



**LOVELAND PLANNING COMMISSION MEETING  
AGENDA**

**Monday, September 23, 2013  
500 E. 3<sup>rd</sup> Street – Council Chambers  
Loveland, CO 80537**

THE CITY OF LOVELAND DOES NOT DISCRIMINATE ON THE BASIS OF DISABILITY, RACE, CREED, COLOR, GENDER, SEXUAL ORIENTATION, RELIGION, AGE, NATIONAL ORIGIN OR ANCESTRY IN THE PROVISION OF SERVICES. FOR DISABLED PERSONS NEEDING REASONABLE ACCOMODATIONS TO ATTEND OR PARTICIPATE IN A CITY SERVICE OR PROGRAM, CALL 962-2523 OR TDD 962-2620 AS FAR IN ADVANCE AS POSSIBLE.

**I. CALL TO ORDER**

**II. PLEDGE OF ALLEGIANCE**

**III. REPORTS:**

**a. Citizen Reports**

This is time for citizens to address the Commission on matters not on the published agenda.

**b. Staff Matters**

**c. Committee Reports**

**d. Commission Comments**

**IV. APPROVAL OF MINUTES**

**Review and approval of the September 10, 2013 Meeting minutes**

**V. CONSENT AGENDA:**

The consent agenda includes items for which no discussion is anticipated. However, any Commissioner, staff member or citizen may request removal of an item from the consent agenda for discussion. Items removed from the consent agenda will be heard at the beginning of the regular agenda.

Public hearings remaining on the Consent Agenda are considered to have been opened and closed, with the information furnished in connection with these items considered as the only evidence presented. Adoption of the items remaining on the Consent Agenda is considered as adoption by the Planning Commission and acceptance by the Applicant of the staff recommendation for those items.

**1. Artspace Project-Vacation of Public ROW**

This is a public hearing on a legislative matter to consider a request for vacating public right-of-way within the Loveland Addition. The vacation is associated with the Artspace project which is a proposed residential/live-work development in the downtown area. The right-of-way to be vacated includes an L-shaped alley that connects to the south side of West 3<sup>rd</sup> Street and terminates on the west side of the Feed & Grain Building. A public access and utility easement will need to be retained in conjunction with vacation. The Planning Commission is tasked with forwarding a recommendation to the City Council for final action.

**VI. REGULAR AGENDA:**

**2. Amendment to Chapter 7.18 of the Municipal Code regarding Weed Control**

This is a public hearing on a legislative matter to consider revisions to the City's weed control standards. The proposed revisions have been initiated by staff and are designed to clarify the weed control requirements, ensure alignment with County and State weed control standards, and to make allowances for ornamental grasses and native grasses to exceed the 8 inch height limitation. The Planning Commission is tasked with forwarding a recommendation to the City Council for final action.

**VII. ADJOURNMENT**

**CITY OF LOVELAND**  
**PLANNING COMMISSION MINUTES**  
**September 9, 2013**

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A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on September 9, 2013 at 6:30 p.m. Members present: Chairman Meyers; and Commissioners Middleton, Massaro, Molloy, Dowding, Krenning, and Prior. Members absent: Commissioners Crescibene and Ray. City Staff present: Bob Paulsen, Current Planning Manager; Judy Schmidt, Deputy City Attorney.

*These minutes are a general summary of the meeting. For more detailed information, audio and videotapes of the meeting are available for review in the Community Services office.*

**CITIZEN REPORTS**

There were no citizen reports.

**STAFF MATTERS**

1. **Mr. Bob Paulsen, Current Planning Manager**, explained that **Ms. Kimber Kreutzer, Planning Commission Secretary**, would be sending out an email each Friday prior to Planning Commission meetings, and encouraged the Planning Commissioners to contact Planning if they see an item on the agenda that might require other city staff to attend. **Mr. Paulsen** stated that if needed, arrangements could be made as late as 5:00 p.m. on meeting days to have a city staff representative available.

**COMMITTEE REPORTS**

There were no committee reports.

**COMMISSIONER COMMENTS**

There were no comments.

**APPROVAL OF THE MINUTES**

**Chair Meyers** asked if there were any corrections needed in the August 26, 2013 meeting minutes. Needing no amendments, **Commissioner Middleton** moved to approve the minutes. Upon a second by **Commissioner Prior**, the meeting minutes were approved unanimously.

**CONSENT AGENDA**

**St. John Parish Vacation of ROW**

1. This is a legislative matter and public hearing to consider a request to vacate a public right-of-way within the St. John Addition and Hill Top Addition. The right-of-way to be vacated consists of a remnant portion of Truman Avenue that is no longer in use as a public street.

The subject portion of right-of-way does have public utilities within it and will need to be retained as a public utility easement. If the Commission recommends granting the request for vacation, Loveland Municipal Code Section 16.36.010.C.3 also calls for the Commission to recommend a form of ordinance to Council. The proposed ordinance is attached to this staff report as Attachment 3. City development review offices have reviewed this application and supports approval with the recommended condition.

**Chair Meyers** asked for a motion to approve the St. John's Vacation of ROW.

**Commissioner Middleton** moved to make the findings listed in Section VIII of the Planning Commission staff report dated September 9, 2013 and, based on those findings, recommend that City Council approve the requested vacation of public rights-of-way subject to the condition listed in Section IX, as amended on the record. **Mr. Middleton** further moved to recommend to the City Council the form of vacation ordinance attached to the staff report dated September 9, 2013. Upon a second from **Commissioner Dowding**, the motion was passed 5-0 with **Commissioner Molloy** recusing himself from the vote.

## **REGULAR AGENDA**

### **Big Thomson Farms**

2. This is a public hearing to consider a parcel-specific Comprehensive Plan amendment to amend the recommended land use category of property within the Big Thompson Farms Addition from Low Density Residential (LDR) to Development Reserve (DR), followed by a rezoning from R1-Developing Low Residential District to DR-Developing Resource District.

Staff supports the requested Comprehensive Plan amendment and rezoning because information has been submitted to demonstrate that there are Economically Viable Mineral Resources underlying the site. CRS 35-1-305 (1) and (2), as well as Sub-section 18.52.040 of the Municipal Code stipulate that the City may not zone any property in a manner that interferes with the extraction of a commercial mineral deposit. At the time of annexation and initial zoning, a report was provided to the City indicating that there were no commercial mineral resources underlying the site. However, with changes in the market, the existing mineral resources have now been determined as economically viable.

**Mr. Brian Burson, Senior Planner**, addressed the Commission and explained that the item before the Commission was a proposed Comprehensive Plan and rezoning for the Big Thompson Farms Addition, tracts A and B, located northwest of Wilson St. and 1<sup>st</sup> Avenue. Tract A is currently zoned R1, and tract B is currently zoned DR—Developing Resources. The request asks for consideration of a parcel-specific Comprehensive Plan amendment to amend the land use category of the property from Low Density Residential (LDR) to Development Reserve (DR), followed by a rezoning from R1-Developing Low Density Residential District to DR—Developing Resource District.

**Mr. Burson** stated that there are no uses by right in the DR zone. Certain uses that can be approved by Special Review include farming, greenhouses, garden supply, public utility, public parks, storm water detention areas, and extraction of commercial minerals.

**Mr. Burson** went on to explain that City Municipal Code 18.52.040 precludes the city from applying zoning to property in a manner that interferes with extraction of identified economically viable minerals. When the property was originally annexed back in the 1980's, it was determined that it was not economically viable to extract the minerals. However, with the change in the economy, the applicant has presented the city with an updated extraction report indicating that the minerals are now, in fact, economically viable for extraction. It was noted that mining has been ongoing in the adjacent area for many years.

The policies currently in the Comprehensive Plan specifically address issues related to "growth" and "development". The definition of growth and development does not include the extraction of minerals. Staff concluded that the rezoning findings in city policy either do not apply or have been already met.

Staff is recommending the approval of both the Comprehensive Plan Amendment and the Rezoning. **Mr. Burson** clarified that staff does not currently have a Special Review application, but anticipates one in the future if the requests are eventually approved by City Council. A Special Review requires a neighborhood meeting and allows for an appeal process.

**Ms. Kim Lambrecht, Landmark Engineering**, stated she is representing Big Thompson Farms. She reiterated that adjacent uses allow for mining at the site. She stated that Big Thomson Farms Addition consists of 302 acres and was annexed in 1979 with R1-Developing Residential, and DR-Developing Resource zoning. At the time there were no commercial mineral deposits found on site that could be economically extracted. Subsequently in 1979, tract A was subdivided and platted into a 108 unit residential subdivision.

In 1996, the city vacated the plat as an obsolete subdivision; however the original R1 zoning remained. Currently, the entire property is being used for agricultural purposes. Viable mineral deposits are located under the eastern 2/3rds of the site. Of this, approximately 15.26 acres falls under the portion of the site zoned R1, which does not allow for the extraction of minerals. The proposal requests 15.26 acres be rezoned from R1 to DR resulting in 15.93 acres zoned R1 and 32.91 acres zoned DR.

In order for the property to be rezoned, an assessment of the land use map of the Comprehensive Master plan was conducted. The rezoning is intended to "align" with land uses designated in the Comp Plan. The Comp Plan is intended to forecast desired development in the city, with an outlook of 15-20 years into the future. **Ms. Lambrecht** clarified that the applicant's plans are more interim in nature.

Future development, more in line with a typical urban development pattern in the 15-20 year time frame, will be assessed at such time an application is put forth.

**Ms. Dowding** asked if this particular property is rezoned to DR, would a Special Review be required to allow farming. **Mr. Burson** responded that typically when property is annexed into the city, there is an assumption, an operation of law, which states existing legal uses can

continue unless the city comes to an agreement with the landowner to do something different. **Ms. Judy Schmidt, Deputy City Attorney**, clarified that there are parts of the code that allow for legal, non-conforming use at the time of annexation.

**Commissioner Prior** asked that based on the proposal of tract A, why the line for the rezoning was drawn the way it was. **Ms. Lambrecht** responded that last fall, several core drillings were conducted across the site to determine the location of the economically viable minerals. **Mr. Prior** asked what the size of the mineral deposit was determined to be. **Ms. Lambrecht** replied that the exact size of the deposit wasn't entirely known, however future analysis with specifics would be included in the Special Review application.

**Commissioner Krenning** questioned why the applicant did not request the entire two parcels be zoned as DR. **Ms. Lambrecht** responded that she wasn't sure that option was completely analyzed as a possibility.

