED DOMESTIC WASTEWATER THAT MEETS THE REQUIREMENTS OF C.C.R. SUBSECTIONS 84.6.A AND 84.7.

(AA) USER MEANS A PERSON, WHO USES RECLAIMED/NON-POTABLE WATER FOR LANDSCAPE IRRIGATION, COMMERCIAL, OR INDUSTRIAL USES.

(BB) USER PLAN TO COMPLY MEANS THE INFORMATION AND DOCUMENTATION A USER OF RECLAIMED WATER IS REQUIRED TO SUBMIT TO THE DIVISION UNDER C.C.R. SECTIONS 84.9 AND 84.10 OF THIS REGULATION.

**8-12-2: APPROPRIATE USES:**

(A) Reclaimed/NON-POTABLE water will be made available for ~~irrigation~~ ALLOWABLE purposes on commercial/industrial sites, parks, golf courses and ~~large~~-common areas within residential developments, as allowed by the Colorado Department of Public Health and Environment, C.C.R. SECTION 84. ~~that are within 2000 feet of the reclaimed water distribution system.~~ It RECLAIMED WATER will not be available for individual, single-family residential use.

(B) ALL NEW DEVELOPMENTS WILL BE REQUIRED TO SUBMIT AN APPLICATION FOR REVIEW FOR CONNECTION TO THE RECLAIMED/NON-POTABLE WATER SYSTEM. THIS APPLICATION WILL BE SUBMITTED TO THE DEPARTMENT OF PUBLIC WORKS AND UTILITIES AS PART OF THE PRELIMINARY/OFFICIAL DEVELOPMENT PLAN (PDP/ODP) PROCESS. IT SHALL BE AT THE SOLE DISCRETION OF THE CITY MANAGER OR HIS DESIGNEE TO DECIDE IF A NEW DEVELOPMENT WILL UTILIZE RECLAIMED/NON-POTABLE OR POTABLE WATER FOR LANDSCAPE IRRIGATION PRACTICES BASED ON CITY OF WESTMINSTER CRITERIA. THE CRITERIA MAY INCLUDE, BUT NOT BE LIMITED TO;

1. THE AVAILABILITY OF NON-POTABLE OR RECLAIMED WATER DISTRIBUTION /TRANSMISSION LINES IN THE AREA OF THE DEVELOPMENT AND/OR PROJECT.
2. AVAILABILITY OF SUFFICIENT IRRIGATED AREA FOR USE OF NON-POTABLE OR RECLAIMED WATER.
3. CONFORMANCE WITH STATE AND FEDERAL REGULATIONS.

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(C) NO USE OF NON-POTABLE WATER WILL COMMENCE, OR CONNECTION TO THE RECLAIMED/NON-POTABLE SYSTEM BE MADE, WITHOUT THE PRIOR APPROVAL OF THE CITY.

(D) USERS WITH EXISTING IRRIGATION SYSTEMS. WHEN RECLAIMED/NON-POTABLE WATER BECOMES AVAILABLE TO A PROPERTY, THE CITY MANAGER OR HIS DESIGNEE SHALL PROVIDE WRITTEN NOTICE TO THE POTENTIAL CUSTOMER(S) LOCATED ON THAT PROPERTY OF SUCH AVAILABILITY. USERS WITH EXISTING IRRIGATION SYSTEMS USING POTABLE WATER WHO DESIRE TO CONVERT TO NON-POTABLE WATER, MUST APPLY FOR RECLAIMED/NON-POTABLE WATER IN ACCORDANCE WITH THE APPLICATION PROCEDURES SPECIFIED IN THIS ARTICLE. APPROVED USERS MUST DISCONNECT IRRIGATION SYSTEMS FROM THE POTABLE WATER SYSTEM AND CONNECT TO THE NON-POTABLE WATER SYSTEM WITHIN ONE HUNDRED EIGHTY (180) DAYS OF SUCH WRITTEN NOTICE OF APPROVAL.



(E) USERS WITH NEW OR REDEVELOPED IRRIGATION TAPS. ALL NEW IRRIGATION SYSTEMS CONSTRUCTED AFTER THE EFFECTIVE DATE OF THIS ARTICLE AND APPROVED APPLICATION PROCESS MUST CONNECT TO THE RECLAIMED/NON-POTABLE WATER SYSTEM AT CONSTRUCTION, IF NON-POTABLE WATER IS AVAILABLE TO THE PROPERTY AND IF DEEMED REASONABLE BY THE CITY MANAGER OR HIS DESIGNEE. SUCH CONNECTION MUST BE MADE PRIOR TO, OR CONTEMPORANEOUSLY WITH CONNECTION OF OTHER IMPROVEMENTS ON THE PROPERTY TO THE POTABLE WATER SYSTEM. IF RECLAIMED/NON-POTABLE WATER IS NOT AVAILABLE TO A PROPERTY AT THE TIME OF CONSTRUCTION OF AN IRRIGATION SYSTEM BUT IS PLANNED TO BE AVAILABLE IN THE FUTURE, CONSTRUCTION TO RECLAIMED WATER SYSTEM STANDARDS MAY BE REQUIRED. IN SUCH INSTANCES CONNECTION TO THE NON-POTABLE WATER SYSTEM MAY BE REQUIRED WITHIN ONE HUNDRED AND EIGHTY (180) DAYS OF NOTICE OF AVAILABILITY FROM THE CITY. THE CITY MANGER OR HIS DESIGNEE MAY APPROVE TEMPORARY CONNECTIONS TO THE POTABLE SYSTEM. ONCE RECLAIMED/NON-POTABLE WATER BECOMES AVAILABLE THE USER MAY BE REQUIRED TO CONNECT TO THE RECLAIMED NON-POTABLE SYSTEM WITHIN 180 DAYS.

**8-12-3: APPLICABILITY:**

(A) THESE REGULATIONS APPLY TO THE USE OF RECLAIMED/NON-POTABLE WATER FOR LANDSCAPE IRRIGATION, INDUSTRIAL USES, AND COMMERCIAL USES. NO UNAPPROVED USE OF RECLAIMED WATER IS PERMITTED, EXCEPT THAT THESE REGULATIONS DO NOT APPLY TO REUSE OF TREATED WASTEWATER FOR: ON-SITE LANDSCAPE IRRIGATION BY WASTEWATER TREATMENT PLANTS, AGRICULTURAL USE, OR INDUSTRIAL USE OR TO WASTEWATER THAT HAS BEEN TREATED AND RELEASED TO STATE WATERS. THESE REGULATIONS APPLY THE USE OF RECLAIMED WATER FOR INDIVIDUAL TREATERS AND USERS, AS DEFINED BELOW, UPON THE ISSUANCE OF A NOTICE OF AUTHORIZATION BY THE WATER QUALITY CONTROL DIVISION.

(B) THESE REGULATIONS ONLY APPLY TO USERS OF THE CITY'S NON-POTABLE AND RECLAIMED WATER SYSTEMS.

~~8-12-3: TAP PERMIT REQUIRED:~~ **8-12-4: UTILITY PERMIT REQUIRED:**

(A) ~~No reclaimed~~ A RECLAIMED/NON-POTABLE water tap shall NOT be made on any reclaimed /NON-POTABLE water main, either public or private, or any other portion of the waterworks of the city without first securing AN APPROVED UTILITY PERMIT ~~approval therefor~~. The application for a ~~reclaimed water tap~~ RECLAIMED/NON-POTABLE UTILITY permit shall be made in writing upon a form furnished by the city and shall clearly state the tap size, IRRIGATED AREA BY HYDROZONE, address, and person applying for tap and any other information as the city may reasonably require.

(B) Reclaimed/NON-POTABLE service lines and meter vaults may be installed as part of water main construction, if prior WRITTEN approval has been received from the city. The installations of these service lines and meter vaults are subject to inspection and approval by the city and shall be in accordance with adopted city standards and specifications.

(C) Payment of the tap fee when the construction requires a building permit shall be made no earlier than the date ~~upon which a building~~ OF APPROVAL OF BUILDING permit is issued and no later than the date upon which the ~~certificate of occupancy for the property connecting to the city water system~~ WATER METER is ~~issued~~ INSTALLED. Payment of the ~~reclaimed~~ RECLAIMED/NON-POTABLE water tap fee for an irrigation system, or for any other installation or construction not requiring issuance of a building permit, shall be at the time of ~~water tap~~ THE UTILITY permit application. The amount of such fee shall be calculated according to the city's service commitment calculation formulas and the fee schedule in effect at the time payment is made.

(D) For existing facilities, which do not require a certificate of occupancy, and that have an existing irrigation tap or use an existing tap for irrigation purposes, a ~~reclaimed water tap~~ UTILITY permit will be required but will have no additional tap fee charged if the taps are the same size, when the existing potable connection is exchanged for a reclaimed/NON-POTABLE water connection. Prior to A reclaimed/NON-POTABLE water meter being installed, THE existing potable water tap must be abandoned IN ACCORDANCE WITH APPLICABLE CITY STANDARDS AND SPECIFICATIONS.

(E) Where any unit currently having a reclaimed/NON-POTABLE water tap is demolished, and a building permit for reconstruction purposes is issued AND NO CHANGE IN WATER USE IS ANTICIPATED within one year of the date of demolition, no new tap fee shall be required and the new unit shall be regarded as being served by the tap in service prior to demolition of the unit. Failure to satisfy the above criteria shall constitute an abandonment of the reclaimed/NON-POTABLE water tap and the service commitmentS. Any subsequent construction shall be done in conformance with the city code of the City of Westminster. ANY MODIFICATION OF THE IRRIGATED AREA OVER 500 SQUARE FEET FROM THE MOST RECENT OFFICIAL DEVELOPMENT PLAN (ODP) LANDSCAPED AREA TOTALS OR FROM THE EXISTING LANDSCAPE IF NO ODP EXISTS THAT WOULD RESULT IN THE CALCULATED INCREASED REQUIREMENT OF IRRIGATION WATER MAY RESULT IN THE IMPOSITION OF ADDITIONAL IRRIGATION TAP FEES.~~NON-POTABLE WATER USE.~~

(F) Where any ~~unit currently having a reclaimed water tap is vacant~~ RECLAIMED/NON-POTABLE WATER TAP REGISTERS NO USE AND FOR WHICH PAYMENT OF THE MONTHLY METER CHARGE HAS NOT BEEN MADE for more than thirty-six (36) consecutive months, it shall constitute an abandonment of the water tap and service commitmentS and the meter shall be removed by the city. Any subsequent occupation of that unit shall be done in conformance with the city code of the City of Westminster AND SHALL REQUIRE A NEW UTILITY PERMIT APPLICATION AND PAYMENT OF THE APPLICABLE TAP FEE.

