

**City of Loveland**  
**Meeting of the Construction Advisory Board**  
**November 15th, 2017**  
**City Council Chambers**  
**500 East 3<sup>rd</sup> Street**  
**6:00 PM**

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**I. CALL TO ORDER**

**II. ROLL CALL**

**III. MINUTES: September 27<sup>th</sup>, 2017**

*Anyone in the audience will be given time to speak to any item on the Agenda. Please ask for that item to further discuss. You will be given an opportunity to speak to the item before the CAB acts upon it.*

*Anyone making a comment during any portion of tonight's meeting should come forward to a microphone and identify yourself after being recognized by the Chairperson.*

*Please do not interrupt other speakers. Side conversations should be moved outside the Council Chambers. Please limit your comments to no more than ten minutes.*

**IV. CITIZEN COMMENTS**

**V. REPORTS:**

- a. Board/Commission Members**
- b. City Council Liaison, John Fogle**
- c. Chief Building Official, John Schumacher**

**VI. REGULAR AGENDA:**

- a. Steve Olson - Proposal for permitting of roofs, furnaces, etc.**
- b. Capital Expansion Fee Draft Discussion - Allan Krcmarik**
- c. Review of Title 20 related to nuisances and abatement**
- d. Request to Accelerate the City of Loveland vs. Heckel Hearing Date**
- e. Assignments of Committees for 2018 Code Adoption**
- f. Elections for CAB Chairman and Vice Chairman**

**VII. AJOURNMENT**

City of Loveland Construction Advisory Board

Meeting Minutes

September 27, 2017

**I: Call to Order**

**II: Roll Call**

**Board Members Present:** Jason Baker, Andrew Ross, Kent Kerwood, Christopher Rosenberger, Bob Dehn, Adam Trainor

**Board Members Absent:** Blaine Rappe, Roger Lewis, Jon Rudolph, John Fogel

**City Staff Members Present:** Ingrid McMillan Ernst, Ned Sparks, Ashley Iverson, John Schumacher, Elizabeth Allen

**City Council Members Present:** None

**III: Approval of Minutes**

Motion to approve August 23<sup>rd</sup> meeting minutes made by **Bob Dehn**, seconded by **Adam Trainor**. Motion passed unanimously.

**IV. Citizen Comments**

- a. None

**V. Reports**

- a. **Board and Commission Reports:** None
- b. **Council Liaison:** None
- c. **Chief Building Official John Schumacher:** Provided an update on the code amendment adoption process: moved forward to City Council; is now delayed. It's been decided to separate some code requirements from the ordinance. Will move forward with an ordinance to present all other amendments without requirement for additional permits. City Council was not fully in favor and had some concerns. Will be taking forward those code amendments that were supported by the Board and Council. The first reading is set for October 24<sup>th</sup>, and the second reading is November 17<sup>th</sup>. The additional permits and staff increases will be presented sometime in January or February of next year.

**Mr. Schumacher** also sought feedback from the Board regarding November and December meetings, which are usually combined into one meeting in November. If the Board is in agreement, the meeting will be November 15<sup>th</sup>, rather than the 22<sup>nd</sup> (which is the Wednesday before Thanksgiving). Motion to approve the combining of November and December meetings and schedule for November 15<sup>th</sup> was made and seconded. Motion approved unanimously.

**Mr. Schumacher** stated that copies of the 2018 code have been received, and will possibly be adopting the new code sometime late next year. Part of the process includes Board review. Typically, the Board is separated into committees to review. **Mr. Schumacher** asked the Board members to consider what committee they would like to sit on, and send him an email with this information prior to the next Board meeting in order to get the process started.

## **VI. Regular Agenda:**

**Item c—moved to first item. Discussion concerning the possible adoption of the Uniform Code for the Abatement of Dangerous Buildings by John Schumacher:** The Building Department, along with the City Attorney's Office and Planning Department, has been working toward consolidating nuisance ordinances into a single chapter.

- Include this in the ordinance going before City Council. Bringing to Board now for recommendation or approval to City Council.
- The Uniform Code for the Abatement of Dangerous Buildings sets a process, establishes criteria, and also helps deal with traffic nuisances. It is widely used throughout the State.
- Sets forth a process for notices, abatements, etc.
- Some processes are already used, using this for consolidation and consistency.

**Kent Kerwood** asked if the Code referenced was the 1997 edition and inquired about newer versions. **John Schumacher** stated the edition in question is widely used, very complete, and easy to use. A motion was made by **Bob Dehn** to delay until next meeting in order to evaluate further. Motion seconded by **Jason Baker**. Motion to postpone unanimously approved.

### **a. Hearing related to complaint by Janice Johnson against John Moore Plumbing:**

Questions posed by **Chairman Rosenberger** related to the conduct of the hearing to the Board:

- Do you or have you conducted business with the individual or entity seeking relief from the City's action against the party?
- Do you have a financial or personal interest in the outcome of the proceedings?
- Does your employer have a financial or personal interest in the outcome of the proceedings?
- Do you have special knowledge of the substance or merits of the proceeding which would cause you to pre-judge the parties involved?
- Is there any reason why you cannot hear this matter fairly and impartially?

No members recused themselves.

**Chairman Rosenberger** declared for the record the full statement regarding the laws of the State of Colorado in a semi-judicial proceeding. Date and time proclamation: Wednesday, September 27<sup>th</sup>, 2017; 6:25 p.m. **Chairman Rosenberger** stated that the hearing was called before the Construction Advisory Board to review the matter at hand pursuant to Article 10 of Loveland City Charter and Chapter 2.60 of the City Municipal Code. This review of the

Contractor's services is intended to determine by a preponderance of evidence whether any parties violated Loveland Municipal Code. The review is adjudicatory by nature. To ensure the hearings proceed in an orderly and efficient manner, first, a brief opening statement will be made by the City; followed by the Contractor. Second, the City will present its case, including all witnesses and evidence, if any. These are subject to full and cross-examination by the Contractor in an effort to avoid a recall of any witnesses. Third, the Contractor will present his/her case opposing the allegations, including any witnesses and evidence. These are also subject to full and cross-examination by the City. Fourth, the City will make its closing statement, which will be followed by the Contractor's closing statement.

**Chairman Rosenberger** then requested that all parties involved introduce themselves for the record.

- **John Schumacher**, Chief Building Official
- Let the record reflect that no representative from John Moore Plumbing is present.

**Mr. Schumacher** stated that on January 18<sup>th</sup> 2017, he received a complaint from Janice Johnson indicating that work had been completed by John Moore Plumbing without a permit and was not compliant with code. Mr. Schumacher visited Ms. Johnson on January 22<sup>nd</sup> and found the a bathroom remodel had been completed, which included removal of a half wall, the alteration of a shower and installation of a handicapped accessible shower, moving electrical, etc. Mr. Schumacher sent letters to John Moore Plumbing on April 5<sup>th</sup> and July 7<sup>th</sup>. The City's investigation showed that John Moore Plumbing had an expired license and they had not obtained a permit for the work. Mr. Schumacher received a series of documents indicating the nature and cost of the work. Mr. Schumacher met with representatives of John Moore Plumbing, including the owner, and they indicated they did not believe they needed to obtain a permit before completing the work, given the nature of the job—which they felt was a small job. The Contractor also contended they did not know their license was expired. They did subsequently obtain a permit for the work and renewed their license. Mr. Schumacher spoke with John Moore Plumbing in advance of the hearing and did expect them to attend. His recommendation is that the Board impose a sanction of six months probationary period on the newly renewed license.

**Adam Trainor** asked if the probationary status is public knowledge or information available to a potential customer, which could affect bids and future work or jobs. **Mr. Schumacher** deferred to the legal department, but stated that the Building Department would not offer the information to a customer. Rather, the probationary status is intended to ensure compliance. The information on the Contractor is offered only if the license is suspended.

**Bob Dehn** asked why Ms. Johnson called Mr. Schumacher. **Mr. Schumacher** stated she had some concerns about the work, particularly that water was not staying in the shower, and the seat portion of the shower would not be useable due to sharp tile. Additionally, Ms. Johnson was granted funds via the Division of Housing to assist with the project and part of that funding including a question of permitting.

**Mr. Dehn** also asked what code was violated. **Mr. Schumacher** stated they had violated section 105.1 of the IRC. Additionally, the Contractor violated Municipal Code 1530.030 which states an active license is required to act as a licensed contractor within the City. **Mr. Schumacher** stated the violated Codes include inadequate drainage and lack of inspection.

**Mr. Dehn** asked why there was a delay in procedure on the part of the City (from January 22<sup>nd</sup> to April) to send a letter to John Moore Plumbing. **Mr. Schumacher** stated that the City was working with Ms. Johnson, was in contact with the Contractor and waiting for a response, and was also working with the CAB on the hearing process.

**Jason Baker** asked if electrical work had been inspected. **Mr. Schumacher** stated that while a permit has been obtained, there is a contractual/legal dispute between Ms. Johnson and John Moore Plumbing that has prevented inspection and no items have been filed.

**Chairman Rosenberger** stated that because there is no representative present from John Moore Plumbing, there will be no witness to call on their behalf.

**Chairman Rosenberger** asked if there is a City witness present. **Mr. Schumacher** stated there is no witness present.

**Mr. Schumacher** then issued a closing statement: John Moore Plumbing operated without a valid license, and performed the job without a permit. Mr. Schumacher stated that in his conversation with Mr. and Ms. Moore of John Moore Plumbing, they seemed genuinely unaware their license had expired, and they had held one for quite some time. Additionally, Mr. Schumacher stated it was an oversight on their part regarding the permit. Mr. Schumacher stated that the owners understand the consequences and are amenable to the probation. Moreover, the owners have taken the initiative to renew their license and obtain a permit.

**Chairman Rosenberger** asked if there are any prior violations from John Moore Plumbing. **Mr. Schumacher** stated that there are none he is aware of, but no records were kept previously.

**Chairman Rosenberger** issued concluding statements and opened the floor to deliberation of Board members. Mr. Rosenberger then asked if there were any comments. **Jason Baker** and **Andrew Ross** stated they had none.

**Bob Dehn** stated that while it is important to hold the company and owners accountable, he feels a 6 month probation could hurt the Contractor. Rather, he felt that it would be more appropriate to offer the Contractor one year in which he could lose his license should he have any other violations during that time. Mr. Dehn stated that while it is not acceptable to conduct work without a permit, he did not feel the violations were so egregious as to require a six month probation, which could ultimately damage the company.

**Assistant City Attorney Elizabeth Allen** offered a clarification: Ms. Allen stated that before the Board makes any determination on the sentencing recommendation provided by the City, it first needs to be determined whether or not there has been a violation. Do you have any comments regarding whether or not the Contractor violated the Code?

**Mr. Dehn** stated that yes, there had been a violation.

**Adam Trainor** agreed with both Mr. Dehn's comments as well as the assertion that a violation had occurred.

**Kent Kerwood** stated that on reading the comments from the Contractor, it was a misjudgment of information. While it was a violation on the part of the Contractor, he felt it was likely a misunderstanding.

**Chairman Rosenberger** stated deliberations are now concluded.

**Chairman Rosenberger** asked if there is a motion to determine if a violation occurred. A motion was made by **Adam Trainor** and seconded by **Kent Kerwood**. The motion passed unanimously.

**Chairman Rosenberger** stated that deliberation of sentencing will now take place.

**Jason Baker** stated that while it appeared to be a small infraction, the Contractor did violate Code and did not obtain a permit. The work was deficient, and there is grounds for probation.

**Andrew Ross** stated his concerns regarding the real effect on the Contractor by imposing a 6 month probation. What happens at the end of the term—at 6 months plus one day?

**John Schumacher** stated that the effect is that after 6 months and one day, should a violation occur again, the Contractor would be brought before the Board again. The difference would be that when the Board is taking them matter under consideration, a determination would need to be made whether or not they are in violation and whether or not there should be a penalty. It would need to be determined whether or not they completed their probation successfully or if there was a violation while under the probationary period. The egregiousness of any violation would be determined by the Board given the history of the events.

**Mr. Ross** asked who will monitor the Contractor's performance during the 6 month period.

**Mr. Schumacher** stated it will not be an assessment of the Contractor's performance, but a monitoring of violations, and there is a difference. It is the role of the Building Department to ensure compliance, and that will include a tracking of any complaints. The probation period will be monitored for any complaints or lack of compliance.