**Mr. Molloy** stated that he understood the need for mineral extraction; however he asked the applicant what the definition of "interim use" would entail. **Ms. Lambrecht** explained that the DR assignment would allow for a "holding pattern". She explained that extraction of minerals would not be long term, much less in fact than the timeframe outlined in the Comp Plan of 15-20 years. Following the extraction of minerals, future use would be evaluated for a longer, more permanent solution.

**Mr. Molloy** questioned if reclamation plans would be included in a Special Review application. **Ms. Lambrecht** stated that all reclamation plans would definitely be required in the Special Review application process. Reclamation plans would also be required in conjunction with applications to the state bureau of land mining.

**Mr. Molloy** went on to question if the minerals were not "viable" in 1980's, why are they considered to be so now. **Ms. Lambrecht** explained that not only are the minerals more cost effective to mine now; they are considerably higher in value.

**Chair Meyer** stated that given the fact that an elementary school is in close proximity, would the security screen provided around the site ensure the safety of students and children. **Ms. Lambrecht** assured the Commission that the highest safety standards would be imposed.

**Mr. Middleton** asked if any part of the site was located in the FEMA flood plain. **Ms. Lambrecht** stated that while it was close to the flood plain, the site itself was not.

**Mr. Middleton** asked for an explanation of the Special Review process, for the benefit of the audience. **Mr. Paulsen** stated that the Special Review is a process that an applicant needs to go through to allow designated uses to occur within specific zoning districts. The process is designed to ensure compatibility between uses. It allows the applicant to choose among the Special Review uses and apply to for permission to do those uses through the city. The process requires notification to surrounding neighbors, posting signs at the proposed sites, and a neighborhood meeting whereby the applicant and owner must attend the meeting and

describe the intended use. City staff then works with the applicant to either approve or deny the request.

**Chair Meyers** opened the meeting for public hearing.

**Mr. David Hollingsed, 5241 Cedar Valley Drive, Loveland, CO** stated that there are residences to the south and west of the property in question, and he is concerned what the parcels will look like both during the mineral extraction process, and after it is complete. He questioned what would happen if the applicant abandoned plans mid-way through the project. **Mr. Burson** explained that the concerns **Mr. Hollingsed** raised would be addressed during the Special Review process which would focus on screening, dust control, hours of operation, and land reclamation once the project is complete. In addition, mining plans must always include reclamation plans along with any application.

**Ms. Schmidt** added that the Mined Land Reclamation Board would not provide a permit for mining until a local jurisdiction has zoned and allowed the land for use.

**Mr. Krenning** stated that the Mined Land Reclamation Board also requires the applicant to post a substantial bond to ensure reclamation activities are completed, regardless of when the project stops.

**Mr. Molloy** questioned if the Special Review is a formality since the state can supersede decisions regarding mining. **Mr. Burson** replied that the city will still have discretionary power through the Special Review, and would have the ability to deny the Special Review request if deemed appropriate. **Ms. Schmidt** stated that in order to receive a permit to mine, the applicant must satisfy local requirements.

**Ms. Francine Webb, 377 Rossum Drive, Loveland, CO** voiced apprehension about the reclamation process. She expressed concern that mining would occur in close proximity to a public school. She asked what reclamation plans might be done, other than just filling the area with water. She questioned how reclamation plans might impact potential future development.

**Mr. Burson** responded that given his previous experience in working with mining applicants, every effort is made to ensure reclamation returns the affected area to a usable, environmentally friendly condition. He added that in recent years, the water board has added a condition, stating that if ground water is exposed during extraction activities, mitigation of ground water is required.

**Chair Meyers** pointed out that concerns about reclamation would need to be addressed during the Special Review process. He added that the gravel pits have been in place since before 1982.

**Mr. Burson** explained that the majority of the gravel pits in the area are in county jurisdiction and all permits were granted by Larimer County.

**Mr. Krenning** pointed out that currently there is approved gravel mining at the site, and the request is to only get approval to mine extra acres.

**Chair Meyers** closed the public hearing.

**Mr. Brad Fancher, 6405 Windemere Rd, Loveland, CO** addressed the Commission to respond to concerns raised at the public hearing. He shared that questions about reclamation would have to be addressed during the Special Review process. He added that any mining would be closely monitored by the Mined Land Reclamation Board. He confirmed that his application for mining would require him to be fully bonded prior to the start of mining activities. The bond is required for future payment for reclamation costs. He also stated that mining activities in the area have been ongoing long before the grade school was built.

**Chair Meyers** asked if development of previously mined property is typical. **Mr. Fancher** responded that yes, development after the fact is very common. He pointed out that mining of the gravel would be shallow, going down no more than 15 feet from the surface.

**Mr. Molloy** asked if the city recreation trail would eventually travel through the area being mined. **Mr. Fancher** stated that those plans were part of an ongoing negotiation with the land owner and the city.

**Mr. Krenning** again questioned if the applicant considered zoning both parcels as Developing Resource. **Mr. Fancher** confirmed the idea was considered, but in the end it was decided not to do so in case the property owner decided to pursue development in the future.

**Ms. Dowding** shared that she also wants thoughtful reclamation, and committed to advocate that effort when and if the request comes under Special Review. She shared that she would be in support of the request.

**Mr. Middleton** communicated that he has been involved in the permitting and bonding process for mining in the past, and stated that it is very strict and arduous. He imparted that he is also in support of the request and feels it would be a good use of the land.

**Mr. Molloy** stated that given the strict Special Review and bonding process, he is comfortable with the request and will be supporting it.

**Mr. Prior** said he shared concerns regarding the reclamation process, however, he felt the Special Review process would help address and mitigate fears.

**Mr. Krenning** explained that he had no issue with the project. He added that the applicant has a strong record for mining in the area. He voiced support the request.

**Chair Meyers** agreed that the applicant has a solid track record for mining in the area, and is a long term resident of Loveland. He stated he would support the request.



**Chair Meyer** asked for a recommendation on the motion.

**Ms. Dowding** moved to make the findings listed in Section VI of this report dated September 9, 2013; and, based on those findings, recommend that the Future Land Use Plan, incorporated into Section 4.0 of the 2005 City of Loveland Comprehensive Plan, be amended for Tracts A and B of Big Thompson Farms Addition from Low Density Residential (LDR) to Development Reserve (DR). **Mr. Prior** seconded the motion. After **Mr. Fancher** verbally agreed to accept the conditions, or no conditions, the motion was approved unanimously.

**Mr. Middleton** moved to make the findings listed in Section VII of this report dated September 9, 2013; and, based on those findings, recommend approval of the rezoning of the land described in Attachment # 4 of this report from R1-Developing Low Density Residential District to DR-Developing Resource District. **Ms. Dowding** seconded the motion. After **Mr. Fancher** verbally agreed to accept the conditions, or no conditions, the motion was approved unanimously.

### **ADJOURNMENT**

**Commissioner Middleton** made a motion to adjourn. Upon a second by **Commissioner Dowding**, the motion was unanimously adopted and the meeting was adjourned.

Approved by: \_\_\_\_\_  
Buddy Meyers, Planning Commission Chairman

\_\_\_\_\_  
Kimber Kreutzer, Planning Commission Secretary



## **MEMORANDUM**

September 23, 2013 – Consent Agenda 1

To: Loveland Planning Commission

From: Troy Bliss, City Planner II

**Subject: Artspace Project (Loveland Addition) Vacation (PZ #13-00123)**

The application to vacate a portion of alley right-of-way requested by Artspace Project, Inc. is a component of an overall redevelopment plan being proposed directly west and abutting the Feed & Grain building in downtown Loveland.

At the October 14, 2013 meeting, the Planning Commission will be presented with an application from Artspace for approval of their Site Development Plan. This will afford the Commission the opportunity to review the Artspace project in a comprehensive manner.

Due to an aggressive timeline established for seeking entitlements on the Artspace Project, Current Planning is requesting that Commissioner's clarifying questions regarding this alley vacation request be directed staff prior to the hearing on September 23, 2013. Staff is attempting to keep the alley vacation request on the consent agenda so it can move as quickly as possible onto the City Council. Questions should be directed to the staff planner, Troy Bliss, at (970) 962-2579 or send an email to [Troy.Bliss@cityofloveland.org](mailto:Troy.Bliss@cityofloveland.org)

Thank you.



**Planning Commission Staff Report**  
**September 23, 2013**

**Agenda #:** Consent Agenda - 1  
**Title:** Artspace Project (Loveland Addition) Vacation (PZ #13-00123)  
**Applicant:** Artspace Projects Inc., Leah Swartz  
**Request:** **Vacation of public right-of-way**  
**Location:** South of W. 3<sup>rd</sup> Street between N. Railroad Avenue and N. Garfield Avenue (Block 21, Loveland Addition)  
**Existing Zoning:** Be – Established Business  
**Proposed Use:** Mixed Use Building  
**Staff Planner:** Troy Bliss

***Staff Recommendation***

Subject to additional evidence presented at the public hearing, City staff recommends the following motion:

***Recommended Motions:***

1. *Move to make the findings listed in Section VIII of the Planning Commission staff report dated September 23, 2013 and, based on those findings, recommend that City Council approve the requested vacation of public right-of-way subject to the conditions listed in Section IX, as amended on the record.*

***Summary of Analysis***

This is a public hearing to consider a request for vacating public right-of-way within the Loveland Addition. The right-of-way to be vacated includes an L-shaped alley that connects to the south side of W 3<sup>rd</sup> Street and terminates on the west side of the Feed & Grain Building. The subject portion of right-of-way will need to continue to provide public access and does include existing utilities. A public access and utility easement will need to be retained in conjunction with vacation.

The alley currently separates the Artspace Project property. As a result of vacating the alley, the property could be merged together, creating a single parcel and unified development. Site design, including parking locations are also driving the need to vacate the alley. From an access and circulation perspective, the backing of vehicles into an easement is preferred over a public right-of-way. Additionally, because the section of alley heading east does not connect to Railroad Avenue, maintaining a dead-end alley does not promote policies of connecting rights-of-way. These are reasons why vacating the alley is desirable, even though the alignment will still be reserved for public access.

## I. SUMMARY

The applicant proposes to vacate an L-shaped portion of alley within the Loveland Addition. This alley to be vacated is illustrated on **Attachment 2**, which is the corresponding legal description and exhibit to the vacation request. Further, please refer to **Attachment 3** that places the alley into context of the proposed subdivision.