#### **8-12-4 8-12-5: TAP FEE CALCULATION:**

- (A) The reclaimed/NON-POTABLE water tap applicant will submit plans:
1. identifying the proposed irrigated area ~~and its~~
  2. THE total square footage/acreage PER WATER USE CATEGORY
  3. PROPOSED LANDSCAPE PLAN AND
  4. AN IRRIGATION PLAN SIGNED BY A PROFESSIONAL IRRIGATION SYSTEM DESIGNER.
  5. FOR SPECIFIC LANDSCAPE AND IRRIGATION SYSTEM REQUIREMENTS REFER TO THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS.
  6. FOR A LISTING OF LANDSCAPE MATERIALS SUITABLE/APPROVED FOR USE IN NON-POTABLE IRRIGATED AREAS CONTACT CITY OF WESTMINSTER WATER RESOURCE STAFF

This information will be used to calculate a projected water demand for the purpose of determining the equivalent RECLAIMED/NON-POTABLE tap size. The applicant shall then pay 80% of the POTABLE WATER TAP fees set forth in 8-7-3, water tap fee, the total of which shall be known as the ~~reclaimed~~ RECLAIMED/NON-POTABLE water tap fee, which shall be paid upon issuance of the ~~tap~~ UTILITY permit or as otherwise required by section 8-12-2.

(B) Provision of materials and work: for all ~~reclaimed~~ RECLAIMED/NON-POTABLE water taps, the applicant shall furnish all labor and work, and all materials as specified ~~by the city except as provided by this paragraph.~~ SEE CITY OF WESTMINSTER UTILITY SPECIFICATIONS FOR DETAILS. The city shall provide the applicant with a list of required materials and approved suppliers, at the time of application.

#### **8-12-5 8-12-6: SPECIFICATIONS:**

(A) The City will specify all materials that the applicant is to furnish pursuant to adopted city standards and specifications. Reclaimed/NON-POTABLE water use will be metered through a single vault for each customer site.

Meter vaults shall be located only within public rights of way, public easements, or city easements. Location and grade shall be subject to approval of the city. Once installed and approved, all reclaimed /NON-POTABLE metering equipment becomes the property of the city.

(B) Authorization to install any tap or meter may be withheld by the city if the applicant IS IN ARREARS FOR ANY CURRENT WATER ACCOUNT FOR THAT PROPERTY, is in violation of any law of the city OR STATE AND FEDERAL REGULATIONS or in default in any agreement with the city. It shall be unlawful to use, or permit to be used, any ~~reclaimed~~ NON-POTABLE water tap installation until the meter has been approved or set by the city, UNLESS SPECIFIC WRITTEN AUTHORIZATION HAS BEEN GRANTED BY THE CITY. ~~Upon approval, the entire meter installation shall become the property of the city.~~

(C) Each reclaimed/NON-POTABLE water tap shall be assigned a service address and billing account in the name of the property owner or manager.

~~(D) Separate irrigation water taps and meters shall be required for all new non-residential developments if the irrigated area exceeds 40,000 square feet of turf, other high water use landscaping, or combination thereof, as determined by the city manager or his designee.~~ ANY MODIFICATION OF THE IRRIGATED AREA OVER 500 SQUARE FEET FROM THE MOST RECENT OFFICIAL DEVELOPMENT PLAN (ODP) LANDSCAPED AREA TOTALS OR FROM THE EXISTING LANDSCAPE IF NO ODP EXISTS THAT WOULD RESULT IN THE CALCULATED INCREASED REQUIREMENT OF IRRIGATION WATER MAY RESULT IN THE IMPOSITION OF ADDITIONAL IRRIGATION TAP FEES

(E) ALL RECLAIMED/NON-POTABLE WATER PIPING AND APPURTENANCES SHALL BE CLEARLY IDENTIFIED AS NON-POTABLE WATER FACILITIES.

1. RECLAIMED/NON-POTABLE WATER SERVICE PIPE AND TUBING SHALL BE PURPLE (PANTONE PURPLE 522C) OR IDENTIFIED WITH A PURPLE STRIPE WITH THE WORDS NON-POTABLE OR RECLAIMED WATER AT 8-INCH INTERVALS. ALL IRRIGATION BOXES, CONTROL VALVES, APPURTENANCES, AND SPRINKLER HEADS SHALL BE CONSTRUCTED OF PURPLE MATERIALS AND LABELED AS NON-POTABLE WATER.
2. COVERS FOR ALL VALVE BOXES, METER AND SERVICE BOXES, AND OTHER BELOW GROUND DEVICES SHALL BE PAINTED PURPLE AND/OR SHALL BE PERMANENTLY EMBOSSED "NON-POTABLE WATER" OR "RECLAIMED WATER."
3. THE PUBLIC SHALL BE NOTIFIED OF THE USE OF RECLAIMED WATER BY POSTING ADVISORY SIGNS DESIGNATING THE NATURE OF THE WATER USE EITHER NON-POTABLE OR RECLAIMED.
  - a. SIGNAGE SHALL BE PLACED, AS APPROPRIATE, AT ENTRANCES TO RESIDENTIAL NEIGHBORHOODS WHERE RECLAIMED/NON-POTABLE WATER IS USED, AND AT PROMINENT LOCATIONS AT ALL COMMERCIAL SITES, INCLUDING MULTI-FAMILY DEVELOPMENTS, OFFICE PARKS, SCHOOLS, CHURCHES, RECREATIONAL DEVELOPMENTS, AND GOLF COURSES.
  - b. NOTIFICATION FOR GOLF COURSES SHALL INCLUDE NOTIFICATION AT ENTRANCE AND THE FIRST AND TENTH TEES AS WELL AS NOTES ON SCORECARDS.
  - c. ADVISORY SIGNS SHALL BE POSTED ADJACENT TO LAKES OR PONDS USED TO STORE RECLAIMED/NON-POTABLE WATER.

(F) CROSS CONNECTION CONTROL. ALL CUSTOMERS RECEIVING RECLAIMED/NON-POTABLE WATER WILL BE REQUIRED TO INSTALL A REDUCED PRESSURE PRINCIPAL TYPE BACKFLOW PREVENTION DEVICE DOWNSTREAM OF THE NON-POTABLE WATER METER. NO CROSS CONNECTION BETWEEN THE NON-POTABLE SYSTEM AND THE POTABLE WATER SYSTEM SHALL BE ALLOWED.

(G) ALL CONSTRUCTION SHALL BE IN COMPLIANCE WITH AMERICAN WATER WORKS ASSOCIATION (AWWA) MANUAL OF WATER SUPPLY PRACTICES FOR DUAL WATER SYSTEMS M-24, AND ALL APPLICABLE CITY SPECIFICATIONS.

**8-12-6 8-12-7: WATER RATE SCHEDULE:**

(A) All ~~reclaimed~~ NON-POTABLE water delivered from the city reclaimed/NON-POTABLE water system shall be metered, and the charge therefore shall be set at 80% of the existing commercial POTABLE water rates as set forth in 8-7-9.

(B) Continuance of customer charges: monthly customer charges shall be assessed in all cases during the irrigation season including where no water is consumed until such time as city personnel are specifically requested to discontinue reclaimed/NON-POTABLE water service at the meter. Monthly customer charges will not be assessed in the months when reclaimed /NON-POTABLE water is not available for delivery from the system.

**8-12-7 8-12-8: COMPUTATION OF RATE:**

(A) The schedule of water rates shall be applied to water used or consumed as determined by the water meter readings that are made by the city, as provided in section 8-12-5.

(B) Reclaimed/NON-POTABLE water meters are to be read to the last full thousand (1,000) gallons counted. Any meter reading containing a portion of one thousand (1,000) gallons shall be rounded down to the nearest one thousand (1,000) gallons.

(C) Tests of reclaimed/NON-POTABLE water meters, by customer request, will be performed at actual cost. This fee will be waived if the meter is over-registering. If the meter is over-registering, the customer will receive a credit for excess charges on the prior twelve (12) months consumption. If city records indicate a meter change or accuracy test during the twelve (12) months, the credit will apply from the date of the meter change or test.

**8-12-8 8-12-9: DELINQUENT PAYMENTS AND SERVICE CHARGES:**

(A) The City shall have all remedies available as described in 8-7-7.

**8-12-9 8-12-10: TAMPERING OR A BYPASS PROHIBITED:**

(A) It shall be unlawful for any person to tamper with any meter or to install or use any bypass or other device whereby water may be drawn from a service pipe without being registered by the meter.

(B) All meters shall be kept in good repair by the city, and shall be and remain the property of the city and under its control. No meter shall be set so that there shall be more than two feet (2') of exposed unmetered service pipe.

**8-12-10 8-12-11: DUTY OF ~~CONSUMER~~ USER:**

(A) All reclaimed/NON-POTABLE water meter vaults shall be placed and maintained so that the vaults are readily accessible to ~~water~~ utility personnel, away from trees and bushes and outside of fences.

(B) No person owning or possessing OR CONTROLLING the property on which a reclaimed/NON-POTABLE water meter vault is located shall obstruct the vault in any manner so that access to the meter is prevented. If such obstruction is not removed within the period of time prescribed in the notice required in subsection (F) below, the owner or possessor shall be deemed to have consented to the city's entry onto the property for the purpose of removing the obstruction and gaining access to the meter. All costs incurred in the removal of the obstruction shall be charged to the water consumer, owner or possessor as prescribed in subsection (G).

(C) No person owning or possessing OR CONTROLLING the property on which a reclaimed/NON-POTABLE water meter pit is located shall fail to maintain landscaping around the meter pit to provide at least three feet (3') of unobstructed access to the meter from the public right of way and at least five feet (5') of vertical clearance above the meter pit.

(D) No person owning or possessing OR CONTROLLING the property on which a reclaimed/NON-POTABLE water meter pit is located shall place a fence in such location that the fence will obstruct access to the meter pit from the public right of way.

(E) No person owning or possessing OR CONTROLLING the property on which a reclaimed/NON-POTABLE water meter pit is located shall fail to assure that landscape materials taller than four inches (4") are no closer than six inches (6") to the meter pit nor shall any such person allow any landscaping material to cover any part of the meter pit lid.

(F) If the City Manager or his designee finds that any person has failed to comply with any of the requirements of subsections ~~(b), (c), (d), (e)~~ (B), (C), (D), (E), of this section, the ~~manager~~ CITY shall notify the ~~reclaimed~~ RECLAIMED/NON-POTABLE water consumer, owner or possessor OR CONTROLLER of the property by hand delivery or certified mail that he shall be required to comply within fifteen (15) days of the date of delivering or mailing the notice.