**Chairman Rosenberger** clarified that the Contractor's license will be good for one year in any case. It is a question of monitoring for any complaints over the course of 6 months.

**Mr. Schumacher** stated that is correct, and it is also important to note that the probation will go on internal records within the Building Department. This ensures that any violations during the probationary period can be monitored—even if a customer does not complain until a year later. If the violation occurs during the probationary period, the case will return to the Board for deliberation.

**Chairman Rosenberger** stated that this is clearly a violation. While as a licensed contractor, one might not realize a license had lapsed, a Contractor should know the type of work that requires permit. This is a major infraction.

**Bob Dehn** stated that he felt probation is unnecessary. The Contractor admitted a mistake, and the Board has larger concerns than this one. Probation will affect the Contractor negatively and unnecessarily.

**Adam Trainor** stated that while it has been acknowledged there is a violation, the Contractor does appear to be contrite. Probation has the potential to harm a business and could be more punitive than the Board intends it to be. Mr. Trainor agreed with Mr. Dehn that probation is too harsh and a little grace should be granted.

**Mr. Kerwood** stated that he agrees that the probation suggested by Mr. Schumacher is enough. Mr. Kerwood does not believe the Contractor acted with any intent. There is not enough information to determine if the Contractor has attempted to correct the issues related to water drainage. However, there is a violation in both permitting and licensing. Probation is appropriate for this situation.

**Mr. Baker** added an additional comment that the Contractor evidently also has offices in other locations, so Loveland is not the sole operating area. Therefore, probation will not necessarily impact the business immensely, particularly when considering the Contractor's statement that they do not conduct much work in Loveland.

**Chairman Rosenberger** asked Mr. Schumacher about the timeframe between the violation and the effort to renew license and obtain permits. **Mr. Schumacher** stated it was approximately four months.

**Chairman Rosenberger** stated that this does not appear to be timely. He also inquired about job's need for electrical, which is work outside plumbing. Was John Moore Plumbing acting as a small general contractor in this job? Were other contractors involved? **Mr. Schumacher** stated "no." **Chairman Rosenberger** stated that this would be another violation because they performed the work of another trade.

**Mr. Rosenberger** asked if there is a motion to accept the recommendation of the City of Loveland. **Mr. Baker** motioned to approve probation. **Mr. Kerwood** seconded the motion. **Chairman Rosenberger** conducted a roll-call vote:

- **Jason Baker:** Yes
- **Andrew Ross:** Abstain
- **Chris Rosenberger:** Yes
- **Bob Dehn:** No
- **Adam Trainor:** No
- **Kent Kerwood:** Yes

**Chairman Rosenberger** stated there are not enough votes to pass the resolution and so will need to further deliberate to come to a majority. Mr. Rosenberger stated another option would be to motion for a different penalty.

A motion was made by **Mr. Dehn** to make the penalty as follows: if John Moore Plumbing is caught in any violation in the next two years, they will lose their license. Mr. Dehn clarified that it would have to be more than a complaint, but rather a proven violation.

**Mr. Baker** stated that this is no different than putting the Contractor on probation. **Mr. Dehn** stated that probation could create a possibility for any competition to use the case against them.

**Chairman Rosenberger** asked if perhaps Mr. Dehn felt that rather than probation now, take the case under consideration if another matter were to arise.

**Ms. Allen** stated the record should reflect this is a conversation between Board members.

**Chairman Rosenberger** asked for clarification regarding probationary status and whether it is public knowledge. **Mr. Schumacher** stated that is correct, it is internal information only.

**Chairman Rosenberger** stated his belief that the recommendation is light, given that the Contractor was conducting electrical work, which is a more serious concern and illegal in the state of Colorado.

**Mr. Ross** stated concerns regarding contractors completing work in the community in an appropriate fashion related to their license.

**Chairman Rosenberger** stated that the Board must stick to the matter at hand and states that the Contractor is ultimately responsible for work completed.

**Mr. Trainor** asked about the addressing issues related to the letter sent to John Moore Plumbing. **Mr. Schumacher** stated that the City had sent the owner a letter to the address shown on the license, but the Contractor had relocated.

**Chairman Rosenberger** asked about drywall in the shower area and whether proper materials were used. **Mr. Schumacher** indicated the only way to know is to inspect behind the drywall, and this has not been completed at this time.

**Ms. Allen** offered the Board possible remedies available.

**Mr. Baker** asked if John Moore Plumbing is a licensed general contractor. **Mr. Schumacher** stated yes, they are a residential general contractor.

A motion was made by **Adam Trainor** to issue a formal letter of reprimand but asked for more clarity on this remedy. Would there be other ramifications? Mr. Trainor stated that a letter of reprimand is sufficient punishment. The motion was seconded by **Bob Dehn**.

A roll call vote was conducted on issuing a formal letter of reprimand:

**Jason Baker:** Yes

**Andrew Ross:** Yes

**Chairman Rosenberger:** Opposed on the basis of the Contractor conducting electrical work without a proper license, which is illegal in the state of Colorado.

**Bob Dehn:** Yes

**Adam Trainor:** Yes

**Kent Kerwood:** Yes

The motion passed with a final decision to send a formal letter of reprimand.

**Adam Trainor** commented that the Contractor conducting electrical work is in question, based on comments from the Contractor. This is in dispute with the homeowner and is not verifiable at this time.

**Chairman Rosenberger** stated that the Board will send the written decision within 10 days and the hearing is now concluded.

Recess called.

Meeting reconvened at 7:23 p.m.

**b. Hearing related to complaint by Les Garner against Northern Colorado Home and Design Center**

**Chairman Rosenberger** again posed questions to the Board which offer an opportunity for recusal. The members responded as follows:

- **Jason Baker:** No
- **Andrew Ross:** No
- **Bob Dehn:** No
- **Adam Trainor:** No
- **Chris Rosenberger:** Yes, I have a possible conflict, as I know the owner of Northern Colorado Home and Design.

**Ms. Allen** asked **Chairman Rosenberger** if anything about his relationship with the owner of Northern Colorado Home and Design would limit his ability to remain fair and impartial.

**Chairman Rosenberger** stated no. **Ms. Allen** asked, "Will you utilize the rules and regulations that this Board has set forth and follow the rules and regulations in a fair and impartial manner?"

**Chairman Rosenberger** affirmed that he would. **Ms. Allen** stated that she has no concerns based on the statements of the Chair that a recusal is necessary. **Ms. Allen** asked for clarification and a disclosure from the Chair as to how, exactly, he knows the owner of Northern Colorado Home and Design. **Chairman Rosenberger** stated that his wife worked for the owner for a short period of time. **Ms. Allen** asked if there was anything about the employment that made him biased either for or against the owner of Northern Colorado Home and Design. **Mr. Rosenberger** stated no.

**Chairman Rosenberger** stated the date, September 27, 2017, and time, 7:28 p.m. **Mr. Rosenberger** stated that this hearing was called before the Construction Advisory Board to review the matter at hand pursuant to Article 10 of Loveland City Charter and Chapter 2.60 of the City Municipal Code. This review of the Contractor's services is intended to determine by a

preponderance of evidence whether any parties violated Loveland Municipal Code. The review is adjudicatory by nature. To ensure the hearings proceed in an orderly and efficient manner, first, a brief opening statement will be made by the City; followed by the Contractor. Second, the City will present its case, including all witnesses and evidence, if any. These are subject to full and cross-examination by the Contractor in an effort to avoid a recall of any witnesses. Third, the Contractor will present his/her case opposing the allegations, including any witnesses and evidence. These are also subject to full and cross-examination by the City. Fourth, the City will make its closing statement, which will be followed by the Contractor's closing statement.

**Chairman Rosenberger** then requested that all parties involved introduce themselves for the record by name and relationship to the proceeding:

- **Christian Nahr** owner
- **Roger Seat**, attorney for Mr. Nahr.
- **Les Garner**, homeowner
- **Molly Garner**, homeowner
- **Edward Yalacki**, subcontractor, former employee

**John Schumacher**, Chief Building Official for the City of Loveland, issued opening statements: We are here tonight to hear the complaint of Les and Molly Gardner against Mr. Nahr. The City intends to show that Mr. Nahr performed work within the City's jurisdiction without a valid license and without a permit, and some of that work is not compliant with Code.

**Mr. Seat** stated that this is a mistake. Mr. Nahr spoke to a member of the Building Department, described the work to be conducted, and believed that he did not need a permit—he could get a sub. He did not think he needed a permit. All this was stated in Mr. Nahr's letter. **Mr. Seat** added that Mr. Nahr has many happy customers, but two unhappy ones in the room at present. Both are in the back of the room videotaping the proceedings, and this feels like an intimidation tactic. Mr. Seat stated that any video recordings be stopped. **Ms. Allen** stated this is a public hearing. **Mr. Seat** asked if they can video the proceedings. **Ms. Allen** affirmed they can. **Mr. Seat** asked for all parties present to concentrate on all relevant facts and not any mud-slinging.

**Mr. Nahr**, owner of Northern Colorado Home and Design, stated that Mr. Garner and Ms. Garner hired him to complete a 50's era bathroom remodel. He stated he has done a lot of work in Windsor and Greeley, where a license is not necessary as electrical and plumbing subs are state licensed. Mr. Nahr stated that he spoke to Ashley Iverson in the Building Department, who, after placing him on hold, told him no permit was needed. **Ms. Allen** interjected and informed Mr. Nahr that this is not appropriate for an opening statement, but that a brief recitation is all that is now needed. Ms. Allen stated that Mr. Nahr's attorney should consult with him on what occurred. Ms. Allen cautioned the Board that opening statements are not evidence.

**John Schumacher** presented the City's case: In March of this year, the Building Division received a complaint against Northern Colorado Home and Design and Mr. Nahr. Mr. Garner reported that a bathroom remodel had been completed by Mr. Nahr's company and that the work had been completed without a permit and been completed by Mr. Nahr, who did not hold a license. Mr. Schumacher conducted a site visit on March 16<sup>th</sup>, 2017, and found that work was not

compliant, completed without a permit, and without a license. The work performed was found during Mr. Schumacher's site visit to be in violation of 2012 IRC and City Municipal Code. A letter was sent to Mr. Nahr's firm on April 5<sup>th</sup>, 2017, but while sent to the correct address, through an administrative error, was addressed to John Moore Plumbing. The letter was then returned to the City with a notation that no John Moore Plumbing existed at that address, but the notation was made on the letter itself and the envelope was opened. The remainder of the letter, other than the salutation, contained the correct information and included the address of the project and the customer name. Another letter was sent on July 7<sup>th</sup> to Mr. Nahr's firm, and in response to that letter, on July 12<sup>th</sup>, the Building Department received a handwritten letter from Mr. Nahr. In that letter, Mr. Nahr acknowledges the work was performed without a license and without a permit. Mr. Nahr claims he did not know he needed a license or a permit. If Mr. Nahr performed that work on his own, which includes electrical and plumbing, he performed it in violation of City ordinance and of State statute. If he hired contractors, who are licensed by the State, they should have the knowledge of what is required of them as part of their licensing by the State that a permit is required. They would have completed the work under Mr. Nahr's direction while knowing that a permit was required. On July 12<sup>th</sup>, a letter was received in response to the City, admitting Mr. Nahr did not know he needed a permit. Since that time, no action has been taken to rectify the situation. There has been no other contact with Mr. Nahr. Mr. Nahr's attorney has contacted Mr. Schumacher regarding the hearing and asking for more information on the hearing date and more information on the complaint. Mr. Schumacher responded with that information, and Mr. Nahr's attorney responded in email stating the information was received. At this time, Mr. Schumacher stated, he would like to call as a witness Les Garner.

**Ms. Allen** asked Mr. Garner to swear to tell the truth, the whole truth, and nothing but the truth, and Mr. Garner affirmed he would do so. Mr. Garner stated his name for the record.