The proposed vacation of public right-of-way is a legislative action and component of a multi-faceted development currently under review referred to as Artspace Project. In general, Artspace Project proposes to build a 4-story 30 unit affordable housing/mixed use building directly adjacent to the west of the Feed & Grain. The project is structured to provide live/work opportunities specifically for artists. Future plans include the refurbishment of the Feed & Grain that would make for a significant redevelopment to an iconic structure and property in downtown Loveland. In conjunction with the vacation, there continues to be a need for public access based on the proposed development. There also are some existing utilities within the right-of-way. Public access and utilities will need to be retained and kept in an easement. Agencies outside of the City which provide utility services including Century Link, Comcast, and Xcel Energy have all provided responses to this vacation request, indicating that there are no concerns.

## II. ATTACHMENTS

1. Letter of request for Vacation of Right-of-Way
2. Vacation of Right-of-Way Legal Description and Exhibit
3. Artspace Project Site Plan (for reference purposes only)
4. Draft Vacation Ordinance

## III. VICINITY MAP



#### IV. SITE DATA

ACREAGE OF SITE: ..... APPROXIMATELY 5,823 SQUARE FEET (AREA OF RIGHT-OF-WAY TO BE VACATED)  
.....

PROPERTY ZONING / USE ..... BE – ESTABLISHED BUSINESS/VACANT METAL GARAGE  
..... BUILDING

EXISTING ZONING / USE - NORTH ..... BE – ESTABLISHED BUSINESS/CITY OF LOVELAND  
..... BUILDING

EXISTING ZONING / USE - SOUTH ..... BE – ESTABLISHED BUSINESS/SINGLE FAMILY  
..... RESIDENTIAL AND COMMERCIAL BUILDINGS

EXISTING ZONING / USE - EAST ..... BE – ESTABLISHED BUSINESS/VACANT FEED & GRAIN  
..... BUILDING

EXISTING ZONING / USE – WEST ..... BE – ESTABLISHED BUSINESS/AUTO SALES

#### V. KEY ISSUES

There are no key issues regarding this vacation request. All City Divisions and all applicable outside City utility providers have no objection to the vacation of alley. The City is however requiring that the right-of-way be retained as a public access and utility easement.

#### VI. BACKGROUND

The subject property is a part of the original town of Loveland (Loveland Addition). The alley was platted as a 20-foot wide public right-of-way in an east/west alignment which split Block 21. However, when the Feed & Grain Building was constructed, the portion of alley connecting to Railroad Avenue was removed and the L-shaped connection up to 3<sup>rd</sup> Street was established.

#### VII. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION

**A. Notification:** An affidavit was received from Jason Kopecky, on behalf of the applicant, certifying that written notice was mailed to all surface owners abutting the right-of-way to be vacated and notices were posted in a prominent location on the perimeter on September 7, 2013. In addition, a notice was published in the Reporter Herald on September 7, 2013.

**B. Neighborhood Response:** A neighborhood meeting is not required in conjunction with an application to vacate public right-of-way. However, all surface owners and all owners of easements or right-of-way abutting the right-of-way to be vacated are notified of the application. Further, at least 50% of such owners must be party to the application. Given these requirements and the configuration of the property, only 1 owner was notified of the application beyond the applicant. No neighborhood response has been received at the time this staff report was prepared.

#### VIII. FINDINGS AND ANALYSIS

Chapter 16.36, Section 16.36.010.B

1. *That no land adjoining any right-of-way to be vacated is left without an established public or private right-of-way or easement connecting said land with another reestablished public or private right-of-way:*

In order to comply with this provision of the Municipal Code, the City must require that a public access and utility easement be established in conjunction with the vacation of right-of-way.

2. *That the right-of-way or easement to be vacated is no longer necessary for the public use and convenience.*

The right-of-way is no longer necessary for public use as an alley. However, it is needed as a public access and utility easement due to the proposed development and existing utilities being located within the right-of-way.

## Development Review Team Analysis

### Current Planning

The right-of-way to be vacated currently serves no purpose as an alley. Vehicle and pedestrian accessibility will be necessary for future development. Beyond some limited utilities that exist within the right-of-way, which will be retained in an easement, there is no public benefit in keeping this right-of-way as an alley based upon the proposed Artspace Project redevelopment.

### Transportation Development Review

The proposed right-of-way vacation will not create a negative impact upon the City's Public Streets. Once the amended plat for the property is approved and recorded the necessary access easements will be in place to provide adequate transportation circulation for the property

### Fire

Fire: Staff believes that this finding can be met, due to the following:

\*The site will comply with the requirements in the ACF Ordinance for response distance requirements from the first due Engine Company (Station 1).

\*The proposed development will not negatively impact fire protection for the subject development.

### Water/Wastewater

The subject area to be vacated is the City's current service area for both water and wastewater. There are existing wastewater mains in the area to be vacated. Since there are existing facilities, the Department can only approve the vacation with the condition that the area be reserved for utility purposes.

\*The existing right-of-way to be vacated does not impact the existing water and wastewater utility configuration within and adjacent to this development.

\*The existing right-of-way to be vacated is no longer necessary for public use and convenience.

### Stormwater

The existing alleys proposed to be vacated, are not currently being used to convey Stormwater and thus are not necessary for the public use and conveyance of Stormwater.

### Power

No negative impacts on the City's electrical system are foreseen. The existing underground 200-amp feeder is an available and adequate source for electric distribution for the proposed development. The proposed development meets the criteria for level of service as outlined in the ACF ordinance.

## **IX. RECOMMENDED CONDITION**

The following conditions are recommended by City Staff.

1. The portion of alley right-of-way within Lot 21 Loveland Addition shall be dedicated as a public access and utility easement in conjunction with the vacation request.
2. An ordinance vacating all public right-of-way within Block 21 of the Loveland Addition shall not become effective until the Amended Plat of Lots 1-10 and 26-30, Block 21, Loveland Addition to (re-plat) is approved and recorded with Larimer County.





principals

ronald k. abo, aia, NCARB, LEED AP

kevin k. yoshida, aia, NCARB

john w. priebe, aia

Greg George, Director of Development Services  
City of Loveland  
500 East Third Street, Suite 210  
Loveland, CO 80537

## **ARTSPACE LOVELAND LOFTS – VACATION REQUEST EXPLANATION**

This letter is written on behalf of the applicant Artspace Projects Inc. in order to explain the reason for requesting vacation of portions of existing alleys at 130 West 3<sup>rd</sup> St.

Artspace Projects Inc. proposes to build a 30 unit affordable housing development adjacent to the Loveland Feed & Grain building at 130 West 3<sup>rd</sup> Street, Loveland CO 80537. Additionally the proposed project also includes redeveloping the site between the new building (Artspace Loveland Lofts) and the Loveland Feed & Grain building into an active plaza for the residents daily use and occasional artists' events. The project is also going through the Boundary Line Adjustment and Lot Merger process to divide the existing property into two simple lots, one for each building.

The property is currently owned by Barry Floyd. Artspace Projects, Inc. is in the process of purchasing the property from Barry Floyd.

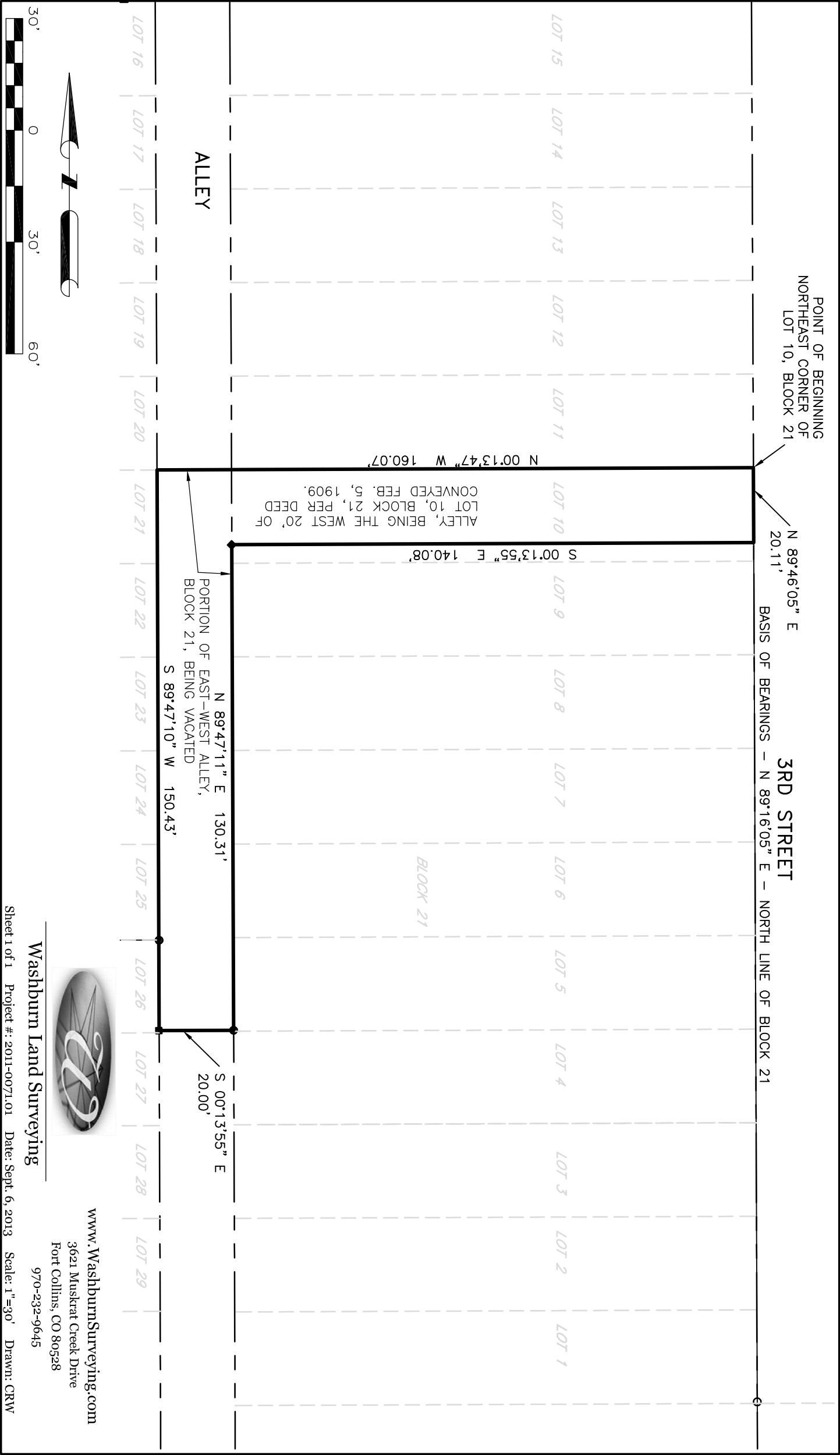
The site currently has two existing alleys adjacent to the property that provide access into and through the block. Given the urban location we felt that it was important to locate the parking areas for the project internally on the site. The design team has met with city staff multiple times through CRT meetings and developer meetings beginning in 2011 up through August of 2013. As a result of those meetings, it has been suggested by city staff that portions of those alleys be vacated and replaced with private drives in order to better serve the overall site design and parking goals for the project, which could not be met with the standards required by alleys.