(G) If the person so notified fails to comply with the requirements of the notice, the ~~manager~~ CITY may cause the work to be done and charge the costs thereof, together with an amount of ~~twenty-five dollars (\$25.00)~~ FIFTY DOLLARS (\$50.00) for administrative costs, to the person so notified. Such costs shall be added to the charges for water service, and failure to pay such cost shall warrant and authorize the city in shutting off the water.

(H) All users of reclaimed water will be required to submit a certification statement signed by the user or legal representative of the user, that it has been provided with a copy of the state regulations and has agreed to comply with the applicable requirements of the regulations, in particular the conditions for application of reclaimed ~~domestic wastewater~~ WATER meeting unrestricted use standards, and to allow access to the site to perform monitoring and analysis, as required by the Colorado Department of Public Health and Environment.

(I) All reclaimed/NON-POTABLE water users will have clearly visible signage posted on the site which calls attention to the fact that ~~reclaimed water is utilized for irrigation~~ THE WATER IS NOT SAFE FOR HUMAN CONSUMPTION. Wording used will be, or similar to, "NON-POTABLE IRRIGATION WATER – DO NOT DRINK." THE SIGNAGE SHALL BE POSTED IN THE DOMINANT LANGUAGE(S) EXPECTED TO BE SPOKEN AT THE SITE.

(J) Irrigation Control. User shall control the use of reclaimed/NON-POTABLE water to those areas indicated in the permit application. THE OWNER, APPLICANT, OR USER IS RESPONSIBLE FOR CONTROLLING OVER SPRAY RUN OFF ON NEW SYSTEMS OR SYSTEMS REQUESTING CONVERSION.

1. Irrigation shall be controlled to minimize ponding and runoff of reclaimed/NON-POTABLE water.
2. Direct and windblown spray shall be confined to the area designated and approved for reclaimed/NON-POTABLE water irrigation, to the extent possible.
3. Precautions shall be taken so that reclaimed/NON-POTABLE water is not sprayed on any facility or area not designated for reclaimed/NON-POTABLE water irrigation, such as passing vehicles, FENCES, buildings, potable water fountains and other dispensers, or food handling areas.
4. ~~the~~ RECLAIMED/NON-POTABLE irrigation systemS shall be configured and secured in a manner that only permits operation by authorized personnel.
5. There shall be no hose bib connections ACCESSIBLE to THE PUBLIC AT any existing or new piping connected to the reclaimed/NON-POTABLE water system.
6. There shall be no spraying of reclaimed/NON-POTABLE water over outdoor drinking water fountains in public areas.
7. There shall be no connection between the potable water supply and any piping containing reclaimed/NON-POTABLE water. Supplementing reclaimed/NON-POTABLE water with potable water shall not be allowed except through an air-gap separation.

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Potable RECLAIMED/NON-POTABLE water supplementation WITH POTABLE WATER is only available for "pond storage" customers with an air-gap separation. For "~~direct to reuse~~" RECLAIMED/NON-POTABLE customers, there shall be no connection whatsoever between a temporary or supplemental system and the reclaimed/NON-POTABLE system, either upstream or downstream of the point of delivery, at any time.

~~(K) general provisions. the following general provisions also apply to the use of reclaimed water for irrigation:~~

- ~~1) 8.~~ Tank trucks and other equipment which are used to distribute reclaimed/NON-POTABLE water ~~should~~ SHALL be clearly identified with warning signs.
- ~~2) 9.~~ Adequate measures shall be taken to prevent the breeding of insects and other vectors of health significance.
- ~~3) 10.~~ FOR ALL NON-POTABLE SYSTEMS, the user shall maintain as-built plans AND PROVIDE A COPY TO THE CITY of the use area showing all buildingS, potable and reclaimed/NON-POTABLE water facilities, the ~~sewage~~ SANITARY WASTEWATER collection system, etc.
- ~~4) 11.~~ Inspection, supervision, and employee training should be provided by the user to assure proper operation of the reclaimed/NON-POTABLE water system IN ACCORDANCE WITH COLORADO DEPARTMENT OF HEALTH AND ENVIRONMENT REGULATIONS.

~~8-12-11~~ **8-12-12: USING WATER FROM ANOTHER CONNECTION PROHIBITED:** It shall be unlawful for any consumer to permit reclaimed/NON-POTABLE water to be taken through his service pipe for the use of any person whose premises are not connected for the use of reclaimed/NON-POTABLE water from the city's mains.

~~8-12-12~~ **8-12-13: CREDIT FOR OVERCHARGE:** The City Finance Director or Finance staff may give credit to any utility customer that has been overcharged. The credit must not exceed the intent of this ordinance.

~~8-12-13~~ **8-12-14: WATER SHORTAGE OR DROUGHT:** In the event of a water shortage or drought emergency that requires the reduction of the use of water from the reclaimed/NON-POTABLE water utility, the City Manager shall have the authority to immediately require and implement mandatory reductions as he deems necessary for the protection of the public as described in section 8-7-24. Such reductions or water restrictions shall be in effect until such time as the City Council or the City Manager removes them. In the event of a prolonged drought or other water shortage emergency that may require water restrictions or limitations for more than fifteen (15) days, the City Council may adopt, by resolution, a long term water conservation plan as described in section 8-7-24.

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~~8-12-14~~ **8-12-15: WATER TAP FEE CREDITS:**

(A) If a parcel of land has an existing water tap in service and the owner proposes to change the irrigation portion of the water use to reclaimed/NON-POTABLE water, ~~than~~ THEN no additional tap fee will be charged for connection to the reclaimed/NON-POTABLE water system.

(B) If any tap is installed and completed without receiving proper inspection and approval by the City, no tap fee credit shall be given.

(C) ABANDONMENT. If a demolition or vacation of a unit results in an abandonment of a ~~reclaimed~~ RECLAIMED/NON-POTABLE water tap, no cash refund shall be granted for any taps released from service, and no tap fee credit shall be granted at the time a new ~~tap~~ UTILITY permit is issued.

**8-12-16: WASTE OF WATER**

(A) WASTE OF WATER IS PROHIBITED. WASTE OF WATER IS DEFINED AS THE INTENTIONAL OR NON-INTENTIONAL USE OF WATER FOR A NON-BENEFICIAL PURPOSE, AND INCLUDES CONTINUOUS APPLICATION OF WATER TO ANY LAWN, TURF, SODDED, OR LANDSCAPED AREA RESULTING IN THE POOLING OR FLOWING OF WATER INTO DRAINAGE OR STORM DRAINAGE FACILITIES, FAILURE TO REPAIR ANY IRRIGATION SYSTEM THAT IS LEAKING, AND THE USE OF HOSES FOR WASHING OF VEHICLES AND OTHER OUTDOOR USES OTHER THAN IRRIGATION, NOT EQUIPPED WITH A SHUTOFF VALVE THAT IS NORMALLY CLOSED AND NECESSITATES HAND PRESSURE ON THE VALVE TO PERMIT THE FLOW OF WATER.

NOTWITHSTANDING THE ENFORCEMENT PROVISIONS SET FORTH IN THIS SECTION, THE CITY MANAGER, OR HIS DESIGNEE, MAY ORDER A SHUT OFF OF THE RECLAIMED/NON-POTABLE WATER SERVICE TO A PROPERTY IF THE CITY MANAGER, OR HIS DESIGNEE, REASONABLY FINDS THAT AN EXTREME WASTE OF WATER IS OCCURRING ON THE PREMISES.

(B) THE DIRECTOR OF PUBLIC WORKS AND UTILITIES IS HEREBY AUTHORIZED TO ENFORCE THIS SECTION. THE PERSON BILLED FOR WATER SERVICE TO A PROPERTY, WHETHER OWNER OR OCCUPANT, SHALL BE RESPONSIBLE FOR COMPLIANCE WITH SECTION (A) AND (B), WITHIN 10 DAYS OF THE VIOLATION NOTICE, UNLESS OTHERWISE SPECIFIED BY THE DIRECTOR OF PUBLIC WORKS AND UTILITIES, AND SHALL BE SUBJECT TO THE FOLLOWING ACTIONS AND PENALTIES:

1. UPON A FIRST VIOLATION, THE PERSON BILLED WILL BE ADVISED IN WRITING OF THE VIOLATION AND ISSUED A WARNING FOR THE VIOLATION. THE WARNING SHALL BE IN EFFECT FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF ISSUE.
2. A SECOND VIOLATION WITHIN A ONE (1) YEAR PERIOD SHALL RESULT IN THE PERSON BILLED BEING ADVISED IN WRITING OF THE VIOLATION AND A CHARGE OF \$50.00 WILL BE ADDED TO THE WATER BILL FOR THE PROPERTY. ADVISEMENT SHALL INCLUDE THE PROCEDURE TO SCHEDULE A HEARING IF REQUESTED.
3. A THIRD OR ADDITIONAL VIOLATION WITHIN A ONE (1) YEAR PERIOD SHALL RESULT IN THE PERSON BILLED BEING ADVISED IN WRITING OF THE VIOLATION AND A CHARGE OF \$100.00 WILL BE ADDED TO THE WATER BILL FOR THE PROPERTY. ADVISEMENT SHALL INCLUDE THE PROCEDURE TO SCHEDULE A HEARING IF REQUESTED. IN ADDITION, THE CITY MANAGER, OR HIS DESIGNEE, MAY ORDER A SUSPENSION OF SERVICE TO THE PROPERTY UNTIL ALL OUTSTANDING FINES ARE PAID. RESTORATION OF SERVICE SHALL OCCUR AS DETAILED IN 8-7-9.
4. UPON ANY NOTICE(S) OF VIOLATION OF THIS SECTION, A COPY OF SUCH NOTICE SHALL ALSO BE MAILED TO THE OWNER(S) OF THE REAL PROPERTY SERVED, IF THE OWNER'S ADDRESS DIFFERS FROM THE SUBJECT PROPERTY ADDRESS.

Deleted: 10

(C) IF A HEARING IS REQUESTED IT SHALL BE SCHEDULED AS SOON AS PRACTICAL BEFORE THE CITY MANAGER OR HIS DESIGNEE.

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 28th day of June, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of July, 2004 AS AMENDED.

ATTEST:

\_\_\_\_\_  
Mayor

City Clerk: \_\_\_\_\_

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, July 14, 2004. . Mayor McNally, Councillors Dittman, Dixon, Hicks, Kauffman, and Price were present at roll call. Absent none.

Nancy McNally was sworn into office as Mayor and Tim Kauffman was selected as Mayor Pro Tem and sworn into office. David Davia was selected to fill the vacancy on City Council.

The minutes of the June 28, 2004 meeting were approved.

Council presented a proclamation to Jenny Siegle, re Ms. Wheelchair Colorado Week in Westminster.