**Mr. Garner** offered his statement, in which he stated that he contacted Mr. Nahr, and at that time, Mr. Nahr assured him he was licensed, bonded, and insured. Mr. Nahr also assured Mr. Garner that he would pull the permits for the job and he knew that it would require permits. Mr. Garner stated that Mr. Nahr in person and on his website states he is licensed, when he is not. Additionally, Mr. Garner stated that contract indicated the job would be completed in a given period of time, but 45 days later, it was still not completed. During that time, Mr. Garner states he incurred significant costs for hotel rooms, meals, and the like. In addition, Mr. Nahr damaged property, such as a vanity in the bathroom. He did not finish the job as contracted. Part of the contract stated that he was to completely gut the bathroom, with everything removed. Mr. Garner stated that he and his wife went out of town, and upon returning, found that only a small portion of the drywall had been removed. Mr. Garner stated that Mr. Nahr used inferior products, and that a subcontractor stated that inferior products were used and the job was completed in a manner that was unusual. There are now problems appearing in the texture and the drywall that Mr. Nahr completed. Mr. Garner stated these are the reasons for the hearing. Mr. Garner stated he has since learned that Mr. Nahr did not pay the subcontractors associated with this job. Mr. Garner went on to say that he had found multiple former customers of Mr. Nahr's who were

displeased, and at least one who was involved in a lawsuit. According to Mr. Garner, Mr. Nahr's sales tax license is expired and he is effectively not in business at this time.

**Chairman Rosenberger** asked the Board if they have any questions at this time. **Jason Baker** stated no. **Andrew Ross** stated no. **Bob Dehn** stated no, maybe later. **Adam Trainor** asked what attempts have been made to rectify the situation, and was the contractor given an opportunity to correct the situation?

**Mr. Garner** stated that when he contacted Mr. Nahr, Mr. Nahr told him the "work was too hard to complete." Mr. Garner stated he mentioned this to the drywall contractor, who stated that the whole job was not completed. Mr. Garner contacted Mr. Nahr to complete the "punch list" which was never completed. Mr. Garner withheld payment and completed the work himself.

**Chairman Rosenberger** stated that Northern Colorado Home and Design now has the opportunity to question the witness. **Ms. Allen** asked that the record reflect that Mr. Nahr's attorney, **Mr. Seat**, has no questions for this witness at this time.

**Chairman Rosenberger** asked if there would be any other witnesses at this time, and **Mr. Schumacher** stated he would like to call Mr. Yalacki at this time.

**Edward Yalacki** stated his name for the record and was sworn in. Mr. Yalacki stated that he worked for Mr. Nahr for approximately five months. In that time, **Mr. Yalacki** stated that Mr. Nahr had multiple unhappy customers, and only one satisfied one. Mr. Nahr was often late and lied about the work he would do. Every customer complained except one, according to Mr. Yalacki. Mr. Yalacki stated that Mr. Nahr would use sheetrock in showers, which he told Mr. Nahr was illegal. Mr. Nahr frequently completed work that was against code, according to Mr. Yalacki. This included moving electrical. **Mr. Rosenberger** reminded Mr. Yalacki to stick to this current case. **Mr. Yalacki** stated that in the case of Mr. Garner's job, the wrong screws were used, incorrect materials were used, Mr. Nahr never took recommendations from subcontractors, and lied about his licensing and permitting.

There are no cross-examination questions at this time.

**Mr. Yalacki** returned to the stand to be questioned.

**Jason Baker** asked Mr. Yalacki what type of work he had completed, Mr. Yalacki stated that on this project, he completed tile work and helped install the vanity.

**Andrew Ross:** no questions.

**Bob Dehn:** You worked multiple jobs for Mr. Nahr, yet continued to complete jobs incorrectly? **Mr. Yalacki** stated that at that time, he needed the job and was applying for a home loan. He needed to provide for his family. **Mr. Dehn** asked if there was anything else on this job that Mr. Yalacki was aware of that was not up to code. **Mr. Yalacki** stated that to his knowledge, the sheetrock and screws were not up to code.

**Adam Trainor:** no questions.

**Kent Kerwood:** no questions at this time.

**Chairman Rosenberger:** no questions.

**Mr. Schumacher** offered closing statements: Mr. Nahr advertises, has a Facebook page, and uses social media. In these, he states he is licensed and insured. Mr. Schumacher used an example from the *Loveland Reporter Herald* as evidence, which states he is licensed. Mr. Schumacher stated that on the Northern Colorado Home and Design web page and Facebook page, there are multiple photos of completed work. All this indicates he has a vast amount of experience. With that amount of experience, it is not plausible he does not know a permit is required or that he should look into the requirements of each jurisdiction. Mr. Schumacher doubts the opening remarks from Mr. Seat that this is a Contractor who just didn't know any better. The visible work is not to code, and the code violations are visible by witnesses. Mr. Schumacher stated he has no more evidence.

**Adam Trainor** asked if the Contractor has ever held a license in the City. **Mr. Schumacher** stated no.

**Roger Seat**, attorney for Mr. Nahr called Christian Nahr. **Ms. Allen** performed the swearing-in.

**Mr. Seat** asked Mr. Nahr for a statement regarding the job he completed for Mr. and Ms. Garner: Mr. Nahr stated he is new to the area, and called the City of Loveland. He spoke to Ashley, asking if he would need a permit. She put him on hold, and stated that as long as the subcontractors are licensed, he would not need a permit. **Mr. Seat** asked Mr. Nahr how many people worked on the job. **Mr. Nahr** stated the job required an electrician, a plumber, and dry wall person, who was Mr. Yalicki. All were licensed. All subcontractors were paid, and Mr. Nahr stated he has proof of that. **Mr. Seat** asked if the homeowners ever asked about permits or licensure. **Mr. Nahr** stated they did not. Mr. Nahr stated he was not allowed to finish the job. He contacted Mr. Garner about finishing the punch list, but was told not to come back. He stated he hired subcontractors for the drywall work. **Mr. Seat** asked **Mr. Nahr** if he knew what Mr. Yalicki was talking about regarding the screws, and Mr. Nahr stated he did not. **Mr. Seat** asked if he used inferior products. **Mr. Nahr** stated he did not, he used products the subcontractor provided. Mr. Seat asked Mr. Nahr if his sales tax license was expired, and **Mr. Nahr** stated he was not aware of that. Mr. Seat asked if he ever tried to fix the problems, and Mr. Nahr stated he was not allowed to. While he was experienced in many other jurisdictions, he did not know about the General Contractor license. It is his agreement that the subcontractors are to be licensed. Mr. Nahr stated he was going off of information provided by Ashley with the City of Loveland, which was that all subcontractors must be licensed. **Mr. Seat** stated he had no additional questions.

**John Schumacher** cross-examination of Mr. Nahr:

**Mr. Schumacher** asked Mr. Nahr when he spoke to Ashley in the Building Department. **Mr. Nahr** stated it was probably in October or November of 2016. **Mr. Schumacher** asked Mr. Nahr to elaborate on that conversation. **Mr. Nahr** stated he told Ashley they were doing a 50's era remodel and offered all the details of the job. **Mr. Schumacher** asked if Mr. Nahr was aware that the City has a website, and asked if he had visited it. **Mr. Nahr** stated he was aware. Mr.

Schumacher asked if Mr. Nahr was aware that the website contains all the information needed on permitting. **Mr. Nahr** stated he doesn't do much online and that's why he called.

**Mr. Schumacher** asked Mr. Nahr if he is aware that plumbing and electrical work requires a permit, and Mr. Nahr stated he is aware. **Mr. Nahr** stated he was under the understanding from the subs that they would not need permits, and he relies on them for correct information. **Mr. Schumacher** asked if Mr. Nahr was aware of the type of screws used in the shower. **Mr. Nahr** stated he was unaware. **Mr. Schumacher** asked if Mr. Nahr is to provide oversight, and if that is part of his role as a general contractor. **Mr. Nahr** affirmed that that is his function. **Mr. Schumacher** asked about the products used in the shower, and **Mr. Nahr** stated he would need to confirm the types of products used and is not aware of insufficient products. Mr. Nahr stated he does not have knowledge of the 2012 IRC book.

**Jason Baker** asked if Mr. Nahr's website states he is a licensed contractor. Mr. Nahr stated he did not design the site, and would need to look at it to see what is on it.

**Andrew Ross:** no questions.

**Bob Dehn:** When you spoke to the Garner's, you presented yourself as a contractor? **Mr. Nahr** stated yes. **Mr. Dehn** asked how long Mr. Nahr has been a contractor. **Mr. Nahr** stated it has been long time, but he really does not know exactly—since roughly 1986. **Mr. Dehn** asked if Mr. Nahr has reviewed his website, and **Mr. Nahr** stated he has looked at it, but not reviewed all the updates. **Mr. Dehn** asked about Mr. Nahr's licensing history. **Mr. Nahr** stated he was licensed in Oregon when he lived there. He stated he is bonded and insured but does not know about licenses. **Mr. Dehn** asked who Mr. Nahr's company used for plumbing, and **Mr. Nahr** stated Calvary Plumbing. For electrical, the company used TCE Electric. **Mr. Dehn** asked if, when Mr. Nahr hired a sub, he asked the sub what the responsibility is. **Mr. Nahr** stated he did not ask if they would need a permit. **Mr. Dehn** asked if perhaps that might be his job, and **Mr. Nahr** stated in hindsight, yes. **Mr. Dehn** asked Mr. Nahr if he was aware of the Use Tax. **Mr. Nahr** stated yes.

**Adam Trainor** asked if when Mr. Nahr spoke to Ashley, he asked about licensing or if a permit was required. Mr. Nahr stated the conversation focused on permits. **Mr. Trainor** asked Mr. Nahr became aware in his conversation with Ashley that the subcontractors would likely need a permit. **Mr. Nahr** stated that the subcontractors stated there was no permit needed. Mr. Trainor asked if Mr. Nahr had verified that the subcontractors were licensed in the City, and Mr. Nahr stated he had.

**Kent Kerwood** asked how long Mr. Nahr had conducted business in the City of Loveland. **Mr. Nahr** stated he opened his showroom on April 1<sup>st</sup> of 2016. **Mr. Kerwood** asked if Mr. Nahr came from Oregon, and Mr. Nahr stated he had. Mr. Kerwood asked how many jobs he had completed. **Mr. Nahr** stated between 75 and 100. Mr. Kerwood asked if during the course of completing that many jobs, Mr. Nahr had not been required to pull a permit. **Mr. Nahr** stated the majority of his work includes cabinet replacement and flooring and tile work, which does not require permitting.

**Mr. Trainor** asked if there were several different drywall products used, and was it in the contract to remove the products. **Mr. Nahr** stated it was, but when the contract was initially issued, he did not know that the walls were plaster and wire. He then spoke to the owner of the drywall company, who determined it was better not to pull it all out but to “float into what was existing.” **Mr. Trainor** asked if Mr. Nahr ever knew that to do this would cause improper adhesion with the product. **Mr. Nahr** stated that was never brought to his attention. **Mr. Trainor** asked if Mr. Nahr was aware that incorrect fasteners were used to fasten the drywall to the studs. **Mr. Nahr** stated he was not aware of this, and deferred to the owner of the drywall company.

**Mr. Dehn** stated that he thought he heard that it was in May of 2014 that Mr. Nahr opened his business. **Mr. Nahr** stated that was incorrect, and that he moved to Colorado in 2014 and opened his business in 2016. **Mr. Dehn** asked where the business was located. **Mr. Nahr** stated it is located in Loveland, on Eisenhower Blvd. **Mr. Dehn** asked if he obtained a permit for it. **Mr. Nahr** stated “yes.” **Mr. Nahr** then asked Mr. Dehn what he meant by “permit,” and stated that he has a City and State license. **Mr. Dehn** asked if there was work done that needed a permit for the showroom. **Mr. Nahr** stated no. **Mr. Dehn** stated that Mr. Nahr had indicated he had completed a number of projects in Greeley and Windsor. **Mr. Nahr** stated he has built a number of homes in Greeley and Windsor. **Mr. Dehn** stated that Mr. Nahr had earlier stated that most of his work was in cabinets and tile. Mr. Dehn asked for clarification: “are you a builder, or...?” **Mr. Nahr** stated that when he first moved to Colorado from Oregon, he was uncertain which career path he wanted to take, so he took out some loans and built a few homes in Greeley and Windsor. Mr. Nahr added that “has nothing to do with the business at hand.”

**Mr. Baker** asked if Mr. Nahr was originally contracted to gut the bathroom wall to wall and install drywall. **Mr. Nahr** stated that is correct. **Mr. Baker** asked if the line items on the quote for the project were adjusted once it was determined that the drywall would not be removed. **Mr. Nahr** stated that no adjustments had been made to the bill. Mr. Nahr stated any adjustments would be made at the final completion of the project. **Mr. Baker** asked if the job had not been completed because the homeowner would not allow him back on the job. **Mr. Nahr** stated that is correct.