Thank you for considering our request to vacate portions of the alleys indicated in the Vacation Request Application.

Respectfully,

Jason Kopecky  
Project Manager  
The Abo Group, Inc.







## Washburn Land Surveying

### Alley Vacation

A PARCEL OF LAND, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING A PORTION OF THE EAST-WEST ALLEY OF BLOCK 21, CITY OF LOVELAND, ACCORDING TO THE PLAT THERE OF, AND THAT PARCEL OF LAND BEING THE WEST 20' OF LOT 10, BLOCK 21, CITY OF LOVELAND, PER DEED CONVEYED FEBRUARY 5, 1909, ALL IN THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

**BASIS OF BEARINGS:** BEARINGS ARE BASED ON THE NORTH LINE OF BLOCK 21, WHICH BEARS N 89°46'05" E.

**BEGINNING** AT THE NORTHEAST CORNER OF LOT 11, OF SAID BLOCK 21;

THENCE N 89°46'05" E ON THE NORTH LINE OF SAID BLOCK 21, A DISTANCE OF 20.11 FEET, TO A POINT ON THE WEST LINE OF THE EAST 5.0 FEET OF LOT 10 OF SAID BLOCK 21;

THENCE S 00°13'55" E, ON SAID WEST LINE, A DISTANCE OF 140.08 FEET, TO A POINT ON THE NORTH LINE OF THE EAST-WEST ALLEY OF SAID BLOCK 21;

THENCE N 89°47'11" E, ON SAID NORTH LINE, A DISTANCE OF 130.31 FEET, TO THE SOUTHEAST CORNER OF LOT 5 OF SAID BLOCK 21;

THENCE S 00°13'55" E, A DISTANCE OF 20.00 FEET, TO THE NORTHEAST CORNER OF LOT 26 OF SAID BLOCK 21;

THENCE S 89°48'06" W, ON THE SOUTH LINE OF SAID ALLEY, A DISTANCE OF 150.43 FEET, TO THE NORTHEAST CORNER OF LOT 20 OF SAID BLOCK 21;

THENCE N 00°13'47" W, ON THE SOUTHERN EXTENSION OF THE EAST LINE OF SAID LOT 11 AND THE WEST LINE OF SAID LOT 11, A DISTANCE OF 160.03 FEET, TO THE **POINT OF BEGINNING**.

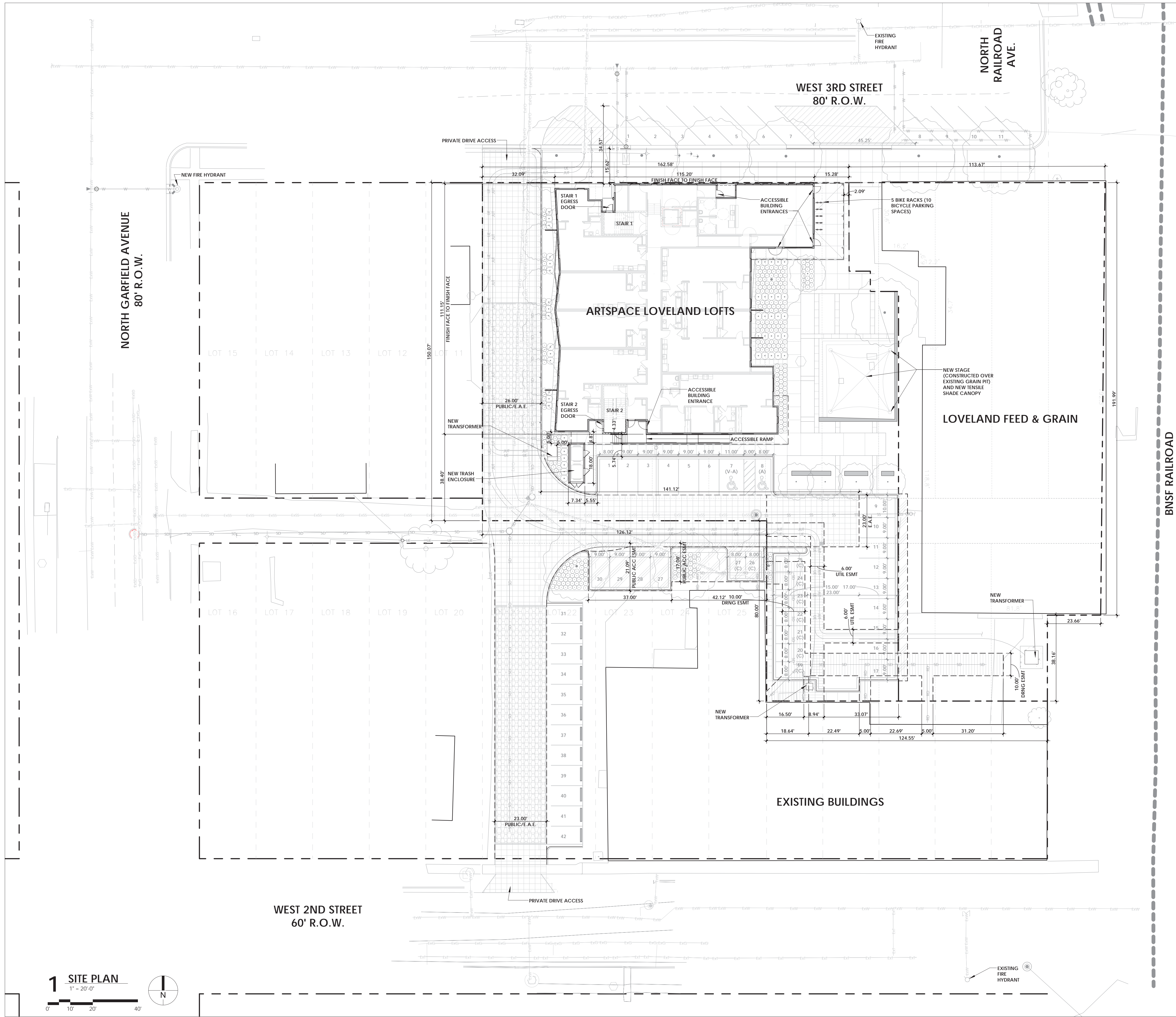
CONTAINING AN AREA OF 5,823 SQUARE FEET, OR 0.1337 ACRES.

*I, CHAD R. WASHBURN, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE PROPERTY DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.*

CHAD R. WASHBURN, PROFESSIONAL LAND SURVEYOR  
COLORADO NO. 37963  
FOR AND ON BEHALF OF WASHBURN LAND SURVEYING, LLC







ZONING		
EXISTING ZONING: Be - Established Central Business District		
LAND USE		
ARTSPACE LOVELAND LOFTS: Mixed use Residential		
SITE AREA		
TOTAL SITE AREA	31,413 SF	0.72 AC
GROSS AREA BY LEVEL		
LEVEL 1 GROSS FLOOR AREA		10,326 SF
LEVEL 2 GROSS FLOOR AREA		9,789 SF
LEVEL 3 GROSS FLOOR AREA		9,817 SF
LEVEL 4 GROSS FLOOR AREA		7,993 SF
TOTAL GROSS FLOOR AREA		37,925 SF
BUILDING OCCUPANCY		
ARTSPACE LOVELAND LOFTS: Mixed Use Residential: R-2 & A-3		
GROSS AREA BY OCCUPANCY		
T.O. LEVEL 1 - 4979.00	A-3	1,145 SF
		1,145 SF
T.O. LEVEL 1 - 4979.00	R-2	9,181 SF
T.O. LEVEL 2	R-2	9,789 SF
T.O. LEVEL 3	R-2	9,817 SF
T.O. LEVEL 4	R-2	7,993 SF
		36,780 SF
		37,925 SF
CONSTRUCTION TYPE		
ARTSPACE LOVELAND LOFTS: Type 5-A Construction - NFPA 13 Sprinkler System		
PARKING		
ARTSPACE LOVELAND LOFTS: Off Street Parking Spaces 1 - 30		
Standard Spaces	19	63%
Compact Spaces	09	30%
<u>Accessible Spaces</u>	02	07%
Total Spaces:	30	100%
ADJACENT PROPERTY Off Street Parking Spaces 31 - 42		
Standard Spaces	12	100%
Compact Spaces	00	00%
<u>Accessible Spaces</u>	00	00%
Total Spaces:	30	100%
LANDSCAPING		
Parking lot landscaped area:		959 SF
Total landscaped area:		5,323 SF
FEMA FLOOD PLAIN		
ARTSPACE LOVELAND LOFTS: None		
OPEN SPACE		
LOFTS FOOTPRINT	10,391 SF	33%
OPEN SPACE	21,021 SF	67%
	31,412 SF	100%

LEGEND	
	EXISTING FIBER OPTIC
	EXISTING GAS LINE
	EXISTING OVERHEAD ELECTRIC
	EXISTING SANITARY SEWER
	EXISTING STORM DRAIN
	EXISTING TELEPHONE
	EXISTING WATER
	NEW GAS LINE
	NEW JOINT UTILITY TRENCH
	NEW ROOF DRAIN
	NEW SANITARY SEWER
	NEW STORM DRAIN
	NEW UNDERGROUND ELECTRIC
	NEW EMERGENCY ACCESS EASEMENT
	NEW PUBLIC ACCESS EASEMENT
	NEW DRAINAGE EASEMENT
	NEW UTILITY EASEMENT
	PERMEABLE PAVERS

theabogroup inc.  
sustainable architecture  
12600 west cofax avenue  
suite c-200  
lakewood, colorado 80215  
phone: 303.531.4990  
fax: 303.531.4998  
e-mail:  
denver@theabogroup.com

ARTSPACE PROJECTS INC.  
ARTSPACE LOVELAND LOFTS  
140 W. 3RD STREET  
LOVELAND, CO 80537

DRAWN BY:	JNK
CHECKED BY:	JNK
DATE:	08.13.2013
PROJECT NO:	1229

SITE PLAN

SDP 1.00

PC ATTACHMENT 3

**FIRST READING:** October 1, 2013

**SECOND READING:** \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE VACATING A PORTION OF A PUBLIC RIGHT OF WAY  
LOCATED IN THE LOVELAND ADDITION TO THE CITY OF LOVELAND, CITY OF  
LOVELAND, LARIMER COUNTY, COLORADO**