Council approved the following: Grant Application to Adams County Open Space Program for the Metzger Farm; Great Outdoors Colorado Agreement for Metzger Farm Grant; Authorization of City Participation Payment for Clay Street Construction with Liberty Home Building for \$71,631.50; Appointment of Municipal Court Public Defender; 2004 Wastewater Collection System Improvement Program with Farner Enterprises for \$220,342; Huron Street Demolition Contract Change Order with Fiore and Sons for \$58,328.

The following Public Hearings were held: At 7:40 p.m. public meeting regarding the 2005 and 2006 budget; and 7:41 p.m. the public hearing was opened on Telecommunication Towers, Facilities, and Antennas.

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

A BILL FOR AN ORDINANCE REGULATING TELECOMMUNICATION FACILITIES, TOWERS, AND ANTENNAS purpose: providing formal standards for the regulation of telecommunication facilities

A BILL FOR AN ORDINANCE INCREASING THE 2004 BUDGETS OF THE OPEN SPACE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THE FUND purpose: Supplemental Appropriation for Open Space Land Purchases

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

A BILL FOR AN ORDINANCE VACATING A PORTION OF A UTILITY EASEMENT WITHIN LOT 36, BLOCK 10 OF THE APPLE BLOSSOM LANE SUBDIVISION

A BILL FOR AN ORDINANCE ADOPTING THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS, 2004; AND AMENDING TITLE XI, CHAPTER 5, SECTION 12, APPLICATION FORMAT AND CONTENT FOR LANDSCAPE AND IRRIGATION DRAWINGS AND PRIVATE IMPROVEMENTS AGREEMENT; AND AMENDING TITLE XI, CHAPTER 6, SECTION 5 (E), CONSTRUCTION OF IMPROVEMENTS; AND AMENDING TITLE XI, CHAPTER 7, SECTION 5, PROVISIONS FOR THE REQUIREMENT OF LANDSCAPING; AND AMENDING TITLE XI, CHAPTER 12, SECTION 7 (C), LANDSCAPING as amended

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING RECLAIMED/NON-POTABLE WATER REGULATIONS as amended

At 7:49 p.m. the meeting was adjourned

By order of the Westminster City Council  
Michele Kelley, CMC, City Clerk

Published in the Westminster Window on July 22, 2004



SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Hicks-Price**

A BILL

FOR AN ORDINANCE VACATING A PORTION OF A UTILITY EASEMENT WITHIN LOT 36,  
BLOCK 10 OF THE APPLE BLOSSOM LANE SUBDIVISION

WHEREAS, certain easement was dedicated on the final plat for Apple Blossom Lane Subdivision, Book 5, Page 110, Map 156, File 10, and Reception No. 456049 in the County of Adams; and

WHEREAS, this portion of utility easement is not necessary for maintaining the City of Westminster's utility lines; and

WHEREAS, the vacation is necessary since no utility lines were constructed within the utility easement and no utility lines will be constructed within the utility easement in the future.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the portion of utility easement in Sections 2 and 3 hereof.

Section 2. Legal Description of Utility Easements: The southerly 10-feet of Lot 36, Block 10 as platted and recorded on Book 5, Page 110, Map 156, Reception No. 456049, County of Adams, State of Colorado.

Section 3. 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 28<sup>th</sup> day of June, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12<sup>th</sup> day of July, 2004.

SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Dittman-Dixon**

## A BILL

FOR AN ORDINANCE ADOPTING THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS, 2004; AND AMENDING TITLE XI, CHAPTER 5, SECTION 12, APPLICATION FORMAT AND CONTENT FOR LANDSCAPE AND IRRIGATION DRAWINGS AND PRIVATE IMPROVEMENTS AGREEMENT; AND AMENDING TITLE XI, CHAPTER 6, SECTION 5 (E), CONSTRUCTION OF IMPROVEMENTS; AND AMENDING TITLE XI, CHAPTER 7, SECTION 5, PROVISIONS FOR THE REQUIREMENT OF LANDSCAPING; AND AMENDING TITLE XI, CHAPTER 12, SECTION 7 (C), LANDSCAPING.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City of Westminster Landscape Regulations, 2004, are hereby adopted and enforced as if fully set forth in the Westminster Municipal Code. Undeveloped properties with an Official Development Plan approved prior to September 1, 2004 will be allowed to proceed with the landscape and irrigation design requirements in effect prior to September 1, 2004.

Section 2. Title XI, Chapter 5, Section 12, W.M.C. is hereby AMENDED to read as follows:

**11-5-12: APPLICATION FORMAT AND CONTENT FOR LANDSCAPE AND IRRIGATION DRAWINGS AND PRIVATE IMPROVEMENTS AGREEMENT:**

(A) As required ~~in section 11-5-8~~ BY THE CITY OF WESTMINSTER PLAN SUBMITTAL DOCUMENT AND THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS, a landscape AND IRRIGATION planS shall be reviewed and approved ~~in conjunction with the Official Development Plan~~ BY THE CITY. ~~The landscape plan shall be prepared by a qualified landscape architect or other person experienced in landscape design.~~

(B) ~~As determined by the City, redevelopment or change in use projects may be required to submit a landscape plan and irrigation construction drawings.~~ THE FORMAT AND CONTENT FOR LANDSCAPE AND IRRIGATION DRAWINGS AND PRIVATE IMPROVEMENTS AGREEMENT SHALL BE AS SPECIFIED BY THE CITY OF WESTMINSTER PLAN SUBMITTAL DOCUMENT, THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS, AND AS SET FORTH IN THE WESTMINSTER MUNICIPAL CODE.

(C) ~~Final landscape construction drawings in accordance with the approved Official Development Plan shall be submitted prior to beginning construction of any landscape areas.~~ NO CONSTRUCTION OF LANDSCAPE IMPROVEMENTS CAN OCCUR UNTIL THE CITY APPROVES THE LANDSCAPE AND IRRIGATION CONSTRUCTION PLANS, AND THE PRIVATE IMPROVEMENTS AGREEMENT.

(D) ~~The design of the irrigation plan shall be prepared by a qualified landscape architect or other person experienced in irrigation system design, and will be reviewed by the City for general layout only. The professionally developed irrigation drawings shall be submitted at the time of landscape construction drawing submittal and private improvements agreement. The technical details of the irrigation system design and operation shall be the responsibility of the private irrigation consultant, however the irrigation watering time shall not exceed eight (8) hours per day. Tap size(s) required shall be determined within these constraints and shall be subject to approval by the City.~~

~~(E)~~ (D) As-built LANDSCAPE AND irrigation drawings shall be presented BY THE DEVELOPER to the owners/owner's association/HOMEOWNERS ASSOCIATION and the City prior to final acceptance of the project.

(F) ~~Prior to construction, a Private Improvements Agreement for landscaping, fencing and other private improvements shall be submitted to the City by the owner, and shall include the projected costs of improvements. One of the forms of security outlined in section 11-6-4 shall also accompany the public improvements agreement.~~

Section 3. Title XI, Chapter 6, Section 5, subsection (E), W.M.C., is hereby AMENDED to read as follows:

**11-6-5: DESIGN AND CONSTRUCTION OF IMPROVEMENTS:**

**(E) CONSTRUCTION OF IMPROVEMENTS.**

1. No construction of any public improvement shall commence until the City has issued a written notice to proceed.

2. The construction of all public and private improvements in areas of common ownership shall be completed in accordance with the approved construction drawings and specifications, the City of Westminster Standards and Specifications for the Design and Construction of Public Improvements, the City of Westminster Drainage Criteria Manual, THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS, and the City of Westminster Sitework Specifications.

Section 4. Title XI, Chapter 7, Section 5, W.M.C., is hereby AMENDED to read as follows:

**11-7-5: PROVISIONS FOR THE REQUIREMENT OF LANDSCAPING:**

~~(A) Landscaping shall be defined and shall primarily refer to planted, green areas but may also include decorative paving (other than sidewalks and drives), water features, streams and grass channels as approved by the City. ALL PROPERTIES WITHIN THE CITY OF WESTMINSTER ARE REQUIRED TO PROVIDE LANDSCAPING ACCORDING TO THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS AND THE WESTMINSTER MUNICIPAL CODE.~~

~~(B) The City shall have the authority to require landscaping in new development and redevelopment projects according to the City's Landscape Regulations as may be approved from time to time by City Council. When a change in use occurs which involves an Official Development Plan, Amendment to the Official Development Plan, or Official Development Plan Waiver, the site should be brought up to current development standards whenever possible and within reason, as determined by the City. SPECIFIC REGULATIONS PERTAINING TO THE LANDSCAPING OF PROPERTY AS WELL AS THE LONG TERM MAINTENANCE OF LANDSCAPING IS REQUIRED ACCORDING TO THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS AND THE WESTMINSTER MUNICIPAL CODE.~~

~~(C) Enforcement of the landscape required by these regulations and/or as shown on the Official Development Plan PERTAINING TO LANDSCAPING shall be as provided by section 1-8-1 of the Westminster Municipal Code.~~

~~(D) The property owner, OWNERS, OR OWNERS ASSOCIATION is responsible for the installation AND MAINTENANCE of landscaping ON THEIR PROPERTY, PROPERTY HELD IN JOINT OR MULTIPLE OWNERSHIP, AND ADJACENT PUBLIC RIGHT-OF-WAY, UNLESS DETERMINED OTHERWISE BY THE CITY in the right-of-way of all arterial and collector streets abutting their development, and occasionally of local streets. The property owner is also responsible for installation of the landscaping in common areas including detention pond areas.~~

~~(E) The property owner or owners association is responsible for the maintenance of landscaping in the right of way of all arterial and collector streets within or abutting their development, and occasionally of local streets. The owner or owners association is responsible for the maintenance of landscaping in common areas including detention pond areas.~~

~~(F) (E) The property owner, OWNERS, or owners association shall be responsible for the continual adequate maintenance of landscaping required by and shown on the ANY Official Development Plan(s) and site plan(s) accompanying Official Development Plan waivers.~~

~~(G) All landscaping and required buffering shall be continually maintained including irrigation, weeding, pruning and materials replacement, in a substantially similar manner as originally approved. The following survival standards shall apply to all landscaping and required buffering:~~

~~— 1. A minimum of 75 percent of the required landscape area must be covered by living plant material such as ground covers, low growing shrubs or grass within two years after installation and thereafter. Non living groundcovers such as redwood bark, wood chip mulch, boulders, cobble or river rock shall be limited to a small area, not to exceed 25 percent of the landscape area. All non living groundcovers shall be placed over a suitable weed barrier or filter fabric.~~

~~— 2. Non living ground covers, such as rock or mulch, must be 100 percent in tact after one year and 100 percent in tact thereafter.~~

~~— 3. Trees, shrubs, groundcovers and grass must have a 100 percent ongoing survival rate.~~

~~— 4. Any dead or severely damaged (as determined by the City) plant material shall be replaced within 6 months of notification by the City.~~

~~(H) All areas to be seeded, sodded, or otherwise planted in all nonresidential developments and areas of common ownership in residential developments (including right of way areas) shall have soil preparation per City specifications and an automatic sprinkler system.~~

(I) The owner is required to check with the City to determine the proximity of the development to the City's reclaimed water system. Projects within 300' of the system may be required to tie into the system.