**Mr. Trainor** asked if Mr. Nahr had a discussion with the homeowner once he realized the bathroom wall was plaster and lath, particularly because this would change the scope of the project and the work completed. Was there an agreed-upon solution to move forward? **Mr. Nahr** stated there was not, because the homeowner was on an overseas vacation. **Mr. Nahr** stated he took it upon himself, along with the input from the drywall company, that this would be a better solution rather than pulling everything off. **Mr. Trainor** stated that in earlier testimony, Mr. Yalacki stated that in a million years, he would never have completed the work this way, but only when he was instructed by you to do so. **Mr. Nahr** stated he cannot speak to that conversation because he was not there, but would be happy to bring in the owner of the company.

**Mr. Rosenberger** asked if both the electrician and the plumber were licensed in the City of Loveland. **Mr. Nahr** stated that as far as he knew, yes. **Mr. Rosenberger** asked if they pulled a permit. **Mr. Nahr** stated they did not. **Mr. Rosenberger** stated that as licensed contractors—if

they filled out the subcontractor agreement—they should be aware of the agreement. **Mr. Nahr** stated that is correct. **Mr. Rosenberger** asked how many jobs they had completed for Mr. Nahr. **Mr. Nahr** stated Calvary had completed maybe six, and TCE around 15 to 20. **Mr. Rosenberger** asked if, during the course of all those jobs, Mr. Nahr had verified if they had a license. **Mr. Nahr** stated they had verified they were contractors. **Mr. Rosenberger** clarified that he meant licensed contractors, but not necessarily licensed to do work in the City of Loveland. **Mr. Nahr** stated that is correct.

**Chairman Rosenberger** asked if Northern Colorado Home and Design has any further evidence to present at this time. **Mr. Seat** stated there was no additional evidence to present at this time, and **Ms. Allen** asked the record to reflect that Northern Colorado Home and Design has no additional evidence to present.

**John Schumacher** presented as evidence a printout of an ad from the *Loveland Reporter-Herald* stating that Northern Colorado Home and Design is licensed and insured, and also reads that the company conducts projects such as this, stating “no project too large or too small.” Mr. Schumacher stated this, combined with Mr. Nahr’s statement that he has built homes, are evidence that he has completed jobs that are bigger than tile and cabinet work.

**Chairman Rosenberger** asked if Northern Colorado Home and Design or Mr. Schumacher would like to conduct any cross-examination.

**Roger Seat** asked Mr. Schumacher if he was aware that Northern Colorado Home and Design holds a City license to conduct business. **Mr. Schumacher** stated no. **Mr. Seat** asked if Mr. Schumacher had considered that Mr. Nahr was referring to that license when stating he is “licensed.” **Mr. Schumacher** stated “I guess that’s possible.” **Mr. Seat** asked where Mr. Schumacher is looking at the statement that they are licensed, and **Mr. Schumacher** stated that he was looking at the advertisement in which Northern Colorado Home and Design states they are licensed and insured. **Mr. Seat** had no further questions.

**Chairman Rosenberger** asked if there are any questions from the Board.

**Jason Baker**—No

**Andrew Ross**—No

**Bob Dehn**—No

**Adam Trainor** asked Mr. Schumacher if, during the course of his investigation, he had time to research whether or not the subcontractors were licensed with the City of Loveland. **Mr. Schumacher** stated he did not, as there was no subcontractor information provided.

**Kurt Kerwood**—no questions at this time

**Chris Rosenberger**—no questions.

**John Schumacher** issued closing statements, and stated: Mr. Nahr advertises himself as a licensed contractor, one who can complete any job and no job is too big or small. From his own testimony, he does everything from a small tile job all the way to new home construction. He

sells himself to his customers through a contract as a general contractor, able to ensure the proper completion of work in all disciplines from start to finish necessary to the specific project. Mr. Nahr has indicated that he has been in contracting since 1986—approximately 31 years. He has indicated in written documentation that he has been a general contractor since the ‘90’s. Mr. Nahr has stated this was an isolated incident, an oversight, and that he didn’t really understand the process. The evidence shows that he did know. While we’ve been talking Mr. Garner and his case tonight, there are other people in the audience who are here because they are concerned. They can’t speak because of their litigation but they are concerned. This is not an isolated incident, it’s not an oversight. This is not a mistake. He holds himself as being knowledgeable, but he admitted he knows nothing about the IRC. The IRC is pretty basic. In residential remodel, the IRC is the code to go by. Mr. Nahr states that he requires his subcontractors to get permits and sign a form, but as the general contractor, he isn’t going to insure that they do that. He covers himself, but he doesn’t cover his customers. He said that the subcontractors should have gotten permits if they needed them, but he didn’t check to see if they did. He sold a contract to Mr. Garner and others as a general contractor, taking on the responsibility to make sure that all phases of the job are completed correctly, but he didn’t do that. He didn’t comply with City ordinance in terms of licensing and he didn’t comply in terms of permitting. **Mr. Schumacher** expressed confidence in Building Department staff and stated he doubts that anyone told Mr. Nahr that he didn’t need a permit. Mr. Schumacher also stated: the website is clear, and shows that the IRC is the code to follow and what permits are needed. Mr. Nahr admitted to having visited the website. There is a preponderance of evidence showing that Mr. Nahr did this job without a license and without a permit, and that he did so knowingly and intentionally. Mr. Schumacher stated his hopes that the Board will find in favor of Mr. Garner and the City.

**Mr. Seat** issued closing statements on behalf of Northern Colorado Home and Design: Mr. Nahr has been open and honest, is new to Colorado, and believed that based on his experiences, the subcontractors could obtain the necessary permits. Mr. Nahr has learned his lesson. He admitted that he didn’t get a permit, but it was an honest mistake.

**Chairman Rosenberger** issued legal statements, and asked for comments from the Board.

**Jason Baker** stated he had issue with a person stating to be a general contractor, but not having a license, completing work without knowledge of requirements, and without pulling permits. To perform the function of a general contractor, you are responsible for all phases of the work. There are clear violations here. Additionally, Mr. Schumacher stated he found evidence of subpar work, so it isn’t just an issue of permitting and licensing.

**Andrew Ross** stated there seem to be two separate issues: there is licensing and code violation issues. The other is the contractual issue on the part of the homeowner, which is not something the Board should be involved in. Mr. Ross stated that he hoped all this is very clear in these proceedings.

**Bob Dehn** that Mr. Nahr lied about being a contractor, and should understand the licensing and permitting process, as well as the fact that the project is to be managed. Mr. Nahr is guilty.

**Adam Trainor** stated that it's clear that the work was performed without a license or a permit. It's a clear violation.

**Kent Kerwood** stated his agreement that it's a violation. From the permit to licensing and code violations, there is a violation. If Mr. Nahr had in fact completed as many jobs as he has stated, surely someone would have realized that a license or a permit was needed for a job. There are a number of violations here.

**Chairman Rosenberger** stated that in the letter from Mr. Nahr, he stated the plumber and electrician were both licensed, and they both stated that a permit was not needed. Mr. Rosenberger stated that he finds it unlikely that both of them would agree to that. The general contractor typically would pull the permit and identify the major trades (plumbing, electrical, mechanical) and include the licenses on the permit. There is definitely negligence. There are serious violations present.

**Chairman Rosenberger** asked if there were any additional comments. There were none.

**Chairman Rosenberger** declared deliberations concluded and asked for a motion as to whether or not there are City licensing or permitting violations.

**Adam Trainor** motioned to acknowledge that there were City licensing and permitting violations. **Jason Baker** seconded the motion. **Chairman Rosenberger** issued a roll call vote:

**Jason Baker**—yes

**Andrew Ross**—yes

**Bob Dehn**—yes

**Adam Trainor**—yes

**Kent Kerwood**—yes

**Chris Rosenberger**—yes

The motion passed unanimously.

**Chairman Rosenberger** asked if the City has any sentencing recommendations.

**Mr. Schumacher** stated that the initial recommendations were that Mr. Nahr acquire a permit and a license within 30 days and receive 12 months of contractor license probationary status. However, Mr. Schumacher stated that following the testimony, his recommendations are that Mr. Nahr obtain a permit and license for the Garner job—even if Mr. Garner will not allow him to finish. Once the permit is closed, Mr. Schumacher recommends the Board revoke Mr. Nahr's license, stating he should not be allowed to conduct work in the City of Loveland again. Mr. Schumacher stated that Mr. Nahr's conduct was intentional, and without the knowledge of the IRC, his license should be revoked.

**Chairman Rosenberger** asked if Mr. Nahr's license were revoked, how would other projects currently taking place be finished?

**Mr. Schumacher** stated that to his knowledge, there were no other projects at this time. However, that is a matter that would likely go to Municipal Court.

**Jason Baker** asked if it is necessary to state knowledge of code in order to receive a license. **Mr. Schumacher** stated that a test is required to demonstrate that knowledge.

**Andrew Ross** needs clarification on Mr. Schumacher's recommendation.

**Bob Dehn** stated his agreement that Mr. Nahr should lose his license, however, he does not agree that Mr. Nahr should not get a permit for the job for Mr. Garner.

**Mr. Schumacher** stated that a permit must be pulled for the job, and the costs to pull it should not fall on Mr. Garner.

**Mr. Dehn** stated that Mr. Garner should pull a permit to finish the job, particularly if he will not allow Mr. Nahr on his property.

**Chairman Rosenberger** asked if Mr. Nahr were to pull the permit, but Mr. Garner will not allow Mr. Nahr back on the job, but no one else can do the work under that permit, there is an issue. Wouldn't another contractor have to come forward and pull a permit?

**Mr. Schumacher** stated a clarification that ultimately the homeowner is responsible for the code and the owner of the permit. Mr. Schumacher would transfer the permit to Mr. Garner or the new contractor.

**Mr. Rosenberger** asked for clarification on the homeowner being allowed to pull the permit and do the work themselves. But, if the homeowner pulls the permit, they cannot hire other subcontractors to do the work, because they are essentially stating they will do the work themselves as homeowner. Is this correct?

**Mr. Schumacher** stated a clarification of the code and the ability to transfer the permit.

**Mr. Baker** asked for clarification on subcontractors completing work.

**Ms. Allen** stated that the Board has the ability to order the licensee to pay unpaid permit fees.

**Chairman Rosenberger** asked if Northern Colorado Home and Design has any sentencing recommendations.

**Mr. Seat** asked the Board to consider Mr. Nahr's openness and lack of knowledge. Mr. Seat recommended that the Board consider placing Mr. Nahr on probation and require him to get a license. Mr. Seat stated that this is the first time Mr. Nahr has appeared before the Board. Mr. Seat recommended a sixty day requirement to get a license and one year probation.

**Chairman Rosenberger** asked the Board if there were any questions. All stated no.

**Chairman Rosenberger** asked Les Garner for his recommendation. **Mr. Garner** stated his recommendation that Mr. Nahr and Northern Colorado Home and Design cease doing business. Mr. Garner stated that if Mr. Nahr doesn't cease doing business, he would like to see Mr. Nahr obtain a contractor's license. Mr. Garner also recommended an audit be completed of all of Mr.

Nahr's prior jobs to ensure the proper permits were pulled, and if not, Mr. Nahr should be required to pull the permits for all the past jobs in which there was no permit. Mr. Garner expressed his concern for others who have possibly been affected by Mr. Nahr.

**Chairman Rosenberger** stated a clarification that any authority to complete audits could only be within the City limits.

**Mr. Garner** addressed Mr. Nahr directly. **Ms. Allen** reminded them that is inappropriate.

**Chairman Rosenberger** asked the Board if there were any questions. **Mr. Dehn** asked Mr. Garner if he would prefer Mr. Nahr have to pull the permit, or if he would prefer to do it himself. **Mr. Garner** stated he would prefer Mr. Nahr have to pull the permit and get a license. Mr. Garner stated he would close the permit with the subcontractors.

No other questions from the Board.