**WHEREAS**, the City Council, at a regularly scheduled meeting, considered the vacation of that portion of a public right of way described below, located in the City of Loveland, Larimer County, Colorado; and

**WHEREAS**, it is necessary to assure ongoing provision of public and private utility services that the portion of right of way to be vacated be preserved as a public access and public utility easement; and

**WHEREAS**, it is further necessary, that the owners of all real property adjoining the portion of the right of way to be vacated submit to the City a fully executed public access and public utility easement, in a form acceptable to the City, for the land described below (the "Easement"); and

**WHEREAS**, it is also necessary that the Amended Plat of Lots 1-10 and 26-30, Block 21, Loveland Addition (re-plat) for the property on which the right of way is located (the "Amended Plat") be approved and recorded by the City; and

**WHEREAS**, as permitted by Loveland Municipal Code Section 16.36.060, this ordinance is conditioned upon receipt of the fully executed Easement and Amended Plat, which shall be recorded concurrently with this ordinance; and

**WHEREAS**, the City Council finds and determines that, upon receipt of the Easement, no land adjoining any portion of the right-of way to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement; and

**WHEREAS**, the City Council finds and determines that upon receipt of the Easement the portion of the right of way to be vacated is no longer necessary for the public use and convenience; and

**WHEREAS**, the City Council further finds and determines that the application filed with the Current Planning Division Center was signed by the owners of more than 50% of property abutting the right of way to be vacated.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO THAT:**

**PC ATTACHMENT 4**

**Section 1.** The City Council hereby adopts and makes the findings set forth above.

**Section 2.** Subject to the conditions set forth in Section 3, the following described portion of a public right of way access easement shall be and the same is hereby vacated:

A PARCEL OF LAND BEING A PORTION OF BLOCK 21, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** BEARINGS ARE BASED ON THE NORTH LINE OF BLOCK 21, WHICH BEARS N 89°46'05" E.

**BEGINNING** AT THE NORTHEAST CORNER OF LOT 11, OF SAID BLOCK 21; THENCE N 89°46'05" E ON THE NORTH LINE OF SAID BLOCK 21, A DISTANCE OF 20.11 FEET, TO A POINT ON THE WEST LINE OF THE EAST 5.0 FEET OF LOT 10 OF SAID BLOCK 21; THENCE S 00°13'55" E, ON SAID WEST LINE, A DISTANCE OF 140.08 FEET, TO A POINT ON THE NORTH LINE OF THE EAST-WEST ALLEY OF SAID BLOCK 21; THENCE N 89°47'11" E, ON SAID NORTH LINE, A DISTANCE OF 130.31 FEET, TO THE SOUTHEAST CORNER OF LOT 5 OF SAID BLOCK 21; THENCE S 00°13'55" E, A DISTANCE OF 20.00 FEET, TO THE NORTHEAST CORNER OF LOT 28 OF SAID BLOCK 21; THENCE S 89°48'06" W, ON THE SOUTH LINE OF SAID ALLEY, A DISTANCE OF 150.43 FEET, TO THE NORTHEAST CORNER OF LOT 20 OF SAID BLOCK 21; THENCE N 00°13'47" W, ON THE SOUTHERN EXTENSION OF THE EAST LINE OF SAID LOT 11 AND THE WEST LINE OF SAID LOT 11, A DISTANCE OF 160.03 FEET, TO THE **POINT OF BEGINNING**.

CONTAINING AN AREA OF 5,823 SQUARE FEET, OR 0.1337 ACRES.

**Section 3.** As provided in Section 16.36.060 of the Loveland Municipal Code and in order to preserve and promote the public health, safety, and welfare of the inhabitants of the City and the public generally, the vacation of that portion of the public right of way as set forth in Section 2 above shall become effective only upon the satisfaction of the following conditions precedent (the "Conditions"):

a. The vacated portion of the public right of way shall be preserved as a public access and public utility easement, which condition shall be deemed satisfied upon receipt by the City of the Easement executed by the owners of all real property adjoining the portion of the right of way to be vacated; and

b. The Amended Plat is approved and recorded by the City.

**Section 4.** As provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance



has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

**Section 5.** This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

**Section 6.** The City Clerk is hereby directed to record this Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes, and after receipt of the fully executed Easement and Amended Plat described above. The fully Easement and Amended Plat for the above-described property shall be recorded concurrently with this Ordinance.

Signed this \_\_\_\_ day of October, 2013.

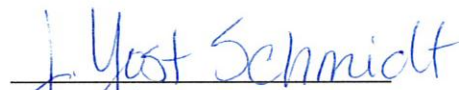
ATTEST:

**CITY OF LOVELAND, COLORADO:**

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

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deputy City Attorney



**Development Services  
Current Planning**

Civic Center • 500 East Third Street • Loveland, Colorado 80537  
(970) 962-2523 FAX (970) 962-2945 • TDD (970) 962-2620  
[www.cityofloveland.org](http://www.cityofloveland.org)

**ITEM NO:**

**1 - Regular Agenda**

**PLANNING COMMISSION MEETING:**

September 23, 2013

**TITLE:**

Amendment to Chapter 7.18 of the Municipal Code regarding Weed Control

**APPLICANT:**

City of Loveland, Current Planning Division

**STAFF CONTACTS:**

Bob Paulsen, Current Planning Manager

**APPLICATION TYPE:**

Amendments to the Municipal Code

**ACTION:**

Legislative Action: Recommend Amendments to the Municipal Code for adoption by City Council

**STAFF RECOMMENDATION:**

Subject to additional evidence at the public hearing, City Staff recommends the following motion:

*Move to recommend that City Council approve the amendments to Chapter 7.18 of the Municipal Code as specified in the September 23, 2013 Planning Commission staff report, as amended on the record.*

**I. ATTACHMENTS**

**1. Proposed Amendment to Chapter 7.18, Weed Control (REDLINE VERSION)**

This document includes incorporates proposed adjustments to the weed control provisions. Proposed revisions are specified with a redline/strike-through format.

**2. Proposed Amendment (CLEAN VERSION) to Chapter 7.18, Weed Control**

This version indicates how Chapter 7.18 would read with incorporation of the proposed revisions.

### **3. Existing Chapter 7.18**

This version of Chapter 7.18, which includes the table of contents page from Title 7, is taken directly from the Municipal Code. Title 7 encompasses Health, Safety and Welfare; weed control is a portion of this title.

## **II. SUMMARY**

Over the last several years, Planning and Code Enforcement staff have become more deeply involved in addressing weed control and open space management issues raised by local neighborhoods and property owners. In effort to provide greater clarity and make the code more responsive to ongoing citizen concerns, staff from several offices, including Planning, Open Lands, Code Enforcement and the City Attorney's Office, have worked to revise the City's weed control requirements that are contained in Chapter 7.18 of the Municipal Code. The primary purposes of the amendment to the weed control provisions are as follows:

- Update and clarify the weed control requirements
- Specify that noxious weeds must be eradicated (aligning the code with County and State provisions)
- Allow ornamental and native grasses to exceed the 8-inch height limit when part of an approved plan or when growing within a designated "Natural Area."

## **III. BACKGROUND**

As Loveland's neighborhoods mature, there has been increasing interest in the maintenance practices for the common lands and open space areas within residential subdivisions. With the build-out of homes, maintenance responsibilities for common areas are transferred from developers to homeowners associations (HOAs). The HOAs (and property maintenance companies that they employ) may have different priorities or expectations than the original developer had. Some HOAs have become interested in reducing the irrigation and maintenance requirements for portions of their open space, going as far as allowing grasses and other plantings to go without irrigation or cutting. In other instances, the reverse is the case and HOAs have requested to install a more planned or domesticated landscape within specified areas.

The Current Planning Division has been working with several HOAs in regards to the maintenance of their park spaces and open lands. The most notable instance has been the Garden Gate neighborhood where some neighbors objected to the HOA's interest in employing minimal maintenance practices for designated open space areas. This issue came to the forefront upon appeal of administrative decision concerning open space maintenance practices. Current Planning staff has also worked with other neighborhoods to clarify or adjust their open space plans, including the Mineral Addition (Quarry Lake), 7 Lakes, Waterfront, Boyd Lake North and Sierra Valley. While each neighborhood situation is unique, all of the neighborhoods have sought clarity as to the rules for weed control, and the allowances for native grasses.



In addition to the maintenance issues with HOAs, an updating of the City's weed control provisions is timely and appropriate. Weed control is a community priority. Each year, the City's weed code administrator processes over 1,000 cases. The proposed amendment brings the City's noxious weed provisions in line with the County weed district provisions and with the state weed act. Moreover, the revisions provide expanded definitions and related adjustments needed to clarify the City code.

#### **IV. TITLE 18 COMMITTEE REVIEW & RECOMMENDATION**

On Thursday, July 18, 2013, the City's *ad hoc* Title 18 Committee evaluated the proposed amendment to Chapter 7.18 that specifies revisions to the City's weed control regulations. The Committee had no objections to the revisions as presented. The Committee instructed staff to inform HOAs and other interested parties of the revisions and then to schedule the amendment for public hearing.

#### **V. OUTREACH**

Public outreach regarding the proposed amendment has consisted of the following:

1. The revised weed control provisions have been posted on the Current Planning web page since mid August. The posting has included a redline version of the revisions along with a summary statement highlighting the purpose of the amendments.
2. Notification of the Planning Commission hearing was provided in the Reporter Herald on Saturday, September 7, 2013. The notification explained the purpose of the revisions and provided contact information for anyone with questions.
3. Email notice was sent out to over two dozen HOA, property management and professional contacts. The notice indicated the Planning Commission hearing date, time and place and provided an explanation of the purpose of the amendments. Recipients were given a link to the Current Planning web site and were encouraged to contact staff for further details.

Staff had prepared information to be published as part of a Reporter Herald feature article prior to the Planning Commission meeting in order to reach out more broadly to the public. Given the recent flooding disaster and related events, the newspaper article did not get published. As of filing of this staff report, no inquiries from the public have been received.

#### **VI. DESCRIPTION OF THE PROPOSED CHANGES TO CHAPTER 7.18**

The following is a description of amendments to Chapter 7.18 as identified in **Attachment 1**:

##### **7.18.020 Definitions**

Several new definitions have been added and some definitions have been adjusted. The definitions tie into the regulatory portions of the chapter that follow the definitions. Note that many of the new definitions, including "Approved plan", "Native grasses", "Ornamental grasses", "Natural area", and "Turf grasses", relate to distinctions and allowances for native and ornamental grasses that are built into subsequent sections of this chapter.