~~(J) Trees and shrubs shall not be placed where they will obstruct the visual line of sight on a public right of way. No plants or other landscape items shall block free access to a fire hydrant. All plantings and landscaping shall also be in accordance with all applicable provisions of the City's Uniform Fire and Building Codes.~~

~~(K) At the intersection of a private drive with a public street, and at the intersection of two public streets, vehicular sight triangles shall be designated in order to insure that there are no visibility obstructions for motorists. (See section 8 4 6(B).) Sight triangles shall be shown on all Official Development Plans and shall conform with the City engineering document entitled, "Intersection Sight Distance Criteria." All shrubs, boulders, etc. within the sight triangle must be maintained below a height of thirty inches (30"), and all tree branches in these areas must be pruned to a minimum height of eight feet (8') above the curb. Evergreen trees shall not be placed within the sight triangle.~~

Section 5. Title XI, Chapter 12, Section 7, subsection (C), W.M.C., is hereby AMENDED to read as follows:

#### **11-12-7: SITE MAINTENANCE:**

##### **(C) Landscaping.**

1. ALL LANDSCAPE AREA AND LANDSCAPE MATERIALS SHALL BE MAINTAINED ACCORDING TO THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS AND CITY CODE. All landscape areas shall be landscaped with approved landscaping, including grass, shrubs, and trees. All landscaping areas shall be maintained and all dead or severely damaged plant materials shall be replaced with plant materials as required by the City of Westminster Landscape Regulations. All turf areas shall be maintained so that no grass or weeds exceed six (6) inches in height. ~~Landscape areas are defined as the general landscape area, right of ways and detention or pond areas. Driveways, hardscape parking areas, patios or walks are not included as landscape areas.~~ LANDSCAPE AREA AND LANDSCAPE IMPROVEMENTS/MATERIALS ARE DEFINED IN THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS. LANDSCAPE AREA WILL NOT INCLUDE TREE CANOPY, BARE DIRT, WEEDS, ARTIFICIAL TURF, OR HARDSCAPE IMPROVEMENTS.

2. Within five (5) years of the adoption of this Code, all single-family detached and duplex residential rental properties shall be provided with one (1) tree and three (3) shrubs in the front yard landscape area. AS REQUIRED BY THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS, ~~A~~ a minimum of ~~seventy five (75)~~ FIFTY (50) percent of the front lawn EACH YARD area ADJACENT TO A STREET, OR PUBLIC OR PRIVATE PARK OR OPEN SPACE shall be ~~covered by living plant material such as grass, shrubs, or ground cover~~ LANDSCAPE AREA. REMAINING YARD AREA NOT LANDSCAPE AREA SHALL BE HARDSCAPE AS DEFINED IN THE LANDSCAPE REGULATIONS.

3. Within five (5) years of the adoption of this Code, all single-family attached and multi-family residential rental properties shall be provided with one (1) tree and three (3) shrubs per 1,000 square feet of landscaping area AND A MINIMUM OF THIRTY (30) PERCENT OF THE LOT SHALL BE LANDSCAPE AREA AS DEFINED BY THE LANDSCAPE REGULATIONS. REMAINING YARD AREA NOT LANDSCAPE AREA SHALL BE HARDSCAPE AS DEFINED IN THE LANDSCAPE REGULATIONS, ~~except that p~~ Properties with an existing landscape plan as part of an approved Official Development Plan shall be maintained as required by such plan.

Section 6. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 7. This ordinance shall take effect upon its passage after second reading.

Section 8. 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 28<sup>th</sup> day of June, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12<sup>th</sup> day of July, 2004 AS AMENDED.

SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Dixon-McNally**

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING RECLAIMED/NON-POTABLE WATER REGULATIONS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title VIII, Chapter 12, W.M.C., is hereby AMENDED to read as follows:

**CHAPTER 12 RECLAIMED/NON-POTABLE WATER REGULATIONS**

**8-12-1: DEFINITIONS:** For the purpose of this chapter certain words and terms used herein are defined as follows:

~~(A) CONSUMER: any person, city facility, firm or corporation receiving water from the city reclaimed waterworks.~~

~~(B)~~ (A) MAINS: the main pipes and connections forming a part of the city ~~reclaimed~~ RECLAIMED/NON-POTABLE waterworks.

~~(C)~~ (B) METER: the device, appropriate to the premise served, installed to measure the amount of water passing through it, with an accuracy of between ninety five percent (95%) and one hundred one percent (101%) of actual quantities delivered. ~~the term shall also include detector devices for water passing through fire service lines.~~

~~(D)~~ (C) METER SERVICE CHARGE: the fee for maintaining the meter, reading the meter, periodically billing the account, and processing payments.

(D) RECLAIMED/NON-POTABLE WATER: WATER USED FOR PURPOSES OTHER THAN HUMAN CONSUMPTION THAT IS NOT TREATED TO POTABLE WATER STANDARDS. THIS INCLUDES WATER FROM DITCHES, LAKES, PONDS, OR THE RECLAIMED TREATMENT SYSTEM.

(E) RECLAIMED WATER: that water, which originates from the city's reclaimed water treatment facility and is distributed through the reclaimed water distribution system for the express purpose of non-potable uses.

(F) SERVICE COMMITMENT: the average ANNUAL water service provided to one single family detached dwelling unit (CURRENTLY 140,000 GALS./YR.).

(G) SERVICE PIPE: a branch pipe with its fittings and connections through which water is taken.

(H) STREET: any street, avenue, alley, lane or other thoroughfare.

(I) TAP: an opening or connection in the mains through which water is taken.

(J) USER: the owner of the property upon which the ~~reclaimed~~ NON-POTABLE water is to be utilized.

(K) HIGH WATER LANDSCAPE: LANDSCAPE THAT REQUIRES GREATER THAN 9 GALLONS PER SQUARE FOOT ANNUALLY.

(L) LOW WATER LANDSCAPE: LANDSCAPE THAT REQUIRES 9 GALLONS OF WATER PER SQUARE FOOT OR LESS ANNUALLY AND IS WATERED USING WATER SAVING IRRIGATION TECHNOLOGIES SUCH AS DRIP, MICRO SPRAY, OR SUBSURFACE.

(M) AGRONOMIC RATE MEANS THE RATE OF APPLICATION OF NUTRIENTS TO PLANTS THAT IS NECESSARY TO SATISFY THE PLANTS' NUTRITIONAL REQUIREMENTS WHILE STRICTLY MINIMIZING THE AMOUNT OF NUTRIENTS THAT RUN OFF TO SURFACE WATERS OR WHICH PASS BELOW THE ROOT ZONE OF THE PLANTS.

(N) COMMERCIAL USER MEANS A PERSON WHO USES NON-POTABLE WATER IN THE OPERATION OF A BUSINESS. PATRONIZED BY THE PUBLIC, OR WHO PROVIDES SERVICES TO THE PUBLIC.

(O) DIRECT REUSE MEANS THE USE OF RECLAIMED DOMESTIC WASTEWATER, WHICH, AFTER TREATMENT, HAS NOT BEEN DISCHARGED INTO WATERS OF THE STATE.

(P) INDUSTRIAL USER MEANS A PERSON WHO USES RECLAIMED WATER FOR INDUSTRIAL PROCESSES OR IN THE CONSTRUCTION PROCESS.

(Q) IRRIGATION SYSTEM MEANS THE FACILITIES, PIPING AND OTHER EQUIPMENT USED BY A LANDSCAPE IRRIGATION USER.

(R) LANDSCAPE IRRIGATION MEANS IRRIGATION OF AREAS OF GRASS, TREES, AND OTHER VEGETATION THAT ARE ACCESSIBLE TO THE PUBLIC INCLUDING BUT NOT LIMITED TO PARKS, GREENBELTS, GOLF COURSES, AND COMMON AREAS AT APARTMENT, TOWNHOUSE, COMMERCIAL/BUSINESS PARKS, AND OTHER SIMILAR COMPLEXES.

(S) LANDSCAPE IRRIGATION USER MEANS A PERSON WHO USES NON-POTABLE WATER FOR THE PURPOSE OF LANDSCAPE IRRIGATION.

(T) PERSON MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, STATE OR POLITICAL SUBDIVISION THEREOF, FEDERAL AGENCY, STATE AGENCY, MUNICIPALITY, COMMISSION, OR INTERSTATE BODY.

(U) POINT OF COMPLIANCE MEANS A POINT IDENTIFIED BY THE TREATER IN THE NON-POTABLE WATER TREATMENT OR TRANSMISSION SYSTEM AFTER ALL TREATMENT HAS BEEN COMPLETED PRIOR TO DILUTION AND BLENDING.

(V) RECLAIMED WATER IS WASTEWATER THAT HAS RECEIVED SECONDARY TREATMENT BY A DOMESTIC WASTEWATER TREATMENT FACILITY AND SUCH ADDITIONAL TREATMENT TO ENABLE THE WASTEWATER TO MEET THE STANDARDS FOR APPROVED USES, EITHER RESTRICTED OR UNRESTRICTED USE.

(W) RESTRICTED ACCESS MEANS CONTROLLED AND LIMITED ACCESS TO THE AREAS WHERE RECLAIMED WATER IS BEING USED AND MEETS THE CATEGORY 1 STANDARDS AS DEFINED IN THE COLORADO CODE OF REGULATIONS ("C.C.R.") SECTION 84.7. RESTRICTED USE MEANS LANDSCAPE IRRIGATION WITH RECLAIMED DOMESTIC WASTEWATER THAT MEETS THE REQUIREMENTS OF C.C.R. SUBSECTIONS 84.6.B., 84.7, AND 84.8.

(X) TRANSMISSION SYSTEM MEANS THE TREATER'S FACILITIES THAT TRANSPORT TREATED NON-POTABLE WATER BETWEEN THE TREATER AND USERS.

(Y) TREATER MEANS A PERSON WHO TREATS AND PROVIDES RECLAIMED WATER TO AN APPLICATOR/USER FOR THE PURPOSE OF LANDSCAPE IRRIGATION, COMMERCIAL OR INDUSTRIAL USE. THE TREATER AND THE APPLICATOR/USER MAY BE THE SAME ENTITY.