**Bob Dehn** issued a motion to sentence Mr. Nahr to 45 days to obtain a license and permit. Following that, Mr. Nahr would lose his license for one year in the City of Loveland. Motion seconded by **Adam Trainor**. **Mr. Trainor** made a motion to re-open deliberations. **Jason Baker** seconded the motion. **Mr. Baker** stated that in addition to Mr. Dehn's sentencing motion, Mr. Nahr should provide the City with a list of projects he performed in the City of Loveland so that the City can follow-up, and Mr. Nahr should have to pull permits for any jobs requiring it prior to losing his license.

**Mr. Dehn** asked Mr. Schumacher what accountability the City has if Mr. Nahr does not follow through with the requirements. **Mr. Schumacher** deferred to Ms. Allen. **Ms. Allen** stated that the Board has the power to suspend or remove a license or take other disciplinary action on the license, including the issuance of a formal remand or order the licensee to pay unpaid permit fees or inspection or other investigative costs incurred by the City or impose a probationary period during which any further violations would result in the suspension or revocation of the license. That is the scope of what this Board can do.

**Mr. Dehn** reiterated what his original motion was, at the request of Chairman Rosenberger. Mr. Dehn asked if the Board would want to audit the projects completed by Mr. Nahr. **Ms. Allen** stated it is not likely in the authority of the Board to engage in a retroactive analysis.

**Mr. Dehn** made a motion that Mr. Nahr be required to obtain a license and permit within 45 days, following that, a revocation of license for one year. Motion seconded by **Adam Trainor**. **Ms. Allen** issued a clarification that the Board does not have the authority to compel Mr. Nahr to obtain a license. The Board has the authority to suspend or revoke a license or to advise the Building Official as to whether or not a license application should be denied, to order unpaid permit fees. This Board cannot compel an individual to obtain a license or a contract. Ms. Allen suggested it might be advantageous to ask Northern Colorado Home and Design if they intend on attempting to obtain a contractor's license within the City of Loveland.

**Mr. Nahr** stated he does intend to obtain a contractor's license. **Mr. Seat** confirms.

**Ms. Allen** clarifies that because Northern Colorado Home and Design does not have a license within the City, there is no ability to proactively impose on him to get one. There is an ovation by Mr. Nahr that he intends to get a license. Any deliberation or recommendation for sentencing should take that into consideration. The fact that he does not currently have a license, that this Board still has the authority to compel payment for unpaid fees, and the fact that this Board has the authority to rule on and recommend how that licensing application should be treated, although initial authority lies with the Chief Building Official.

The previous motion was withdrawn.

**Mr. Trainor** made a motion to deny access to Mr. Nahr to a contractor's license for one year, to require the payment of permit fees due from the Garner project, and a probationary period of 24 months once a license is obtained. Motion seconded by **Jason Baker**. **Chairman Rosenberger** issued a roll-call vote:

**Jason Baker**—yes

**Andrew Ross**—yes

**Bob Dehn**—yes

**Adam Trainor**—yes

**Kent Kerwood**—yes

**Chris Rosenberger**—yes

The motion carried and was passed unanimously. **Chairman Rosenberger** stated that within ten business days, the Board will provide a written decision to the City and the party. The hearing is now concluded.

**Chairman Rosenberger** declared a recess.

#### **d. Discussion of plan review processes and times**

**Chairman Rosenberger** stated that because Mr. Fogel is absent, this item will be moved to the next meeting. **John Schumacher** presented information for the Board to consider in the meantime. Mr. Schumacher stated that two years ago, plan review times were approximately 19 days. The most recent plan review times were averaging 8.72 days.

**Mr. Baker** asked Mr. Schumacher about the need for architectural plans for a repair due to fire. **Mr. Schumacher** stated it depends on the scope of the project and the scope of structural repair. It becomes difficult for the inspector to complete an inspection, and sometimes a drawing is needed. If the structural repair actually needs engineering, for example.

**VI. Other business:** None

**VII. Adjournment:** A motion was made to adjourn the meeting at 9:45 The motion passed unanimously.

## Proposed Alternative to Permits

As an alternative to the requirement for permits for Water Heaters, Furnaces and Air Conditioners, making the city become inspection police, I propose the following:

Instead of burdening the homeowner with an additional fee, why not place the burden on the contractors as "Licensed" professionals.

- Require contractors wishing to install this equipment in Loveland to register with the City.
- City would validate the license of the contractor.
- Contractors would be required to sign an acknowledgment that as a condition for the city listing them as licensed contractor authorized to do work in Loveland, they accept full responsibility for the quality of the work regardless of who in their employment does the work.
- The city may charge a fee to the contractor for the review of their license and approval as an authorized Loveland contractor for these three items.
- The city would provide a "Seal" of some sort that contractors could place on their website and letterhead that advises that they are a "Authorized Contractor for water heaters, furnaces and air conditioners. "
- \_ the city would publish a list of contractors authorized to perform this work in the city of loveland.
- CONTRACTORS would be required to request a permit on line at NO cost.
- NO inspection would be required based on the fact that the contractor is licensed.
- Should there be any concern on the part of the homeowner as to the quality of the work, the homeowner could request an inspection by the city for a nominal fee - \$25.00. If the inspection fails, the contractor would be recalled and would be responsible for the fee the homeowner paid and any additional inspection fees as well as correction of failed work.
- Contractors who fail to perform quality work would be evaluated and if found deficient, their listing as a contractor authorized to do work in Loveland would be removed and placed on a list of contractors NOT approved to perform work in Loveland.
- HOMEOWNERS would continued to be allowed to REPLACE their own water heaters,

## Proposed Alternative to Permits

furnaces and air conditioners "like for like".

- Homeowners would be REQUESTED to file notification of the intent to REPLACE any of those three items. This would simply be collect information as to the number of these pieces of equipment replaced.

# DRAFT

**MEETING DATE:** November 21, 2017  
**TO:** City Council  
**DEPARTMENT:** Executive Fiscal Advisor  
**DIRECTOR:**  
**PRESENTER:** Alan Krcmarik, Executive Fiscal Advisor



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**AGENDA ITEM:**

**A RESOLUTION AUTHORIZING ANNUAL INCREASES IN CAPITAL EXPANSION FEES FOR 2018, EXCEPTING THE STREET CAPITAL EXPANSION FEE, PURSUANT TO LOVELAND MUNICIPAL CODE SECTION 16.38.110**

**RECOMMENDED CITY COUNCIL:**

No action requested. This is an information only item.

**OPTIONS:**

COUNCIL ACTION OPTIONS	CONSEQUENCE
Approve the Motion	The Resolution has been prepared according to the Municipal Code section that provides for an annual adjustment to the Capital Expansion Fees based on the September edition of the the Engineering News Record that provides the updated level of the Construction Cost Index for the Denver region. The Index increased by 3.66% from September 2016 to 2017.
Deny the motion or take no action	
Adopt a Modified Action	Council could adopt a motion that would bring the level of the Capital Expansion Fees (not including the Streets CEF) up from their 2012 levels for residential and pre-2012 levels for commercial and industrial. The percentage change in the fees for the Engineering News Record Construction Cost Index since 2012 would be 5.85%. Council could also direct staff to prepare an adjustment for construction cost inflation based on an alternative index. The Turner Building Cost Index indicates that the cost of construction in this region over has been about 24.7% the past five years. Council could adopt an Ordinance to override the Municipal Code provision providing for construction cost inflation adjustments and continue the fees at their present levels.
Refer back to Staff	

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**SUMMARY:**

# DRAFT

**Purpose:** The City of Loveland has used Capital Expansion Fees since 1984 as a method to have new or expanding residential, commercial, and industrial projects that cause the need for additional city capital investments to pay for their share of the increased demand for services. The City's system of cost of service recovery fees, the Capital Expansion Fees, was designed to identify the sources of demand for capital investment and to reasonably attribute costs to the sources. Once the system was put in place, the fee schedule needs to be updated for the increasing cost to acquire buildings, land, and capital equipment. The requirement to annually update the fees schedule using construction cost inflation was adopted by Council and included in the Municipal Code. The Municipal Code provides that the fees increase each year to keep with increasing costs for capital projects and related capital equipment. The Capital Expansion Fees that are included in this Agenda Item include Law Enforcement, Fire-Rescue, General Government, Library, Cultural Services-Museum, Parks, Recreation, Trails, and Open Lands.

**Objective:** The annual adjustment provided for in the Resolution supports the City to maintain the levels of service that are provided to the residents, businesses, and visitors to the City. The included draft Resolution, which is for information only at this meeting, applies the September Denver Region 2017 Construction Cost Index published by the Engineering News Record as the basis for the year-to-year fee increase. The change in the index from last September was 3.66%. No increase is being recommended for the Streets fee.

**Impact:** For governmental services of the City that have capital expansion fees to meet the demand for future capital improvements required for growth, the proposed adjustment is 3.66% for 2018 compared to the 2017 fee levels. Applying the 3.66% Construction Cost Index to the Capital Expansion Fees results in a \$394 increase in the total fees for a single family home and a \$274 increase for a multi-family home.

**Council Follow-up:** Based on Council discussion, staff will prepare a Resolution or Ordinance to either increase the fees as presented herein or adopt an Ordinance to keep the fees at their current levels.

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## BUDGET IMPACT:

Budgetary Impact?	Funds Impacted: The proposed adjustments would increase the revenue for the Capital Expansion Fee Funds for Law Enforcement, General Government, Library, Cultural Services-Museum, Parks, Recreation, Trails, and Open Lands. The Loveland Fire-Rescue Authority expects that it will continue to have an impact fee collected by the City.
	Source(s) of Funding:
Grant Funding?	Grantor(s) (State or Fed): No grant funding is involved.

	City Matching Requirement: No matching requirement.
	On-going or One-Time: Not applicable.
	If On-going, when does the grant sunset? Not applicable.
<b>Additional Comments:</b>	None.

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**COUNCIL OR BOARD/COMMISSION REVIEW:**

**Type of Meeting:** Boards and Commissions have reviewed fee increases and periodic fee study updates in the past. The Boards that work with Departments that rely on the fee revenue usually strongly support keeping up with escalating costs of the capital projects and capital equipment that is needed to provide services to the growing community. Most of the Boards and Commissions have been informed that the Capital Expansion Fee inflationary increases will be on the Council Agenda on November 21. Information provided to Planning Commission, Construction Advisory Board, Citizens' Finance Advisory Commission, Police Citizen Advisory Board, Parks & Recreation Board, Library Board.

**Resulting Vote:** Information only.

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**BACKGROUND:**

**History:** Prior to 1984, the City of Loveland attempted to keep pace with the costs of growth by allocating a portion of the City's General Fund to the annual capital improvement program. After a proposed sales tax increase ballot issue to fund several capital projects failed in 1980, City Council and leaders of the community studied other methods to fund capital projects for a rapidly growing community. After two and a half years of study, the Cost of Services Recovery Study was completed. The Study recommended the implementation of the Capital Expansion Fee system. The cost basis for each of the fees was set at the value of the total capital investment at end of 1983. This technique of setting impact fees is known as the standards based or equity buy-in method. Council formally adopted the first set of Capital Expansion Fees in 1983 to start on January 1, 1984. At that time, there were seven fees, Streets, Law Enforcement, Fire, General Government, Library, Museum, and Parks & Recreation (one fee). The first comprehensive update was in 1994, ten full years after the growth related fee system was put in place. In this major update of the system, the Park & Recreation Fee was broken out to have a separate fee for Parks, one for Recreation, and one for Trails. In the next comprehensive update in 1997/1998, capital equipment was added to the basis for which cost recovery from growth would be included. Prior to this update, only land acquisition, buildings, and improvements were included in the cost basis. In 2001, a new fee was added to fund acquisition and development of Open Lands. Also at this point in Capital Expansion Fee history, the Streets Fee changed from the equity buy-in method to a "plan based" method. Relying on the updated Streets master plan and use of trip ends data from the Institute of Traffic Engineers, the Streets fee transitioned to a "plans based" approach. Public Works projected the streets project needs for the next 25 years with their corresponding estimated costs and used projections of population growth and the corresponding types of new development to establish fee levels. In late 2004, the City Council met in a study session to evaluate several possible changes to the Cost of Service Recovery System and the methods to calculate the Capital Expansion Fees.

While the Council and staff discussion was deep and broad, Council did not direct any changes to the fee system. One result from the discussion was to formally adopt the use of the Denver region Construction Cost Index from the Engineering News Record as the inflation adjustment source. For the Streets fee, it was determined that a construction cost index from the State of Colorado Department of Transportation would be the most relevant source for cost increases. In 2007, fees were updated for changes in land use and the value of capital investment in recent years was added to the basis for fee calculations.