#### **7.18.030 Weeds and grasses, cutting and removal.**

This section has been significantly revised to specify requirements for the eradication of noxious weeds and cutting of other weeds to an 8 inch height maximum. The noxious weed provisions would now align with the County weed district provisions and with the state weed act. While the 8 inch height limitation exists in the current code provisions, the revisions specify that the 8 inch height limit shall not apply to ornamental and native grasses when such grasses are shown on an approved plan (as defined) or when growing in a designated natural area—either public or private. Also note in subsection F. that the provisions address the growing of a limited number of Marijuana (cannabis sativa) plants; this allowance provides alignment with the Colorado Constitution.

#### **7.18.040 Notice and order of abatement.**

The adjusted text provides additional clarity the serving of a Notice and Order (violation).

#### **7.18.042 City removal and assessment.**

The adjusted text provides clarifications relating to the City's authority to take action to abate weed violations following the issuance of a Notice and Order.

#### **7.18.050 Administrative review of assessment.**

A minor formatting adjustment was made to this section.

#### **7.18.060 Owners have ultimate responsibility for violations.**

In this section, the term “premises” has been replaced with “property” as premises may include multiple properties and multiple owners. Violations, by definition, are assigned to a specific property and a specific owner.

### **VII. CONCLUSION**

The amendment to Chapter 7.18 is a staff-initiated effort that included participation from staff from several departments. Staff believes that the revisions provide important clarifications relating to weed control and its enforcement. Staff also believes that the allowances provided for native grasses will avert complications and controversies relating to open space maintenance.

### **VIII. ACTION TO BE TAKEN BY THE PLANNING COMMISSION**

Conduct a public hearing on the proposed amendment to Chapter 7.18, taking comments from the public if requested. Following deliberation, the Commission shall vote to determine a recommendation to the City Council on the amendment. The Commission's recommendation may include modifications to the proposed amendment. If the Commission acts on this matter on September 23<sup>rd</sup>, it is anticipated that this amendment will be scheduled for a public hearing by City Council on October 15, 2013.

# Proposed Amendments to the Weed Control provisions Chapter 7.18 of the Municipal Code

*This document indicates proposed text in underlined, red font. Proposed deletions are in ~~red, strikethrough font~~.*

*Original Chapter – Redlined to Show Changes per 8.16.13 CLEAN Version*

## Chapter 7.18

### WEED CONTROL

#### Sections:

- 7.18.010        Intent.
- 7.18.020        Definitions.
- 7.18.030        Weeds, ~~cutting~~ and ~~removal~~ Grasses, Cutting and Removal.
- 7.18.040        Notice and Order of Abatement.
- 7.18.042-42        City Removal and Assessment.
- 7.18.050        Administrative ~~review~~ Review of ~~assessment~~ Assessment.
- 7.18.060        Owners ~~have ultimate responsibility~~ Have Ultimate Responsibility for ~~violations~~ Violations.

#### 7.18.010-        Intent.

It is the intent of this Chapter to protect the health, safety and welfare of the public by reducing the occurrence of weeds, grass, brush, or other rank or noxious vegetation which is regarded as a common nuisance.

#### 7.18.020        Definitions.

A. The following words, terms and phrases, when used in this Chapter 7.18, shall have the following meanings:

~~1.~~

1. “Approved plan” shall mean a landscape or other plan approved by the city in connection with the annexation, zoning, development or redevelopment of a property, whether separately or by inclusion in a general development plan, preliminary development plan, final development plan, site development plan, development agreement or public improvement construction plan.
2. “Grasses” shall mean native grasses, ornamental grasses, and turf grasses, collectively.
3. “Native grasses” shall mean perennial grasses native to the local ecosystem or suitable for Colorado landscapes, including but not limited to big bluestem (*andropogon gerardi*); silver beard grass (*andropogon saccharoides*); Sideoats grama (*boutelous curtispindle*); buffalo grass (*buchloe dactyloides*); blue grama eyelash grass (*bouteloua gracilis*); sand lovegrass (*eragrostis trichodes*); switchgrass (*panicum virgatum*); little bluestem (*schizachyrium scoparium-syn. andropogon scoparius*); alkali sacaaton (*sporobolus airoides*); Indian grass (*sorghastrum nutans*); Indian rice grass (*achnatherum hymenoides – syn. oryzopisi*



## Proposed Amendments to the Weed Control provisions Chapter 7.18 of the Municipal Code

- hymenoides); Arizona fescue (*festuca arizonica*); June grass (*koeleria macrantha*); and Western wheatgrass (*pascopyrum smithii* – syn. *agropyron smithii*)..
4. “Ornamental grasses” shall mean annual or perennial grasses suitable for Colorado landscapes and grown as ornamental plants as a part of an overall landscaped area, including but not limited to Indian rice grass (*schnatherum hymenoides* -syn. *oryzopsis hymenoides*); big bluestem (*andropogon gerardii*); side oats grama (*bouteloua curtipendula*); blue grama (*bouteloua gracilis*); sandlove grass (*eragrostis trichodes*); Arizona fescue (*festuca arizonica*); blue fescue (*festuca cinerea*- *festuca glauca*); Idaho fescue (*festuca idahoensis*); blue oat grass (*helictotrichon sempervirens*); June grass (*koeleria macrantha*); silky threadgrass (*nassella tenuissima*); little bluestem (*schizachyrium scoparium*); Indian grass (*sorghastrum nutans*); prairie dropseed (*sporobolus heterolepis*).
  5. “Natural area” shall mean any areas, whether public or private, that are designated:
    - a) by the director of the parks and recreation department as a natural area, wildlife corridor, open lands or wetlands; or
    - b) by the director of development services as a natural area; or
    - c) as natural areas, wildlife corridors, wetlands or other areas intended to be maintained in a relatively natural, undeveloped state, on an approved plan.
  6. “Noxious weed” shall mean any noxious weeds designated by the Colorado Noxious Weed Act (C.R.S 35-5.5-101, et seq.) (the “weed act”) from time to time, including but not limited to yellow starthistle (*centaurea solstitialis*); Mediterranean sage (*salvia aethiopis*); myrtle spurge (*euphorbia myrsinites*); Cypress spurge (*euphorbia cyparissias*); orange hawkweed (*hieracium aurantiacum*); purple loosestrife (*lythrum salicaria*); bindweed (*convulvus*); leafy spurge (*Euphorbia esula*); Canada thistle (*cirsium rvense*); Russian knapweed (*centaurea pieris*); perennial sowthistle (*sonchus arvense*); puncture vine (*tribulus terrestris*).
  7. “Owner” shall mean the owner as shown upon the tax rolls, whether person, firm or corporation; any agent or representative of the owner; and any occupant of the premisesproperty.
  8. ~~2.~~ “Property” shall mean and includes, in addition to the owner's lot or tract of land, whether improved or vacant, the area to the center of an alley abutting the lot or tract of land, if any, all easements of record, and the sidewalk, curb, gutter and parking areas of any street abutting such lot or tract of land.
  9. ~~3.~~ “Turf grasses” shall mean any species of grasses commonly bred and designated for use in Colorado landscapes as an irrigated residential lawn or an irrigated open space or common area.
  10. “Weed” shall mean ~~Bindweed (convulvus), Dandelion (Leontodorean aggressive, non-native herbaceous plant detrimental to native plant communities or agricultural lands that is not classified as a noxious weed under the weed act, including but not limited to: dandelion (leontodore tavaxacum) and all weeds, grass, brush, or other rank or noxious vegetation which is in excess of eight (8) inches in height, and shall specifically include: Leafy Spurge (Euphorbia esula), Canada Thistle (Cirsium Arvense), Russian Knapweed (Centaurea pieris), Perennial Sowthistle (Sonchus Arvense), Puncture Vine (Tribulus terrestris), Silverleaf, silverleaf povertyweed (Franseriafranseria descolor), Mousemouse-ear poverty weed (Iva Axillaris), Fanweed (Thlaspi Arvense), Mustards (Brassiea), Purposiva axillaris), fanweed (thlaspi arvense), mustards (brassiea), purpose-flowered groundcherry (Quineula (quincula lobata), Russian Thistle (Salsolathistle (salsola pestifer), Fireweed (Koehia Scoparia), Redroot Pigweed (Amaranthusfireweed (kochia scoparia), redroot pigweed (amaranthus~~



## Proposed Amendments to the Weed Control provisions Chapter 7.18 of the Municipal Code

~~retroflexus), Sandbur (Cenchrussandbur (cenchrus tribuloides), Hairy Stickweed (Lappula Occidentalis), hairy stickweed (lappula occidentalis), Buffaloburs (Solanum rostratum), Common Ragweed (Ambrosia), common ragweed (ambrosia elatior), Cockleburs (Xanthium Commurie), Common Sunflower (Helianthus Centicularis), Marihuana (Cannabis Sativa), or other plants or offending vegetation which is regarded as a common nuisance, cockleburs (xanthium commurie), marijuana (cannabis sativa).~~ This list is not exclusive, but rather is intended to be indicative of those types of plants which are considered ~~noxious~~ a nuisance and a detriment to the public health and safety, ~~but, "Weeds"~~ shall not include flower gardens, plots of shrubbery, vegetable gardens, hay crops ~~and~~, corn crops, small ~~grain~~ plots (wheat, barley, oats, and rye ~~), turf grasses, ornamental grasses or native grasses.~~

11. "Weed district" shall mean the Larimer County Weed District.

### 7.18.030 Weeds and grasses, cutting and removal.

A. It is unlawful for the owner of any property, lot, block or parcel of land within the City to allow or permit:

1. the growth of noxious weeds ~~to grow uncontrolled~~ which are required to be eradicated under the weed act, regardless of height; or
2. the growth of noxious weeds which are not required ~~to remain when grown upon the~~ eradicated under the weed act, except to the extent that such noxious weeds are managed in accordance with the published recommendations of the weed district; or
3. the growth of weeds (other than noxious weeds) or grasses to a height of more than eight inches (8"), except as permitted in subsections B and C below.

B. The eight inch (8") height limitation set forth subsection A.3 above shall not apply to ornamental or native grasses so long as such grasses are:

1. shown on an approved plan and are being maintained in accordance with that plan; or
2. used solely, or in combination with other ornamental, native or turf grasses, as a supplement to or component of the overall landscaped area located on a property; or ~~on~~
3. growing in a private or ~~along~~ public natural area in a manner consistent with the maintenance of the health of such grasses (including permitting them to grow to a mature height and reseed) and are not a threat to public health or safety.