(Z) UNRESTRICTED ACCESS MEANS UNCONTROLLED ACCESS TO THE AREAS WHERE RECLAIMED WATER IS BEING USED AND MEETS THE CATEGORY 2 STANDARDS AS DEFINED IN C.C.R. SECTION 84.7. UNRESTRICTED USE MEANS LANDSCAPE IRRIGATION WITH RECLAIMED DOMESTIC WASTEWATER THAT MEETS THE REQUIREMENTS OF C.C.R. SUBSECTIONS 84.6.A AND 84.7.

(AA) USER MEANS A PERSON, WHO USES RECLAIMED/NON-POTABLE WATER FOR LANDSCAPE IRRIGATION, COMMERCIAL, OR INDUSTRIAL USES.

(BB) USER PLAN TO COMPLY MEANS THE INFORMATION AND DOCUMENTATION A USER OF RECLAIMED WATER IS REQUIRED TO SUBMIT TO THE DIVISION UNDER C.C.R. SECTIONS 84.9 AND 84.10 OF THIS REGULATION.

#### **8-12-2: APPROPRIATE USES:**

(A) Reclaimed/NON-POTABLE water will be made available for ~~irrigation~~ ALLOWABLE purposes on commercial/industrial sites, parks, golf courses and ~~large~~-common areas within residential developments, as allowed by the Colorado Department of Public Health and Environment, C.C.R. SECTION 84. ~~that are within 2000 feet of the reclaimed water distribution system.~~ ~~It~~ RECLAIMED WATER will not be available for individual, single-family residential use.

(B) ALL NEW DEVELOPMENTS WILL BE REQUIRED TO SUBMIT AN APPLICATION FOR REVIEW FOR CONNECTION TO THE RECLAIMED/NON-POTABLE WATER SYSTEM. THIS APPLICATION WILL BE SUBMITTED TO THE DEPARTMENT OF PUBLIC WORKS AND UTILITIES AS PART OF THE PRELIMINARY/OFFICIAL DEVELOPMENT PLAN (PDP/ODP) PROCESS. IT SHALL BE AT THE SOLE DISCRETION OF THE CITY MANAGER OR HIS DESIGNEE TO DECIDE IF A NEW DEVELOPMENT WILL UTILIZE RECLAIMED/NON-POTABLE OR POTABLE WATER FOR LANDSCAPE IRRIGATION PRACTICES BASED ON CITY OF WESTMINSTER CRITERIA. THE CRITERIA MAY INCLUDE, BUT NOT BE LIMITED TO;

1. THE AVAILABILITY OF NON-POTABLE OR RECLAIMED WATER DISTRIBUTION /TRANSMISSION LINES IN THE AREA OF THE DEVELOPMENT AND/OR PROJECT,
2. AVAILABILITY OF SUFFICIENT IRRIGATED AREA FOR USE OF NON-POTABLE OR RECLAIMED WATER.
3. CONFORMANCE WITH STATE AND FEDERAL REGULATIONS.

(C) NO USE OF NON-POTABLE WATER WILL COMMENCE, OR CONNECTION TO THE RECLAIMED/NON-POTABLE SYSTEM BE MADE, WITHOUT THE PRIOR APPROVAL OF THE CITY.

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(D) USERS WITH EXISTING IRRIGATION SYSTEMS. WHEN RECLAIMED/NON-POTABLE WATER BECOMES AVAILABLE TO A PROPERTY, THE CITY MANAGER OR HIS DESIGNEE SHALL PROVIDE WRITTEN NOTICE TO THE POTENTIAL CUSTOMER(S) LOCATED ON THAT PROPERTY OF SUCH AVAILABILITY. USERS WITH EXISTING IRRIGATION SYSTEMS USING POTABLE WATER WHO DESIRE TO CONVERT TO NON-POTABLE WATER, MUST APPLY FOR RECLAIMED/NON-POTABLE WATER IN ACCORDANCE WITH THE APPLICATION PROCEDURES SPECIFIED IN THIS ARTICLE. APPROVED USERS MUST DISCONNECT IRRIGATION SYSTEMS FROM THE POTABLE WATER SYSTEM AND CONNECT TO THE NON-POTABLE WATER SYSTEM WITHIN ONE HUNDRED EIGHTY (180) DAYS OF SUCH WRITTEN NOTICE OF APPROVAL.

(E) USERS WITH NEW OR REDEVELOPED IRRIGATION TAPS. ALL NEW IRRIGATION SYSTEMS CONSTRUCTED AFTER THE EFFECTIVE DATE OF THIS ARTICLE AND APPROVED APPLICATION PROCESS MUST CONNECT TO THE RECLAIMED/NON-POTABLE WATER SYSTEM AT CONSTRUCTION, IF NON-POTABLE WATER IS AVAILABLE TO THE PROPERTY AND IF DEEMED REASONABLE BY THE CITY MANAGER OR HIS DESIGNEE. SUCH CONNECTION MUST BE MADE PRIOR TO, OR CONTEMPORANEOUSLY WITH CONNECTION OF OTHER IMPROVEMENTS ON THE PROPERTY TO THE POTABLE WATER SYSTEM. IF RECLAIMED/NON-POTABLE WATER IS NOT AVAILABLE TO A PROPERTY AT THE TIME OF CONSTRUCTION OF AN IRRIGATION SYSTEM BUT IS PLANNED TO BE AVAILABLE IN THE FUTURE, CONSTRUCTION TO RECLAIMED WATER SYSTEM STANDARDS MAY BE REQUIRED. IN SUCH INSTANCES CONNECTION TO THE NON-POTABLE WATER SYSTEM MAY BE REQUIRED WITHIN ONE HUNDRED AND EIGHTY (180) DAYS OF NOTICE OF AVAILABILITY FROM THE CITY. THE CITY MANGER OR HIS DESIGNEE MAY APPROVE TEMPORARY CONNECTIONS TO THE POTABLE SYSTEM. ONCE RECLAIMED/NON-POTABLE WATER BECOMES AVAILABLE THE USER MAY BE REQUIRED TO CONNECT TO THE RECLAIMED NON-POTABLE SYSTEM WITHIN 180 DAYS.

**8-12-3: APPLICABILITY:**

(A) THESE REGULATIONS APPLY TO THE USE OF RECLAIMED/NON-POTABLE WATER FOR LANDSCAPE IRRIGATION, INDUSTRIAL USES, AND COMMERCIAL USES. NO UNAPPROVED USE OF RECLAIMED WATER IS PERMITTED, EXCEPT THAT THESE REGULATIONS DO NOT APPLY TO REUSE OF TREATED WASTEWATER FOR: ON-SITE LANDSCAPE IRRIGATION BY WASTEWATER TREATMENT PLANTS, AGRICULTURAL USE, OR INDUSTRIAL USE OR TO WASTEWATER THAT HAS BEEN TREATED AND RELEASED TO STATE WATERS. THESE REGULATIONS APPLY THE USE OF RECLAIMED WATER FOR INDIVIDUAL TREATERS AND USERS, AS DEFINED BELOW, UPON THE ISSUANCE OF A NOTICE OF AUTHORIZATION BY THE WATER QUALITY CONTROL DIVISION.

(B) THESE REGULATIONS ONLY APPLY TO USERS OF THE CITY'S NON-POTABLE AND RECLAIMED WATER SYSTEMS.

~~8-12-3: TAP PERMIT REQUIRED:~~ **8-12-4: UTILITY PERMIT REQUIRED:**

(A) ~~No reclaimed~~ A RECLAIMED/NON-POTABLE water tap shall NOT be made on any reclaimed /NON-POTABLE water main, either public or private, or any other portion of the waterworks of the city without first securing AN APPROVED UTILITY PERMIT approval therefor. The application for a ~~reclaimed water tap~~ RECLAIMED/NON-POTABLE UTILITY permit shall be made in writing upon a form furnished by the city and shall clearly state the tap size, IRRIGATED AREA BY HYDROZONE, address, and person applying for tap and any other information as the city may reasonably require.

(B) Reclaimed/NON-POTABLE service lines and meter vaults may be installed as part of water main construction, if prior WRITTEN approval has been received from the city. The installations of these service lines and meter vaults are subject to inspection and approval by the city and shall be in accordance with adopted city standards and specifications.

(C) Payment of the tap fee when the construction requires a building permit shall be made no earlier than the date upon which a building OF APPROVAL OF BUILDING permit is issued and no later than the date upon which the ~~certificate of occupancy for the property connecting to the city water system~~ WATER METER is issued INSTALLED. Payment of the ~~reclaimed~~ RECLAIMED/NON-POTABLE water tap fee for an irrigation system, or for any other installation or construction not requiring issuance of a building permit, shall be at the time of ~~water tap~~ THE UTILITY permit application. The amount of such fee shall be calculated

according to the city's service commitment calculation formulas and the fee schedule in effect at the time payment is made.

(D) For existing facilities, which do not require a certificate of occupancy, and that have an existing irrigation tap or use an existing tap for irrigation purposes, a ~~reclaimed water tap~~ UTILITY permit will be required but will have no additional tap fee charged if the taps are the same size, when the existing potable connection is exchanged for a reclaimed/NON-POTABLE water connection. Prior to A reclaimed/NON-POTABLE water meter being installed, THE existing potable water tap must be abandoned IN ACCORDANCE WITH APPLICABLE CITY STANDARDS AND SPECIFICATIONS.

(E) Where any unit currently having a reclaimed/NON-POTABLE water tap is demolished, and a building permit for reconstruction purposes is issued AND NO CHANGE IN WATER USE IS ANTICIPATED within one year of the date of demolition, no new tap fee shall be required and the new unit shall be regarded as being served by the tap in service prior to demolition of the unit. Failure to satisfy the above criteria shall constitute an abandonment of the reclaimed/NON-POTABLE water tap and the service commitmentS. Any subsequent construction shall be done in conformance with the city code of the City of Westminster. ANY MODIFICATION OF THE IRRIGATED AREA OVER 500 SQUARE FEET FROM THE MOST RECENT OFFICIAL DEVELOPMENT PLAN (ODP) LANDSCAPED AREA TOTALS OR FROM THE EXISTING LANDSCAPE IF NO ODP EXISTS THAT WOULD RESULT IN THE CALCULATED INCREASED REQUIREMENT OF IRRIGATION WATER MAY RESULT IN THE IMPOSITION OF ADDITIONAL IRRIGATION TAP FEES.~~NON-POTABLE WATER USE.~~

(F) Where any ~~unit currently having a reclaimed water tap is vacant~~ RECLAIMED/NON-POTABLE WATER TAP REGISTERS NO USE AND FOR WHICH PAYMENT OF THE MONTHLY METER CHARGE HAS NOT BEEN MADE for more than thirty-six (36) consecutive months, it shall constitute an abandonment of the water tap and service commitmentS and the meter shall be removed by the city. Any subsequent occupation of that unit shall be done in conformance with the city code of the City of Westminster AND SHALL REQUIRE A NEW UTILITY PERMIT APPLICATION AND PAYMENT OF THE APPLICABLE TAP FEE.