In 2009, there was a decrease in the Construction Cost Index so City staff recommended adjusting the fees downward. The percentage decrease of 2.63% was applied to all but the Street Fee. Another notable event in 2009 was a major temporary fee waiver for a two large multi-family projects.

In 2010, Council decided not to make the inflation adjustment of 8.62%.

In the preparation of a major update of the fees in the 2011/2012 period, staff conducted extensive outreach to the various components of the development industry in 2011 and proceeds to do the major update of the fees in 2012. One staff recommendation was to have a separate category for multi-family housing units. Up to this point in time, all housing units had the same Capital Expansion Fees. Based on information from the 2010 Census, it was estimated that multi-family units had an average population size that was roughly 30% lower than single-family housing units were. Council adopted the updated fees for residential growth, but kept the commercial fees and industrial fees at their previous levels.

Council asked staff to study moving the nine fees still using the Equity buy-in method (standards based) of setting fees to a plans based method. To undertake this evaluation, each of the nine fees would need to update their corresponding master plans. Departments completed their Plans by 2014 and in 2015, consultants and staff made the comparison of "Equity Buy-in" fees to "Plans Based" fees and presented the comparison to Council. Council decided not to make changes in methodology.

At the end of 2017, the fees are well below where a fully Cost of Service Recovery system would recommend that they be set.

Since 2012, the Engineering News Record data indicates that construction costs have only risen by 5.79%. It is hard to believe that this could be true in a market where housing prices have appreciated at a rate that is nearly the highest in the country. Other sources for construction cost inflation show that it has been rising closer to 4 or 5% per year. The Turner Construction Cost index, from a Loveland local business, puts the five-year increase at 24.74%. Based on bids received by the City for construction projects, this is a far more reasonable number and still likely on the low side.

The Resolution accompanying this Agenda Item Report has the one-year 3.66% adjustment incorporated. The Executive Fiscal Advisor finds this adjustment level to be too small.

If the City Council prefers to continue using the Engineering News Record data and make the adjustment for inflation since 2012, the five-year adjustment should be 5.79%. The Executive Fiscal Advisor advises this number to be too low as well.

Using the Turner index would be a 24.74% adjustment to cover the last five years. This level would be an appropriate level.

The downside to not linking the fee adjustments to the appropriate level of cost inflation means that the City is under investing in the capital projects and equipment needed to serve the growing community. Service levels been slipping have. Projects are shifting further out into the future. Getting this far behind the growth curve means that it will be more difficult for the City departments that rely on capital expansion fees to maintain the levels of service.

This lagging fee-level issue in the CEFs is similar to the catch up process that the City has recently experienced for Water and Wastewater utility enterprises. The City managed rate and fee increases at very low levels (and sometimes lowered them) for several years while the

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demand on the systems continued to increase with growth in population and commercial development. Construction cost inflation also continued to rise. Over a multi-year period, the Loveland Utilities Commission and City staff developed a plan to expand the treatment plants for both utilities. The price for each utility was a commitment to a steep 10-year rate track. Council ultimately followed the recommendation. The Water Treatment Plant with the expansion is operational and the Wastewater plant improvements are under way.

**Outreach and Notification Efforts:**

**Conditions met/or anticipated:**

**Start and End Dates (of studies, design, construction, or in service/operational):**

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**ANALYSIS TABLE:**

Yes:  No:

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**LIST OF ATTACHMENTS:**

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# Loveland Colorado

## Growth Rates

Since 1980: **2.63%**

Since 2000: **2.65%**

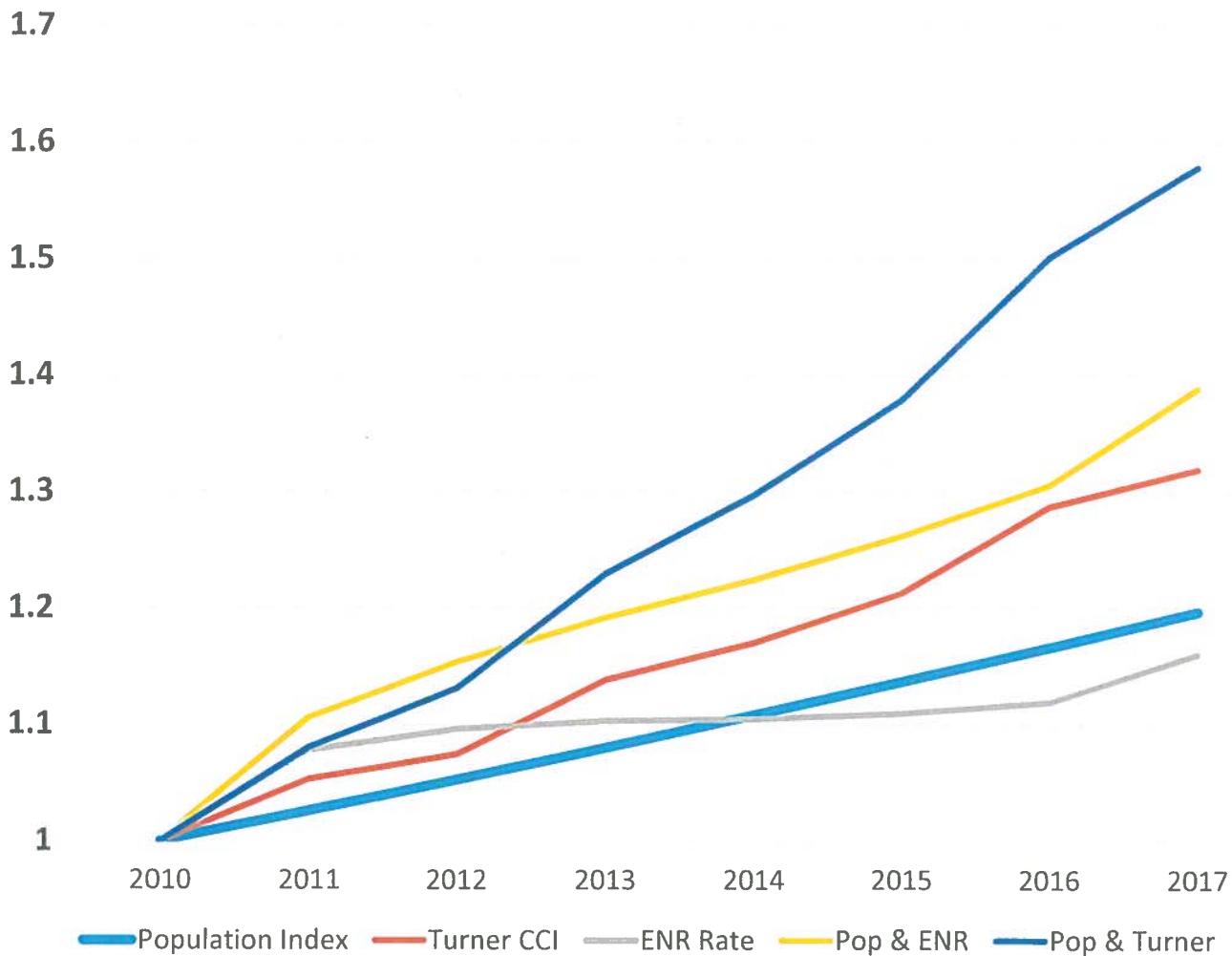
Since 2010: **2.36%**

Historical population		
Census	Pop.	% <sup>±</sup>
1880	236	—
1890	698	195.8%
1900	1,091	56.3%
1910	3,651	234.6%
1920	5,065	38.7%
1930	5,506	8.7%
1940	6,145	11.6%
1950	6,773	10.2%
1960	9,734	43.7%
1970	16,220	66.6%
1980	30,215	86.3%
1990	37,352	23.6%
2000	50,608	35.5%
2010	66,859	32.1%
Est. 2016	76,897 <sup>[6]</sup>	15.0%

U.S. Decennial Census<sup>[12]</sup>

Since 2010, the City has continued to growth. The Construction Cost Index is well below most other Cost Indices

**Loveland Colorado  
Population Growth  
Engineering News Record CCI  
Turner Cost Index**



**DRAFT**

5 Year Cost Based 2012 Levels	<u>2015</u>	<u>2016</u>	<u>2017</u>	Turner Construction Cost Index		Since 9/2012 ENG Construction Cost Index	5.7984% 0.057948 1.247553898
				<b>3.66%</b>	<b>3.66%</b>		
<b>Residential Single Family (per unit of housing)</b>							
Fire-Rescue	\$888.00	\$895.00	\$895.00	\$928	\$939.46	\$1,107.65	
Law Enforcement (Police)	874.00	881.00	881.00	\$913	924.65	1,090.19	
General Government	1,083.00	1,092.00	1,092.00	\$1,132	1,145.76	1,350.88	
Library	722.00	728.00	728.00	\$755	763.84	900.59	
Cultural Service-Museum	602.00	607.00	607.00	\$629	636.88	750.91	
Parks	3,528.00	3,556.00	3,556.00	\$3,686	3,732.44	4,400.66	
Recreation	1,572.00	1,584.00	1,584.00	\$1,642	1,663.09	1,960.84	
Trails	527.00	531.00	531.00	\$550	557.54	657.36	
Open Lands	884.00	891.00	891.00	\$924	935.23	1,102.66	
	<u>\$10,680.00</u>	<u>\$10,765.00</u>	<u>\$10,765.00</u>	<u>\$11,159</u>	<u>\$11,298.88</u>	<u>1.057948</u>	<u>\$13,321.74</u>
				<b>\$394.00</b>	<b>\$623.80</b>	<b>\$ 2,662.76</b>	
<b>Residential Multi-family (per unit of housing)</b>							
Fire-Rescue	\$617.00	\$622.00	\$622.00	\$645	\$652.75	\$769.62	
Law Enforcement (Police)	608.00	613.00	613.00	\$635	\$643.23	758.39	
General Government	753.00	759.00	759.00	\$787	\$796.63	939.26	
Library	502.00	506.00	506.00	\$525	\$531.09	626.17	
Cultural Service-Museum	419.00	422.00	422.00	\$437	\$443.28	522.64	
Parks	2,452.00	2,471.00	2,471.00	\$2,561	\$2,594.09	3,058.51	
Recreation	1,092.00	1,101.00	1,101.00	\$1,141	\$1,155.28	1,362.11	
Trails	366.00	369.00	369.00	\$383	\$387.21	456.53	
Open Lands	614.00	619.00	619.00	\$642	\$649.58	1.057948	<u>765.88</u>
	<u>\$7,423.00</u>	<u>\$7,482.00</u>	<u>\$7,482.00</u>	<u>\$7,853.14</u>	<u>\$7,853.14</u>	<u>\$371.14</u>	<u>\$1,777.11</u>

**FIRST READING: October 24, 2017**

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

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

**AN ORDINANCE ADOPTING TITLE 20 NUISANCES OF THE LOVELAND  
MUNICIPAL CODE AND ADOPTING THE UNIFORM CODE FOR THE  
ABATEMENT OF DANGEROUS BUILDINGS,**

WHEREAS, City Council recognized that there was a need to address and revise the City's abatement policies during the 2016 City Council Retreat and asked that such changes be brought before them; and

WHEREAS, Development Services reviewed the Code as it relates to abatement and identified a need to revise portions of the existing Code, consolidate existing sections, and address deficiencies with a streamlined, uniform abatement policy; and

WHEREAS, Development Services proposes a consolidation of existing sections 7.12, 7.18, 7.28, and 7.30 from Title 7 and the creation of Title 20 Nuisances, containing a uniform abatement process; and

WHEREAS, under Section 4-12 of the Charter of the City of Loveland, the City Council is authorized to adopt, by ordinance, any code by reference in accordance with the procedures established by state law; and

WHEREAS, City Council finds that amendments to the Code in Title 7, the creation of Title 20 of the Loveland Municipal Code, and the adoption of the Uniform Code for the Abatement of Dangerous Buildings, 1997 edition, are necessary and required in the interest of the health, safety and welfare of the people; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO  
ORDAINS:

**Section 1.** Chapter 7.04 of the Loveland Municipal Code is amended to read as follows:

**Chapter 7.04**

**Sections:**

**7.04.010 Powers and duties.**

The city manager or his designee, shall have the supervision and control of all matters relating to health and sanitation within the city, and shall have the power to compel the removal or

**Deleted:** health department

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abatement of any nuisance, source of filth, cause of disease, or unwholesome business or establishment within the city.