C. If there is any ~~alleys or sidewalk areas abutting the same~~ conflict between the eight inch (8") height limitation set forth in subsection A.3 above and the published recommendations of the weed district for management of noxious weeds that are not required to be eradicated under the weed act, the published recommendations of the weed district shall control.

D. Any waste from all destroyed or cut noxious weeds, weeds, or grasses shall be disposed of so that the ~~premises are~~ property is clean and orderly, and the spread of ~~such~~ weeds is prevented.

E. It shall be an affirmative defense to a violation of this section that the ~~land~~ property upon which the vegetation is growing is City owned property and has been designated by the Director of the Parks and Recreation Department of the City as a natural area, open lands, wildlife



## Proposed Amendments to the Weed Control provisions Chapter 7.18 of the Municipal Code

corridor, or wetlands, or that the ~~land~~property upon which the vegetation is growing is dedicated public or private ~~open lands~~natural area as determined by the ~~manager of the City's Long Range Planning and Natural Resources~~Director of Development Services Division.

F. The growth of six (6) marijuana (cannabis sativa) plants, with three (3) or fewer of the six (6) plants being mature and flowering plants, by a person twenty-one (21) years of age or older for personal use on his or her property in an enclosed, locked space and not conducted openly or publicly in accordance with Section 16, Article XVIII or Section 14, Article XVIII of the Colorado Constitution shall not constitute a violation of this Chapter 7.18.

### **7.18.040 \_\_\_\_ Notice and Order of Abatement.**

If any person fails to comply with Section 7.18.030, a written notice and order of abatement may be served upon the owner or agent in charge of such property ~~as set forth in this Section 7.18.040.~~ Such notice and order may specify the extent of the abatement required as reasonably necessary to protect public health and safety and shall be served by personal service, by regular mail, or by posting on the property with a copy mailed to the owner of the property if the property is not occupied by the owner, requiring the weeds or grasses to be cut or otherwise abated within seven (7) days after mailing, posting, or delivery of such notice.

### **7.18.042 \_\_\_\_ City removal and assessment.**

A. If a notice and order to abate is served pursuant to Section 7.18.040, and if the weeds or grasses are not cut or abated as required in the order within the stated time and maintained in compliance for the remainder of the calendar year, the City may cause a notice of abatement to be served upon the owner or agent in charge of such property, either by personal service or by posting and ~~certified~~regular mail, which notice shall allow the City to cut or otherwise abate or make a reasonable attempt to abate the weeds or grasses to the extent specified in the order and assess the whole cost thereof, including ten percent for inspection and other incidental costs in connection therewith, upon the land. The costs and any charges assessed by the City pursuant to this Chapter associated with cutting or other abatement of weeds or grasses shall be paid by the owner of the property or agent for such owner within thirty (30) days after mailing of the bill or assessment of such cost by the City to said owner or agent.

B. If the customer fails to pay the charges associated with ~~weed~~ abatement within the described 30- day period, a notice of the assessment shall be mailed via certified mail by the City to the owner of the property, notifying the owner that failure to pay the assessed amount within ten (10) days of the date of the letter shall cause the assessment to become a lien against the property.

C. Failure to pay the amount assessed for ~~weed~~ abatement services including inspection and incidental costs within the ten-day period specified in the notice of assessment shall cause the owner of the property to be subject to the lien and collection provisions of Chapter 3.50 of this code.

### **7.18.050 \_\_\_\_ Administrative review of assessment.**

Any owner who disputes the amount of assessment made against such owner's property under

## **Proposed Amendments to the Weed Control provisions Chapter 7.18 of the Municipal Code**

Section 7.18.042, may, within twenty (20) days of receipt of notice of such assessment, petition the City Manager for a revision or modification of such assessment in accordance with Chapter 7.70 of this code.

### **7.18.060        Owners have ultimate responsibility for violations.**

Every owner remains liable for violations of responsibilities imposed upon an owner by this chapter even though an obligation is also imposed on the occupant of the ~~premises~~property and even though the owner has by agreement imposed on the occupant the duty of maintaining the ~~premises~~property.



***This version (8.16.13) of the proposed Weed Control provisions shows how the text of Chapter 7.18 would appear if the proposed amendments are adopted.***

## **Chapter 7.18**

### **WEED CONTROL**

#### **Sections:**

<b>7.18.010</b>	<b>Intent.</b>
<b>7.18.020</b>	<b>Definitions.</b>
<b>7.18.030</b>	<b>Weeds and Grasses, Cutting and Removal.</b>
<b>7.18.040</b>	<b>Notice and Order of Abatement.</b>
<b>7.18.42</b>	<b>City Removal and Assessment.</b>
<b>7.18.050</b>	<b>Administrative Review of Assessment.</b>
<b>7.18.060</b>	<b>Owners Have Ultimate Responsibility for Violations.</b>

#### **7.18.010 Intent.**

It is the intent of this Chapter to protect the health, safety and welfare of the public by reducing the occurrence of weeds, grass, brush, or other rank or noxious vegetation which is regarded as a common nuisance.

#### **7.18.020 Definitions.**

A. The following words, terms and phrases, when used in this Chapter 7.18, shall have the following meanings:

1. "Approved plan" shall mean a landscape or other plan approved by the city in connection with the annexation, zoning, development or redevelopment of a property, whether separately or by inclusion in a general development plan, preliminary development plan, final development plan, site development plan, development agreement or public improvement construction plan.
2. "Grasses" shall mean native grasses, ornamental grasses, and turf grasses, collectively.
3. "Native grasses" shall mean perennial grasses native to the local ecosystem or suitable for Colorado landscapes, including but not limited to big bluestem (*andropogon gerardi*); silver beard grass (*andropogon saccharoides*); Sideoats grama (*boutelous curtispendule*); buffalo grass (*buchloe dactyloides*); blue grama eyelash grass (*bouteloua gracilis*); sand lovegrass (*eragrostis trichodes*); switchgrass (*panicum virgatum*); little bluestem (*schizachyrium scoparium*-syn. *andropogon scoparius*); alkali sacaton (*sporobolus airoides*); Indian grass (*sorghastrum nutans*); Indian rice grass (*achnatherum hymenoides* – syn. *oryzopisi hymenoides*); Arizona fescue (*festuca arizonica*); June grass (*koeleria macrantha*); and Western wheatgrass (*pascopyrum smithii* – syn. *agropyron smithii*).
4. "Ornamental grasses" shall mean annual or perennial grasses suitable for Colorado landscapes and grown as ornamental plants as a part of an overall landscaped area, including but not limited to Indian rice grass (*schnatherum hymenoides* -syn. *oryzopsis hymenoides*);



**Weed Control Amendments: CLEAN VERSION with amendments integrated.**

- big bluestem (*andropogon gerardii*); side oats grama (*bouteloua curtipendula*); blue grama (*bouteloua gracilis*); sandlove grass (*eragrostis trichodes*); Arizona fescue (*festuca arizonica*); blue fescue (*festuca cinerea-festuca glauca*); Idaho fescue (*festuca idahoensis*); blue oat grass (*helictotrichon sempervirens*); June grass (*koeleria macrantha*); silky threadgrass (*nassella tenuissima*); little bluestem (*schizachyrium scoparium*); Indian grass (*sorghastrum nutans*); prairie dropseed (*sporobolus heterolepis*).
5. "Natural area" shall mean any areas, whether public or private, that are designated:
    - a) by the director of the parks and recreation department as a natural area, wildlife corridor, open lands or wetlands; or
    - b) by the director of development services as a natural area; or
    - c) as natural areas, wildlife corridors, wetlands or other areas intended to be maintained in a relatively natural, undeveloped state, on an approved plan.
  6. "Noxious weed" shall mean any noxious weeds designated by the Colorado Noxious Weed Act (C.R.S 35-5.5-101, et seq.) (the "weed act") from time to time, including but not limited to yellow starthistle (*centaurea solstitialis*); Mediterranean sage (*salvia aethiopis*); myrtle spurge (*euphorbia myrsinites*); Cypress spurge (*euphorbia cyparissias*); orange hawkweed (*hieracium aurantiacum*); purple loosestrife (*lythrum salicaria*); bindweed (*convulvus*); leafy spurge (*Euphorbia esula*); Canada thistle (*cirsium rvense*); Russian knapweed (*centaurea pieris*); perennial sowthistle (*sonchus arvense*); puncture vine (*tribulus terrestris*).
  7. "Owner" shall mean the owner as shown upon the tax rolls, whether person, firm or corporation; any agent or representative of the owner; and any occupant of the property.
  8. "Property" shall mean and includes, in addition to the owner's lot or tract of land, whether improved or vacant, the area to the center of an alley abutting the lot or tract of land, if any, all easements of record, and the sidewalk, curb, gutter and parking areas of any street abutting such lot or tract of land.
  9. "Turf grasses" shall mean any species of grasses commonly bred and designated for use in Colorado landscapes as an irrigated residential lawn or an irrigated open space or common area.
  10. "Weed" shall mean an aggressive, non-native herbaceous plant detrimental to native plant communities or agricultural lands that is not classified as a noxious weed under the weed act, including but not limited to: dandelion (*leontodore tavaxacum*), silverleaf povertyweed (*franseria descolor*), mouse-ear poverty weed (*iva axillaris*), fanweed (*thlaspi arvense*), mustards (*brassiea*), purpose-flowered groundcherry (*quincula lobata*), Russian thistle (*salsola pestifer*), fireweed (*kochia scoparia*), redroot pigweed (*amaranthus retroflexus*), sandbur (*cenchrus tribuloides*), hairy stickweed (*lappula occidentalis*), Buffaloburs (*Solanum rostratum*), common ragweed (*ambrosia elatior*), cocklebur (*xanthium commurie*), marijuana (*cannabis sativa*). This list is not exclusive, but rather is intended to be indicative of those types of plants which are considered a nuisance and a detriment to the public health and safety. "Weeds" shall not include flower gardens, plots of shrubbery, vegetable gardens, hay crops, corn crops, small-grain plots (wheat, barley, oats, and rye), turf grasses, ornamental grasses or native grasses.
  11. "Weed district" shall mean the Larimer County Weed District.

**7.18.030 Weeds and grasses, cutting and removal.**

- A. It is unlawful for the owner of any property, lot, block or parcel of land within the City to allow or permit:



*Weed Control Amendments: CLEAN VERSION with amendments integrated.*

1. the growth of noxious weeds which are required to be eradicated under the weed act, regardless of height; or
2. the growth of noxious weeds which are not required to be eradicated under the weed act, except to the extent that such noxious weeds are managed in accordance with the published recommendations of the weed district; or
3. the growth of weeds (other than noxious weeds) or grasses to a height of more than eight inches (8"), except as permitted in subsections B and C below.