#### **8-12-4 8-12-5: TAP FEE CALCULATION:**

(A) The reclaimed/NON-POTABLE water tap applicant will submit plans:

1. identifying the proposed irrigated area ~~and its~~
2. THE total square footage/acreage PER WATER USE CATEGORY
3. PROPOSED LANDSCAPE PLAN AND
4. AN IRRIGATION PLAN SIGNED BY A PROFESSIONAL IRRIGATION SYSTEM DESIGNER.
5. FOR SPECIFIC LANDSCAPE AND IRRIGATION SYSTEM REQUIREMENTS REFER TO THE CITY OF WESTMINSTER LANDSCAPE REGULATIONS.
6. FOR A LISTING OF LANDSCAPE MATERIALS SUITABLE/APPROVED FOR USE IN NON-POTABLE IRRIGATED AREAS CONTACT CITY OF WESTMINSTER WATER RESOURCE STAFF

This information will be used to calculate a projected water demand for the purpose of determining the equivalent RECLAIMED/NON-POTABLE tap size. The applicant shall then pay 80% of the POTABLE WATER TAP fees set forth in 8-7-3, water tap fee, the total of which shall be known as the ~~reclaimed~~ RECLAIMED/NON-POTABLE water tap fee, which shall be paid upon issuance of the ~~tap~~ UTILITY permit or as otherwise required by section 8-12-2.

(B) Provision of materials and work: for all ~~reclaimed~~ RECLAIMED/NON-POTABLE water taps, the applicant shall furnish all labor and work, and all materials as specified ~~by the city except as provided by this paragraph.~~ SEE CITY OF WESTMINSTER UTILITY SPECIFICATIONS FOR DETAILS. The city shall provide the applicant with a list of required materials and approved suppliers, at the time of application.

#### **8-12-5 8-12-6: SPECIFICATIONS:**

(A) The City will specify all materials that the applicant is to furnish pursuant to adopted city standards and specifications. Reclaimed/NON-POTABLE water use will be metered through a single vault for each customer site. Meter vaults shall be located only within public rights of way, public easements, or city easements. Location and grade shall be subject to approval of the city. Once installed and approved, all reclaimed /NON-POTABLE metering equipment becomes the property of the city.



(B) Authorization to install any tap or meter may be withheld by the city if the applicant IS IN ARREARS FOR ANY CURRENT WATER ACCOUNT FOR THAT PROPERTY, is in violation of any law of the city OR STATE AND FEDERAL REGULATIONS or in default in any agreement with the city. It shall be unlawful to use, or permit to be used, any ~~reclaimed~~ NON-POTABLE water tap installation until the meter has been approved or set by the city, UNLESS SPECIFIC WRITTEN AUTHORIZATION HAS BEEN GRANTED BY THE CITY. ~~Upon approval, the entire meter installation shall become the property of the city.~~

(C) Each reclaimed/NON-POTABLE water tap shall be assigned a service address and billing account in the name of the property owner or manager.

(D) Separate irrigation water taps and meters shall be required for all new non-residential developments if the irrigated area exceeds 40,000 square feet of turf, other high water use landscaping, or combination thereof, as determined by the city manager or his designee. ANY MODIFICATION OF THE IRRIGATED AREA OVER 500 SQUARE FEET FROM THE MOST RECENT OFFICIAL DEVELOPMENT PLAN (ODP) LANDSCAPED AREA TOTALS OR FROM THE EXISTING LANDSCAPE IF NO ODP EXISTS THAT WOULD RESULT IN THE CALCULATED INCREASED REQUIREMENT OF IRRIGATION WATER MAY RESULT IN THE IMPOSITION OF ADDITIONAL IRRIGATION TAP FEES

(E) ALL RECLAIMED/NON-POTABLE WATER PIPING AND APPURTENANCES SHALL BE CLEARLY IDENTIFIED AS NON-POTABLE WATER FACILITIES.

1. RECLAIMED/NON-POTABLE WATER SERVICE PIPE AND TUBING SHALL BE PURPLE (PANTONE PURPLE 522C) OR IDENTIFIED WITH A PURPLE STRIPE WITH THE WORDS NON-POTABLE OR RECLAIMED WATER AT 8-INCH INTERVALS. ALL IRRIGATION BOXES, CONTROL VALVES, APPURTENANCES, AND SPRINKLER HEADS SHALL BE CONSTRUCTED OF PURPLE MATERIALS AND LABELED AS NON-POTABLE WATER.

2. COVERS FOR ALL VALVE BOXES, METER AND SERVICE BOXES, AND OTHER BELOW GROUND DEVICES SHALL BE PAINTED PURPLE AND/OR SHALL BE PERMANENTLY EMBOSSED "NON-POTABLE WATER" OR "RECLAIMED WATER."

3. THE PUBLIC SHALL BE NOTIFIED OF THE USE OF RECLAIMED WATER BY POSTING ADVISORY SIGNS DESIGNATING THE NATURE OF THE WATER USE EITHER NON-POTABLE OR RECLAIMED.

a. SIGNAGE SHALL BE PLACED, AS APPROPRIATE, AT ENTRANCES TO RESIDENTIAL NEIGHBORHOODS WHERE RECLAIMED/NON-POTABLE WATER IS USED, AND AT PROMINENT LOCATIONS AT ALL COMMERCIAL SITES, INCLUDING MULTI-FAMILY DEVELOPMENTS, OFFICE PARKS, SCHOOLS, CHURCHES, RECREATIONAL DEVELOPMENTS, AND GOLF COURSES.

b. NOTIFICATION FOR GOLF COURSES SHALL INCLUDE NOTIFICATION AT ENTRANCE AND THE FIRST AND TENTH TEES AS WELL AS NOTES ON SCORECARDS.

c. ADVISORY SIGNS SHALL BE POSTED ADJACENT TO LAKES OR PONDS USED TO STORE RECLAIMED/NON-POTABLE WATER.

(F) CROSS CONNECTION CONTROL. ALL CUSTOMERS RECEIVING RECLAIMED/NON-POTABLE WATER WILL BE REQUIRED TO INSTALL A REDUCED PRESSURE PRINCIPAL TYPE BACKFLOW PREVENTION DEVICE DOWNSTREAM OF THE NON-POTABLE WATER METER. NO CROSS CONNECTION BETWEEN THE NON-POTABLE SYSTEM AND THE POTABLE WATER SYSTEM SHALL BE ALLOWED.

(G) ALL CONSTRUCTION SHALL BE IN COMPLIANCE WITH AMERICAN WATER WORKS ASSOCIATION (AWWA) MANUAL OF WATER SUPPLY PRACTICES FOR DUAL WATER SYSTEMS M-24, AND ALL APPLICABLE CITY SPECIFICATIONS.

#### **~~8-12-6~~ 8-12-7: WATER RATE SCHEDULE:**

(A) All ~~reclaimed~~ NON-POTABLE water delivered from the city reclaimed/NON-POTABLE water system shall be metered, and the charge therefore shall be set at 80% of the existing commercial POTABLE water rates as set forth in 8-7-9.

(B) Continuance of customer charges: monthly customer charges shall be assessed in all cases during the irrigation season including where no water is consumed until such time as city personnel are specifically

requested to discontinue reclaimed/NON-POTABLE water service at the meter. Monthly customer charges will not be assessed in the months when reclaimed /NON-POTABLE water is not available for delivery from the system.

**~~8-12-7~~ 8-12-8: COMPUTATION OF RATE:**

(A) The schedule of water rates shall be applied to water used or consumed as determined by the water meter readings that are made by the city, as provided in section 8-12-5.

(B) Reclaimed/NON-POTABLE water meters are to be read to the last full thousand (1,000) gallons counted. Any meter reading containing a portion of one thousand (1,000) gallons shall be rounded down to the nearest one thousand (1,000) gallons.

(C) Tests of reclaimed/NON-POTABLE water meters, by customer request, will be performed at actual cost. This fee will be waived if the meter is over-registering. If the meter is over-registering, the customer will receive a credit for excess charges on the prior twelve (12) months consumption. If city records indicate a meter change or accuracy test during the twelve (12) months, the credit will apply from the date of the meter change or test.

**~~8-12-8~~ 8-12-9: DELINQUENT PAYMENTS AND SERVICE CHARGES:**

(A) The City shall have all remedies available as described in 8-7-7.

**~~8-12-9~~ 8-12-10: TAMPERING OR A BYPASS PROHIBITED:**

(A) It shall be unlawful for any person to tamper with any meter or to install or use any bypass or other device whereby water may be drawn from a service pipe without being registered by the meter.

(B) All meters shall be kept in good repair by the city, and shall be and remain the property of the city and under its control. No meter shall be set so that there shall be more than two feet (2') of exposed unmetered service pipe.

**~~8-12-10~~ 8-12-11: DUTY OF CONSUMER USER:**

(A) All reclaimed/NON-POTABLE water meter vaults shall be placed and maintained so that the vaults are readily accessible to ~~water~~ utility personnel, away from trees and bushes and outside of fences.

(B) No person owning or possessing OR CONTROLLING the property on which a reclaimed/NON-POTABLE water meter vault is located shall obstruct the vault in any manner so that access to the meter is prevented. If such obstruction is not removed within the period of time prescribed in the notice required in subsection (F) below, the owner or possessor shall be deemed to have consented to the city's entry onto the property for the purpose of removing the obstruction and gaining access to the meter. All costs incurred in the removal of the obstruction shall be charged to the water consumer, owner or possessor as prescribed in subsection (G).

(C) No person owning or possessing OR CONTROLLING the property on which a reclaimed/NON-POTABLE water meter pit is located shall fail to maintain landscaping around the meter pit to provide at least three feet (3') of unobstructed access to the meter from the public right of way and at least five feet (5') of vertical clearance above the meter pit.

(D) No person owning or possessing OR CONTROLLING the property on which a reclaimed/NON-POTABLE water meter pit is located shall place a fence in such location that the fence will obstruct access to the meter pit from the public right of way.

(E) No person owning or possessing OR CONTROLLING the property on which a reclaimed/NON-POTABLE water meter pit is located shall fail to assure that landscape materials taller than four inches (4") are no closer than six inches (6") to the meter pit nor shall any such person allow any landscaping material to cover any part of the meter pit lid.