**Deleted:** or within one mile of the outer boundaries thereof.

**Section 2.** That Section 5.28.080(C) of the Loveland Municipal Code is amended to read as follows:

C. The revocation, suspension or denial of the issuance, transfer or renewal of a license or manager's certificate may be appealed to the city manager pursuant to the appeals procedure set forth in Chapter [20.16](#) of this code.

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**Section 3.** That Section 12.24.047 of the Loveland Municipal Code is amended to read as follows:

Any owner who disputes the amount of assessment made against such owner's property under Section 12.24.035 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 [20.16](#) of this code.

**Deleted:** 7.70

**Deleted:**

**Section 4.** That Section 12.32.180 of the Loveland Municipal Code is amended to read as follows:

Any owner who disputes the terms of any notice or assessment made against such owner's property pursuant to Sections 12.32.130 through 12.32.170, may, within twenty (20) days of receipt of notice, petition the City Manager for a revision or modification of such notice or assessment, in accordance with Chapter [20.16](#) of this code.

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**Section 5.** That a new Title of the Loveland Municipal Code Title 20 Nuisances is hereby adopted to read in full as follows:

## **Title 20**

### **NUISANCES**

For statutory provisions authorizing cities and towns to declare what shall be a nuisance and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist, see CRS § 31-15-401, et. seq.

#### **Chapters:**

- [\*\*20.02 General.\*\*](#)
- [\*\*20.04 Unsanitary Conditions.\*\*](#)
- [\*\*20.06 Weed Control.\*\*](#)
- [\*\*20.08 Accumulations of Waste Material.\*\*](#)
- [\*\*20.10 Graffiti.\*\*](#)
- [\*\*20.12 Inoperable Vehicles.\*\*](#)
- [\*\*20.14 Enforcement.\*\*](#)
- [\*\*20.16 Administrative Appeals Procedure.\*\*](#)

## Chapter 20.02

### GENERAL

#### Sections:

- 20.02.010 Powers and duties.
- 20.02.020 Definitions.
- 20.02.030 Determination of nuisance.
- 20.02.040 Code enforcement guidelines.
- 20.02.050 Penalties.
- 20.02.060 Unlawful acts.
- 20.02.070 Owners have ultimate responsibility for violations.
- 20.02.080 Conflict in standards.
- 20.02.090 No duty upon city.

#### 20.02.010 Powers and duties.

- A. The city manager shall have the supervision and control of all matters relating to public nuisances, and shall have the power to compel the removal or abatement of any nuisance, source of filth, cause of disease, or unwholesome business or establishment within the city.
- B. The municipal judge may grant inspection warrants as found in chapter 1.08, enforce violations, order abatements, and pursue any other remedy available under this code or any other remedy available under the law.

#### 20.02.020 Definitions.

As used in this title, the following definitions shall apply:

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“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.

“At the curb” shall mean at or near the perimeter of the premises, whether or not there is a curb, but does not mean or permit placement on the sidewalk or in the street.

“City manager” means the city manager of the City of Loveland, Colorado, or the city manager's designee.

“Compost” shall mean a mixture consisting of decayed organic matter used for fertilizing and conditioning soil.

“Enforcement officer” means a code enforcement officer of the City of Loveland.

“Garbage” shall mean solid wastes from the domestic and commercial preparation and handling of food and from the storage and sale of produce.

“Graffiti” means any defacing of public or private property by means of painting, drawing, writing, etching, inscription, or carving with paint, spray paint, ink, knife, or any similar method, with any contrast medium whatsoever, without advance authorization by the owner of the property or, which despite such advance authorization, is otherwise a public nuisance.

“Grasses” shall mean native grasses, ornamental grasses, and turf grasses, collectively.

“Hazardous waste” shall mean any chemical, compound, substance or mixture that state or federal law designates as hazardous because it is ignitable, corrosive, reactive or toxic including but not limited to solvents, degreasers, paint thinners, cleaning fluids, pesticides, adhesives, strong acids and alkalis and waste paints and inks.

“Health Hazard” mean an accumulation of refuse and rubbish that may create a fire, health or safety hazard, or may provide harborage for rodents.

“Industrial hemp” shall mean a plant of the genus *cannabis* and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry weight basis.

“Marijuana” shall mean all those plants of the genus *cannabis* including, without limitation, *cannabis sativa*, *cannabis indica*, and *cannabis ruderalis*, but shall not include industrial hemp.

“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 (*bouteloua curtipendula*); 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 hymenoides*); Arizona fescue (*festuca arizonica*); June grass (*koeleria macrantha*); and Western wheatgrass (*pascopyrum smithii* – syn. *agropyron smithii*).).

“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.

“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 (*convolvulus*); leafy spurge

(*Euphorbia esula*); Canada thistle (*cirsium rvense*); Russian knapweed (*centaurea pieris*); perennial sowthistle (*sonchus arvense*); puncture vine (*tribulus terrestris*).

“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*); prarie dropseed (*sporobolus heterolepis*).

“Owner” shall mean the owner as shown upon the tax rolls, whether person, firm or corporation; any agent or representative of the owner; or any person leasing, occupying or having control or possession of the property or premises.

“Property” means:

- a. any real or personal property, including without limitation, vacant land, improvements to land, fixtures, buildings, structures, vehicles, and dumpsters, or
- b. 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.

“Private property” includes but is not limited to the following locations owned by private individuals, firms, corporations, institutions, or organizations: yards, grounds, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots, and recreation facilities.

“Public nuisance” means any condition affecting a property which: (1) creates a health or safety hazard; (2) directly or indirectly causes the devaluation of the property or of any neighboring property; (3) constitutes a gang communication; or (4) promotes crime, vandalism or gang communication.

“Refuse” shall mean solid or liquid wastes, except hazardous wastes, whether putrescible or nonputrescible, combustible or noncombustible, organic or inorganic, including by way of illustration and not limitation, wastes and materials commonly known as trash, garbage, debris or litter, animal carcasses, offal or manure, paper, ashes, cardboard, cans, yard clippings, glass, rags, discarded clothes or wearing apparel of any kind, or any other discarded object not exceeding three (3) feet in length, width or breadth.

“Refuse container” shall mean a watertight receptacle of a solid and durable metal or nonabsorbent, fire-resistant plastic with a tightly fitting, insect and rodent-proof cover of metal or plastic or a tightly secured plastic bag.

“Rubbish” shall mean nonputrescible solid wastes of a large size, including by way of illustration and not limitation, large brush wood, large cardboard boxes or parts thereof, large or heavy yard trimmings, discarded fence posts, crates, vehicle tires, junked or abandoned motor vehicle bodies or parts, scrap metal, bedsprings, water heaters, discarded furniture and all other household goods or items, demolition materials, used lumber and other discarded or stored objects three (3) feet or more in length, width or breadth.

“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.

“Unlawful vehicle” means any device which is capable of moving or being moved from place to place upon wheels or tracks, but shall not include a utility trailer or any device designed to be moved solely by muscular power or is capable of being moved through water, which:

- a. Apparently is inoperative, apparently unseaworthy or legally inoperative due to the vehicle's unsafe condition regarding the potential to endanger persons or property or due to the lack of required equipment as stated in this Code, including but not limited to inflated tires, operable lights, operable brakes, windows, and windshields; or
- b. does not have lawfully affixed thereto an unexpired license plate, if such plate is required by law; or
- c. Is wrecked, dismantled, partially dismantled, discarded, or severely dilapidated.

“Utility trailer” means a trailer that is an unpowered vehicle pulled or towed by a powered vehicle such as a car or truck. The trailer has wheels and can be built as a flat-bed open-air trailer or as an enclosed trailer with shelving units or specialty equipment built in. This type of trailer is meant to haul some sort of equipment, either for professional or recreational use.

“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 rostvatum*), common ragweed (*ambrosia elatiov*), and cockleburs (*xanthium communie*). 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, native grasses, industrial hemp or marijuana.

“Weed district” shall mean the Larimer County Weed District.

**20.02.030 Determination of nuisance.**

A police or enforcement officer shall be empowered to make a prima facie determination of whether a nuisance exists within the city. If such condition is determined to exist, a police or

enforcement officer shall have the authority to issue a notice of abatement or conduct an emergency abatement for purposes of public health or safety.

**20.02.040 Code enforcement guidelines.**

A duly appointed peace officer or enforcement officer of the city may enforce the provisions of this title and of Titles 12, 15, 16, and 18 of the City Code by the issuance of a summons and complaint as provided in Rule 204 of the Colorado Municipal Courts Rules of Procedure.

**20.02.050 Penalties.**

A. Any person found guilty of violating this title or Titles 12, 15, 16, or 18 shall be sentenced in accordance with chapter 1.12 of this code. Additionally, any person found guilty of violating this title or Titles 12, 15, 16, or 18 of the code may be ordered by the court to abate any nuisance, or pay for any such abatement assessed by the city, subject to administrative appeal.

**20.02.060 Unlawful acts.**

It is unlawful for any person, being the owner, agent or occupant of any premises or property within the city to fail, neglect or refuse to comply with any lawful order made by a police or code enforcement officer, or to fail to remove and abate any nuisance within the time stated in the notice served upon such person.

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

Every owner remains liable for violations of responsibilities imposed upon an owner by this title and of Titles 12, 15, 16, and 18 of the City Code 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 or furnishing required refuse containers and collection.

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**20.02.080 Conflict in standards.**

Nothing in this title shall be construed to conflict with applicable state statutes where such statutes provide for standards more restrictive than those provided herein. Exceptions to applicable state standards shall be considered as provided by state statutes, and the city council shall act as the body responsible for the granting of exceptions, modifications and exemptions to such applicable state standards, as authorized by and under the provisions of the laws of the state of Colorado.

**20.02.090 No duty upon City.**

Nothing in this title or Titles 12, 15, 16, or 18 shall impose an affirmative duty upon the City to remove a nuisance or create liability for failure to remove any nuisance. Nothing in this title or Titles 12, 15, 16, or 18 shall prevent the city manager, police or enforcement officer, or the municipal judge from providing additional notice and time for abatement to a property owner or agent of a property owner, should it appear to the manager, police or enforcement officer, or the judge that such extra notice and time for abatement is likely to produce abatement.

**Chapter 20.04**

## **UNSANITARY CONDITIONS**

### **Sections:**

- 20.04.010 Feeding lots prohibited.**
- 20.04.020 Fly-producing conditions prohibited.**
- 20.04.030 Rat-producing conditions prohibited.**

### **20.04.010 Feeding lots prohibited.**

It is unlawful for any person to maintain or keep within the city or within one mile of its corporate limits, any cattle yards or sheep yards or hog yards for the purpose of feeding cattle, sheep or hogs for fattening, and all such places so kept are also declared to be a nuisance and an offensive and unwholesome business and establishment and may be abated.

### **20.04.020 Fly-producing conditions prohibited.**

It is unlawful for any person to maintain or keep within the city any of the following unsanitary fly-producing, disease-causing conditions, to-wit:

- A. Any accumulation of manure on premises where animals are kept, unless the premises are kept clean and the manure is kept in a box or vault which is screened from flies and emptied at least once each week;
- B. Privies, vaults, cesspools, pits or like places which are not securely screened to protect them from flies;
- C. Garbage in any quantity which is not covered or screened to protect it from flies; or
- D. Trash, litter, rags or anything whatsoever in which flies may breed or multiply. Any of the foregoing conditions are nuisances and may be abated as such, in addition to any penalty which may be imposed for a violation of this code.

### **20.04.030 Rat-producing conditions prohibited.**

It is unlawful for any person to maintain or keep any premises within the city which are infested with rats or to keep on any premises any uncovered garbage or waste materials of any kind which might attract, sustain or cause an infestation of rats. All such premises and conditions are nuisances and may be abated as such, in addition to any penalty which may be imposed for a violation of this code.