B. The eight inch (8") height limitation set forth subsection A.3 above shall not apply to ornamental or native grasses so long as such grasses are:

1. shown on an approved plan and are being maintained in accordance with that plan; or
2. used solely, or in combination with other ornamental, native or turf grasses, as a supplement to or component of the overall landscaped area located on a property; or
3. growing in a private or public natural area in a manner consistent with the maintenance of the health of such grasses (including permitting them to grow to a mature height and reseed) and are not a threat to public health or safety.

C. If there is any conflict between the eight inch (8") height limitation set forth in subsection A.3 above and the published recommendations of the weed district for management of noxious weeds that are not required to be eradicated under the weed act, the published recommendations of the weed district shall control.

D. Any waste from all destroyed or cut noxious weeds, weeds, or grasses shall be disposed of so that the property is clean and orderly, and the spread of weeds is prevented.

E. It shall be an affirmative defense to a violation of this section that the property upon which the vegetation is growing is City owned property and has been designated by the Director of the Parks and Recreation Department of the City as a natural area, open lands, wildlife corridor, or wetlands, or that the property upon which the vegetation is growing is dedicated public or private natural area as determined by the City's Director of Development Services Division.

F. The growth of six (6) marijuana (*cannabis sativa*) plants, with three (3) or fewer of the six (6) plants being mature and flowering plants, by a person twenty-one (21) years of age or older for personal use on his or her property in an enclosed, locked space and not conducted openly or publicly in accordance with Section 16, Article XVIII or Section 14, Article XVIII of the Colorado Constitution shall not constitute a violation of this Chapter 7.18.

**7.18.040 Notice and Order of Abatement.**

If any person fails to comply with Section 7.18.030, a written notice and order of abatement may be served upon the owner or agent in charge of such property as set forth in this Section 7.18.040. Such notice and order may specify the extent of the abatement required as reasonably necessary to protect public health and safety and shall be served by personal service, by regular mail, or by posting on the property with a copy mailed to the owner of the property if the



property is not occupied by the owner, requiring the weeds or grasses to be cut or otherwise abated within seven (7) days after mailing, posting, or delivery of such notice.

**7.18.042 City removal and assessment.**

A. If a notice and order to abate is served pursuant to Section 7.18.040, and if the weeds or grasses are not cut or abated as required in the order within the stated time and maintained in compliance for the remainder of the calendar year, the City may cause a notice of abatement to be served upon the owner or agent in charge of such property, either by personal service or by posting and regular mail, which notice shall allow the City to cut or otherwise abate or make a reasonable attempt to abate the weeds or grasses to the extent specified in the order and assess the whole cost thereof, including ten percent for inspection and other incidental costs in connection therewith, upon the land. The costs and any charges assessed by the City pursuant to this Chapter associated with cutting or other abatement of weeds or grasses shall be paid by the owner of the property or agent for such owner within thirty (30) days after mailing of the bill or assessment of such cost by the City to said owner or agent.

B. If the customer fails to pay the charges associated with abatement within the described 30-day period, a notice of the assessment shall be mailed via certified mail by the City to the owner of the property, notifying the owner that failure to pay the assessed amount within ten (10) days of the date of the letter shall cause the assessment to become a lien against the property.

C. Failure to pay the amount assessed for abatement services including inspection and incidental costs within the ten-day period specified in the notice of assessment shall cause the owner of the property to be subject to the lien and collection provisions of Chapter 3.50 of this code.

**7.18.050 Administrative review of assessment.**

Any owner who disputes the amount of assessment made against such owner's property under Section 7.18.042, may, within twenty (20) days of receipt of notice of such assessment, petition the City Manager for a revision or modification of such assessment in accordance with Chapter 7.70 of this code.

**7.18.060 Owners have ultimate responsibility for violations.**

Every owner remains liable for violations of responsibilities imposed upon an owner by this chapter even though an obligation is also imposed on the occupant of the property and even though the owner has by agreement imposed on the occupant the duty of maintaining the property.

## **Title 7**

### **HEALTH, SAFETY AND WELFARE**

#### **Chapters:**

- 7.04 Health Department.**
- 7.08 Food Regulations.**
- 7.12 Nuisances-Unsanitary Conditions.**
- 7.16 Solid Waste Collection and Recycling.**
- 7.18 Weed Control.**
- 7.26 Accumulations of Waste Material.**
- 7.28 Removal and Disposal of Abandoned Property Other Than Motor Vehicles.**
- 7.29 Unclaimed Intangible Property.**
- 7.30 Graffiti.**
- 7.32 Sound Limitations.**
- 7.36 Fire Protection.**
- 7.40 Smoking in Public Places.**
- 7.50 Possession and Use of Tobacco Products By Minors.**
- 7.60 Medical Marijuana.**
- 7.65 Marijuana Establishments Prohibited.**
- 7.70 Administrative Appeals Procedure.**

## WEED CONTROL

### Sections:

7.18.010	Intent.
7.18.020	Definitions.
7.18.030	Weeds, cutting and removal.
7.18.040	Notice and Order of Abatement.
7.18.042	City Removal and Assessment.
7.18.050	Administrative review of assessment.
7.18.060	Owners have ultimate responsibility for violations.

#### 7.18.010 Intent.

It is the intent of this Chapter to protect the health, safety and welfare of the public by reducing the occurrence of weeds, grass, brush, or other rank or noxious vegetation which is regarded as a common nuisance.

#### 7.18.020 Definitions.

A. The following words, terms and phrases, when used in this Chapter 7.18, shall have the following meanings:

1. "Owner" shall mean the owner as shown upon the tax rolls, whether person, firm or corporation; any agent or representative of the owner; and any occupant of the premises.
2. "Property" shall mean and includes, in addition to the owner's lot or tract of land, whether improved or vacant, the area to the center of an alley abutting the lot or tract of land, if any, all easements of record, and the sidewalk, curb, gutter and parking areas of any street abutting such lot or tract of land.
3. "Weed" shall mean Bindweed (*convulvus*), Dandelion (*Leontodore tavaxacum*) and all weeds, grass, brush, or other rank or noxious vegetation which is in excess of eight (8) inches in height, and shall specifically include: Leafy Spurge (*Euphorbia esula*), Canada Thistle (*Cirsium Arvense*), Russian Knapweed (*Centaurea pieris*), Perennial Sowthistle (*Sonchus Arvense*), Puncture Vine (*Tribulus terrestris*), Silverleaf povertyweed (*Franseria descolor*), Mouse-ear poverty weed (*Iva Axillaris*), Fanweed (*Thlaspi Arvense*), Mustards (*Brassiea*), Purpos-flowered groundcherry (*Quincula lobata*), Russian Thistle (*Salsola pestifer*), Fireweed (*Kochia Scoparia*), Redroot Pigweed (*Amaranthus retroflexus*), Sandbur (*Cenchrus tribuloides*), Hairy Stickweed (*Lappula Occidentalis*), Buffaloburs (*Solanum rosvatum*), Common Ragweed (*Ambrosia elatiov*), Cockleburs (*Xanthium Commurie*), Common Sunflower (*Helianthus Centicularis*), Marihuana (*Cannabis Sativa*), or other plants or offending vegetation which is regarded as a common nuisance. This list is not exclusive, but rather is intended to be indicative of those types of plants which are considered noxious and a detriment to the public health and safety, but shall not include flower gardens, plots of shrubbery, vegetable gardens, hay crops and small grain plots (wheat, barley, oats, and rye).

#### 7.18.030 Weeds, cutting and removal.

It is unlawful for the owner of any property, lot, block or parcel of land within the City to allow or permit weeds to grow uncontrolled or to remain when grown upon the property or on or along any alleys or sidewalk areas abutting the same. Any waste from all destroyed or cut weeds shall be disposed of so that the premises are clean and orderly, and the spread of such weeds is prevented. It shall be an

affirmative defense to a violation of this section that the land upon which the vegetation is growing is City owned property and has been designated by the Director of the Parks and Recreation Department of the City as a natural area, wildlife corridor, or wetlands, or that the land upon which the vegetation is growing is dedicated public or private open lands as determined by the manager of the City's Long Range Planning and Natural Resources Division.

**7.18.040 Notice and Order of Abatement.**

If any person fails to comply with Section 7.18.030, a written notice and order of abatement may be served upon the owner or agent in charge of such property. Such notice and order shall be served by personal service, by regular mail, or by posting on the property, requiring the weeds to be cut within seven days after mailing or delivery of such notice.

**7.18.042 City removal and assessment.**

- A. If a notice and order to abate is served pursuant to Section 7.18.040, and if the weeds are not cut within the stated time and maintained in compliance for the remainder of the calendar year, the City may cause a notice of abatement to be served upon the owner or agent in charge of such property, either by personal service or by posting and certified mail, which notice shall allow the City to cut the weeds and assess the whole cost thereof, including ten percent for inspection and other incidental costs in connection therewith, upon the land. The costs and any charges assessed by the City pursuant to this Chapter associated with cutting of weeds shall be paid by the owner of the property or agent for such owner within thirty (30) days after mailing of the bill or assessment of such cost by the City to said owner or agent.
- B. If the customer fails to pay the charges associated with weed abatement within the described 30-day period, a notice of the assessment shall be mailed via certified mail by the City to the owner of the property, notifying the owner that failure to pay the assessed amount within ten (10) days of the date of the letter shall cause the assessment to become a lien against the property.
- C. Failure to pay the amount assessed for weed abatement services including inspection and incidental costs within the ten-day period specified in the notice of assessment shall cause the owner of the property to be subject to the lien and collection provisions of Chapter 3.50 of this code. (Ord. 5683 § 2, 2012)

**7.18.050 Administrative review of assessment.**

Any owner who disputes the amount of assessment made against such owner's property under Section 7.18.042, may, within twenty (20) days of receipt of notice of such assessment, petition the City Manager for a revision or modification of such assessment in accordance with Chapter 7.70 of this code.

**7.18.060 Owners have ultimate responsibility for violations.**

Every owner remains liable for violations of responsibilities imposed upon an owner by this chapter even though an obligation is also imposed on the occupant of the premises and even though the owner has by agreement imposed on the occupant the duty of maintaining the premises. (Ord. 5305 § 1, 2008; Ord. 4649 § 9, 2001; Ord. 4274 § 1 (part), 1997)