(F) If the City Manager or his designee finds that any person has failed to comply with any of the requirements of subsections ~~(b), (c), (d), (e)~~ (B), (C), (D), (E), of this section, the ~~manager~~ CITY shall notify the ~~reclaimed~~ RECLAIMED/NON-POTABLE water consumer, owner or possessor OR CONTROLLER of the property by hand delivery or certified mail that he shall be required to comply within fifteen (15) days of the date of delivering or mailing the notice.

(G) If the person so notified fails to comply with the requirements of the notice, the ~~manager~~ CITY may cause the work to be done and charge the costs thereof, together with an amount of ~~twenty five dollars (\$25.00)~~ FIFTY DOLLARS (\$50.00) for administrative costs, to the person so notified. Such costs shall be added to the charges for water service, and failure to pay such cost shall warrant and authorize the city in shutting off the water.

(H) All users of reclaimed water will be required to submit a certification statement signed by the user or legal representative of the user, that it has been provided with a copy of the state regulations and has agreed to comply with the applicable requirements of the regulations, in particular the conditions for application of reclaimed ~~domestic wastewater~~ WATER meeting unrestricted use standards, and to allow access to the site to perform monitoring and analysis, as required by the Colorado Department of Public Health and Environment.

(I) All reclaimed/NON-POTABLE water users will have clearly visible signage posted on the site which calls attention to the fact that ~~reclaimed water is utilized for irrigation~~ THE WATER IS NOT SAFE FOR HUMAN CONSUMPTION. Wording used will be, or similar to, "NON-POTABLE ~~IRRIGATION~~ WATER – DO NOT DRINK." THE SIGNAGE SHALL BE POSTED IN THE DOMINANT LANGUAGE(S) EXPECTED TO BE SPOKEN AT THE SITE.

(J) Irrigation Control. User shall control the use of reclaimed/NON-POTABLE water to those areas indicated in the permit application. THE OWNER, APPLICANT, OR USER IS RESPONSIBLE FOR CONTROLLING OVER SPRAY RUN OFF ON NEW SYSTEMS OR SYSTEMS REQUESTING CONVERSION.

1. Irrigation shall be controlled to minimize ponding and runoff of reclaimed/NON-POTABLE water.
2. Direct and windblown spray shall be confined to the area designated and approved for reclaimed/NON-POTABLE water irrigation, to the extent possible.
3. Precautions shall be taken so that reclaimed/NON-POTABLE water is not sprayed on any facility or area not designated for reclaimed/NON-POTABLE water irrigation, such as passing vehicles, FENCES, buildings, potable water fountains and other dispensers, or food handling areas.
4. ~~the~~ RECLAIMED/NON-POTABLE irrigation systemS shall be configured and secured in a manner that only permits operation by authorized personnel.
5. There shall be no hose bib connections ACCESSIBLE to THE PUBLIC AT any existing or new piping connected to the reclaimed/NON-POTABLE water system.
6. There shall be no spraying of reclaimed/NON-POTABLE water over outdoor drinking water fountains in public areas.
7. There shall be no connection between the potable water supply and any piping containing reclaimed/NON-POTABLE water. Supplementing reclaimed/NON-POTABLE water with potable water shall not be allowed except through an air-gap separation. ~~Potable~~ RECLAIMED/NON-POTABLE water supplementation WITH POTABLE WATER is only available for "pond storage" customers with an air-gap separation. For "~~direct to reuse~~" RECLAIMED/NON-POTABLE customers, there shall be no connection whatsoever between a temporary or supplemental system and the reclaimed/NON-POTABLE system, either upstream or downstream of the point of delivery, at any time.

~~(K) general provisions. the following general provisions also apply to the use of reclaimed water for irrigation:~~

- ~~1)8.~~ Tank trucks and other equipment which are used to distribute reclaimed/NON-POTABLE water ~~should~~ SHALL be clearly identified with warning signs.
- ~~2)9.~~ Adequate measures shall be taken to prevent the breeding of insects and other vectors of health significance.
- ~~3)10.~~ FOR ALL NON-POTABLE SYSTEMS, the user shall maintain as-built plans AND PROVIDE A COPY TO THE CITY of the use area showing all buildingS, potable and reclaimed/NON-POTABLE water facilities, the ~~sewage~~ SANITARY WASTEWATER collection system, etc.
- ~~4)11.~~ Inspection, supervision, and employee training should be provided by the user to assure proper operation of the reclaimed/NON-POTABLE water system IN ACCORDANCE WITH COLORADO DEPARTMENT OF HEALTH AND ENVIRONMENT REGULATIONS.

~~8-12-11~~ **8-12-12: USING WATER FROM ANOTHER CONNECTION PROHIBITED:** It shall be unlawful for any consumer to permit reclaimed/NON-POTABLE water to be taken through his service pipe for the use of any person whose premises are not connected for the use of reclaimed/NON-POTABLE water from the city's mains.

~~8-12-12~~ **8-12-13: CREDIT FOR OVERCHARGE:** The City Finance Director or Finance staff may give credit to any utility customer that has been overcharged. The credit must not exceed the intent of this ordinance.

**8-12-13 8-12-14: WATER SHORTAGE OR DROUGHT:** In the event of a water shortage or drought emergency that requires the reduction of the use of water from the reclaimed/NON-POTABLE water utility, the City Manager shall have the authority to immediately require and implement mandatory reductions as he deems necessary for the protection of the public as described in section 8-7-24. Such reductions or water restrictions shall be in effect until such time as the City Council or the City Manager removes them. In the event of a prolonged drought or other water shortage emergency that may require water restrictions or limitations for more than fifteen (15) days, the City Council may adopt, by resolution, a long term water conservation plan as described in section 8-7-24.

**8-12-14 8-12-15: WATER TAP FEE CREDITS:**

(A) If a parcel of land has an existing water tap in service and the owner proposes to change the irrigation portion of the water use to reclaimed/NON-POTABLE water, ~~then~~ THEN no additional tap fee will be charged for connection to the reclaimed/NON-POTABLE water system.

(B) If any tap is installed and completed without receiving proper inspection and approval by the City, no tap fee credit shall be given.

(C) ABANDONMENT. If a demolition or vacation of a unit results in an abandonment of a ~~reclaimed~~ RECLAIMED/NON-POTABLE water tap, no cash refund shall be granted for any taps released from service, and no tap fee credit shall be granted at the time a new ~~tap~~ UTILITY permit is issued.

**8-12-16: WASTE OF WATER**

(A) WASTE OF WATER IS PROHIBITED. WASTE OF WATER IS DEFINED AS THE INTENTIONAL OR NON-INTENTIONAL USE OF WATER FOR A NON-BENEFICIAL PURPOSE, AND INCLUDES CONTINUOUS APPLICATION OF WATER TO ANY LAWN, TURF, SODDED, OR LANDSCAPED AREA RESULTING IN THE POOLING OR FLOWING OF WATER INTO DRAINAGE OR STORM DRAINAGE FACILITIES, FAILURE TO REPAIR ANY IRRIGATION SYSTEM THAT IS LEAKING, AND THE USE OF HOSES FOR WASHING OF VEHICLES AND OTHER OUTDOOR USES OTHER THAN IRRIGATION, NOT EQUIPPED WITH A SHUTOFF VALVE THAT IS NORMALLY CLOSED AND NECESSITATES HAND PRESSURE ON THE VALVE TO PERMIT THE FLOW OF WATER. NOTWITHSTANDING THE ENFORCEMENT PROVISIONS SET FORTH IN THIS SECTION, THE CITY MANAGER, OR HIS DESIGNEE, MAY ORDER A SHUT OFF OF THE RECLAIMED/NON-POTABLE WATER SERVICE TO A PROPERTY IF THE CITY MANAGER, OR HIS DESIGNEE, REASONABLY FINDS THAT AN EXTREME WASTE OF WATER IS OCCURRING ON THE PREMISES.

(B) THE DIRECTOR OF PUBLIC WORKS AND UTILITIES IS HEREBY AUTHORIZED TO ENFORCE THIS SECTION. THE PERSON BILLED FOR WATER SERVICE TO A PROPERTY, WHETHER OWNER OR OCCUPANT, SHALL BE RESPONSIBLE FOR COMPLIANCE WITH SECTION (A) AND (B), WITHIN 10 DAYS OF THE VIOLATION NOTICE, UNLESS OTHERWISE SPECIFIED BY THE DIRECTOR OF PUBLIC WORKS AND UTILITIES, AND SHALL BE SUBJECT TO THE FOLLOWING ACTIONS AND PENALTIES:

(1) UPON A FIRST VIOLATION, THE PERSON BILLED WILL BE ADVISED IN WRITING OF THE VIOLATION AND ISSUED A WARNING FOR THE VIOLATION. THE WARNING SHALL BE IN EFFECT FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF ISSUE.

(2) A SECOND VIOLATION WITHIN A ONE (1) YEAR PERIOD SHALL RESULT IN THE PERSON BILLED BEING ADVISED IN WRITING OF THE VIOLATION AND A CHARGE OF \$50.00 WILL BE ADDED TO THE WATER BILL FOR THE PROPERTY. ADVISEMENT SHALL INCLUDE THE PROCEDURE TO SCHEDULE A HEARING IF REQUESTED.

(3) A THIRD OR ADDITIONAL VIOLATION WITHIN A ONE (1) YEAR PERIOD SHALL RESULT IN THE PERSON BILLED BEING ADVISED IN WRITING OF THE VIOLATION AND A CHARGE OF \$100.00 WILL BE ADDED TO THE WATER BILL FOR THE PROPERTY. ADVISEMENT SHALL INCLUDE THE PROCEDURE TO SCHEDULE A HEARING IF REQUESTED. IN ADDITION, THE CITY MANAGER, OR HIS DESIGNEE, MAY ORDER A SUSPENSION OF SERVICE TO THE PROPERTY UNTIL ALL OUTSTANDING FINES ARE PAID. RESTORATION OF SERVICE SHALL OCCUR AS DETAILED IN 8-7-9.

(4) UPON ANY NOTICE(S) OF VIOLATION OF THIS SECTION, A COPY OF SUCH NOTICE SHALL ALSO BE MAILED TO THE OWNER(S) OF THE REAL PROPERTY SERVED, IF THE OWNER'S ADDRESS DIFFERS FROM THE SUBJECT PROPERTY ADDRESS.

(C) IF A HEARING IS REQUESTED IT SHALL BE SCHEDULED AS SOON AS PRACTICAL BEFORE THE CITY MANAGER OR HIS DESIGNEE.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 28th day of June, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of July, 2004 AS AMENDED.