## **Chapter 20.06**

## **WEED CONTROL**

### **Sections:**

- 20.06.010 Intent.**
- 20.06.020 Weeds, grasses, industrial hemp, and marijuana; prohibition, cutting and removal.**

### **20.06.010 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.

**20.06.020 Weeds, grasses, industrial hemp, and marijuana; prohibition, 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 the growth of thereon:
  1. noxious weeds which are required to be eradicated under the weed act, regardless of height; or
  2. 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. 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; or
  4. industrial hemp unless the person growing the industrial hemp is registered with the Colorado Department of Agriculture under the Industrial Hemp Regulatory Program (Title 35, Article 61 of the Colorado Revised Statutes); or
  5. marijuana.
- 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, grasses or marijuana shall be disposed of so that the property is clean and orderly, and the spread of weeds and marijuana 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.

**Chapter 20.08**

**ACCUMULATIONS OF WASTE MATERIAL**

**Sections:**

<b>20.02.020</b>	<b>Definitions.</b>
<b>20.08.010</b>	<b>Purpose and policy.</b>
<b>20.08.020</b>	<b>Refuse and rubbish accumulation prohibited.</b>
<b>20.08.030</b>	<b>Compost piles permitted if not nuisance.</b>
<b>20.08.040</b>	<b>Burning of refuse and rubbish prohibited.</b>
<b>20.08.050</b>	<b>Refuse, rubbish, or compost.</b>
<b>20.08.060</b>	<b>Implementation.</b>
<b>20.08.070</b>	<b>Collection and disposal of refuse and rubbish.</b>
<b>20.08.080</b>	<b>Tampering with refuse or rubbish container prohibited.</b>
<b>20.08.090</b>	<b>Hazardous waste disposal.</b>
<b>20.08.100</b>	<b>Refuse containment in transit.</b>
<b>20.08.110</b>	<b>Waste material-Deposit on private property prohibited.</b>

**20.08.010      Purpose and policy.**

The purpose of this chapter is to protect the public health, safety and welfare by regulating the accumulation, storage, transportation and disposal of refuse and rubbish to prevent conditions that may create fire, health or safety hazards, harbor undesirable pests or impair the aesthetic appearance of the neighborhood. The City Council shall use every means at its disposal, including its police powers, for the enforcement of this chapter.

**20.08.020      Refuse and rubbish accumulation prohibited.**

- A. The owner and the occupant of any premises within the city, whether business, commercial, industrial or residential premises, shall maintain the property in a clean and orderly condition, permitting no deposit or accumulation of materials other than those collected in conjunction with a business enterprise lawfully situated and/or licensed for such storage or collection. All refuse shall be stored on the premises in refuse containers and the storage area shall be kept free of loose refuse. Any refuse or rubbish which by its nature is incapable of being stored in refuse containers may be neatly stacked or stored. The number and size of refuse containers shall be sufficient to accommodate the accumulation of refuse from the property. Containers shall be secured and placed where they are not spilled by animals or wind or other elements and screened from view of the street.
- B. No person shall store or permit to remain on any business, commercial, industrial or residential premises owned or occupied by such person, any manure, refuse, animal or vegetable matter or any foul or nauseous liquid waste, which is likely to become putrid, offensive or injurious to the public health, safety or welfare, for a period longer than twenty-four (24) hours at any one (1) time.
- C. No owner or occupant of any premises which are adjacent to any portion of an open area, vacant lot, ditch, detention pond, storm drain or watercourse shall cause the accumulation of refuse, rubbish, or storage of any material within or upon such adjacent areas.
- D. The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that refuse and rubbish will be prevented from being carried by the elements to adjoining premises. All refuse and rubbish from construction or related activities shall be picked up at the end of each workday and placed

in containers which will prevent refuse and rubbish from being carried by the elements to adjoining premises.

E. The accumulation of refuse and rubbish which constitutes or may create a fire, health or safety hazard or harborage for rodents is unlawful and is hereby declared to be a nuisance and a nonconforming use of the premises.

**20.08.030 Compost piles permitted if not nuisance.**

An occupant of any single-family or two-family residence may maintain a compost pile that is a separated area containing alternate layers of plant refuse materials and soil maintained to facilitate decomposition and produce organic material to be used as a soil conditioner. A compost pile shall be maintained to prevent it from becoming a nuisance by putrefying or attracting insects or animals.

**20.08.040 Burning of refuse and rubbish prohibited.**

No person shall cause or allow the disposal of refuse or rubbish by burning except in an incinerator that is designed for such purpose and under an operating permit from the state Department of Health. In no event may rubbish or refuse be burned in a stove or fireplace except for clean, dry, untreated wood.

**20.08.050 Refuse, rubbish, or compost.**

The City Manager is authorized and directed to inspect and supervise the premises within the city and if it is found that any refuse, rubbish, or compost exists on any property in violation of this chapter, the City Manager shall in addition to any other action permitted under this Code remove or cause to be removed from the property all refuse and rubbish found on the premises or in the adjoining streets and alleys and assess and collect a reasonable charge from the owner or occupant all in accordance with the notice, removal and assessment provisions of [Chapter 20.14](#).

**Deleted:** section 7.26.070

**20.08.060 Implementation.**

The City manager may adopt such other rules and regulations concerning the collection, removal and hauling of refuse and rubbish as may be necessary to implement the provisions of this chapter not in conflict with such provisions.

**20.08.070 Collection and disposal of refuse and rubbish.**

A. The occupant and the owner of any premises wherein any refuse or rubbish is produced or accumulated shall be jointly and severally responsible to provide for collection service and removal of refuse and rubbish to the degree of service necessary to maintain the premises in a clean and orderly condition. They shall not contract or arrange for such collection and removal except with solid waste collectors operating under Chapter 7.16 of the Loveland Municipal Code. An individual may dispose of his or her own refuse and rubbish, provided that it is properly disposed of at the Larimer County Landfill or at any other disposal site which is approved by the state, in conformity with all city and county regulations.

B. All moveable refuse containers and recyclable materials shall be kept in the storage area except on collection day, or within twelve (12) hours preceding the time of regularly scheduled collection from the premises, when they may be placed at the curb or upon the edge of the alley. Following collection, they shall be returned to the storage area the same

day. Refuse containers and recyclable materials shall not, at any time, be placed on the sidewalk or in the street, or in such a manner as to impair or obstruct pedestrian, bicycle or vehicular traffic.

C. If plastic bags are used as refuse containers, they must be securely tied or sealed to prevent emission of odors, be of a material impenetrable by liquids and greases, and be of sufficient thickness and strength to contain the refuse enclosed without tearing or ripping under normal handling.

**20.08.080 Tampering with refuse or rubbish container prohibited.**

A. No person other than the owner or the agents or employees of such owner or a person or entity operating under Chapter 7.16 of the Loveland Municipal Code shall tamper with any refuse container or its contents or remove the contents of any refuse container, or remove a refuse container from the location where the same has been placed by the owner.

B. No owner of any dog, cat or other pet shall permit, whether by act or omission, that pet to damage or open any refuse container or scatter the contents.

**20.08.090 Hazardous waste disposal.**

No person shall place hazardous waste in refuse containers for collection or bury or otherwise dispose of hazardous waste in or on private or public property within the city. Residents may contact the county Health Department for recommendations on disposal of hazardous waste. Highly flammable or explosive materials shall be stored and disposed of in accordance with Loveland Fire and Rescue Department regulations at the expense of the owner or possessor of such materials. Except in response to an emergency and under order and direction of the Loveland Fire and Rescue Department, in no event shall toxic or flammable liquids or any waste liquid containing crude petroleum or its products be disposed of by discharge into or upon any gutter, street, alley, highway, or stormwater facility, lake, or other watercourse or upon the ground unless such liquid has undergone suitable treatment.

**20.08.100 Refuse containment in transit.**

No person shall collect, transport or receive any refuse or rubbish within or upon any public streets in the city or anywhere in the city except in leakproof containers or vehicles so constructed that no refuse or rubbish can leak or sift through, fall out or be blown from such container or vehicle. Any person collecting or transporting any refuse or rubbish shall immediately pick up all refuse and rubbish which drops, spills, leaks or is blown from the collecting or transporting container or vehicle and shall otherwise clean the place onto which any such refuse or rubbish was so dropped, spilled, blown or leaked.

**20.08.110 Waste material-Deposit on private property prohibited.**

It is unlawful for any person to discard or abandon refuse or rubbish upon premises not owned or occupied by such person without the consent of the owner thereof or the person occupying the same, and such materials so deposited without such consent shall be deemed to have been discarded and abandoned if the same remain upon such premises for a period exceeding seventy-two (72) hours. Discarding and abandonment of any such materials shall be deemed to be permission by the owner thereof to the city to remove the same and assess the costs

of such removal against those persons discarding or abandoning same in accordance with the provisions of sections [20.14.050 and Chapter 20.16](#).

**Deleted:** 7.26.070 and 7.26.080

## **Chapter 20.10**

### **GRAFFITI**

#### **Sections:**

- 20.10.010      Purpose.**
- 20.10.020      Graffiti prohibited.**
- 20.10.030      Matching paint not required.**

#### **20.10.010      Purpose.**

Graffiti is hereby determined to be a public nuisance because it constitutes a visual blight within the area in which it is located and upon the city generally. The existence of graffiti acts as a catalyst for gang communication, the spread of crime, and other antisocial behavior. It is the intent of this chapter to prevent the destruction and devaluation of public and private property by the application and continued existence of graffiti, and to provide the City with the ability to abate any such graffiti in order to reduce deterioration of neighborhoods within the city.

#### **20.10.020      Graffiti prohibited.**

- A. It shall be unlawful for any person to apply graffiti upon any public or private property, except with the advance authorization of the owner of the property.
- B. It shall be unlawful for any person to possess any paint, spray paint, or other substance or article adapted, designed, or commonly used for committing or facilitating the commission of the offense of application of graffiti, with the intent to use the substance or article in the commission of such offense, or with the knowledge that some person intends to use the substance or article in the commission of such offense.
- C. It shall be unlawful for any owner of property to fail to abate graffiti from such property when the graffiti is visible to public view or from an adjacent property, within three days from the time such person knows, or reasonably should have known, either directly or through such owner's agents, of such graffiti.

#### **20.10.030 Matching Paint Not Required.**

If the City proceeds with abatement of graffiti as provided in this title, and such abatement is effectuated by painting over said graffiti, the City shall not be required to use paint that matches the preexisting paint in color or kind, but shall use reasonable care in selecting the type and color of paint used. In this regard, a rebuttable presumption shall arise and be deemed to exist in any proceeding under this chapter and in other judicial proceeding related in any way to the City's abatement of the graffiti to the effect that the eradication of graffiti with contrasting paint does not damage private property more than does the continued presence of such graffiti on the property.

## **Chapter 20.12**

### **INOPERABLE VEHICLES**

**Sections:**

[\*\*20.12.010 Intent.\*\*](#)

[\*\*20.12.020 Inoperable vehicles prohibited.\*\*](#)

**20.12.010 Intent.**

It is the intent of this chapter to protect the health, safety and welfare of the public by reducing the occurrence of unlawful vehicles that may serve as attractive nuisances or provide unsafe living conditions.

**20.12.020 Inoperable vehicles prohibited.**

It shall be unlawful for any person to cause or maintain the location or presence of any unlawful vehicle on any lot, tract, parcel of land or portion thereof, improved or unimproved, within the city. It shall be unlawful for any person to cause or maintain such location or presence of any unlawful vehicle by wrecking, dismantling, rendering inoperable, abandoning or discarding his or her vehicle on the property of another or to suffer, permit, or allow the vehicle to be placed, located, maintained or exist upon his or her own real property, provided this section not apply to a vehicle or part thereof which is:

- a. Completely enclosed within a building in a lawful manner.
- b. Stored or parked in a lawful manner on public or private property in connection with the business of a licensed vehicle dealer, auto salvage yard, motor vehicle repair garage, or police impound lot.

**Chapter 20.14**

**ENFORCEMENT**

**Sections:**

[\*\*20.14.010 Notice and order of abatement.\*\*](#)

[\*\*20.14.020 Notice schedule.\*\*](#)

[\*\*20.14.030 Complaint of nuisance.\*\*](#)

[\*\*20.14.040 Penalties.\*\*](#)

[\*\*20.14.050 City removal and assessment.\*\*](#)

[\*\*20.14.060 Administrative appeals procedure.\*\*](#)

**20.14.010 Notice and order of abatement.**

- A. If any person fails to comply with any section of this title or Titles 12, 15, 16, or 18, a written Notice of Violation and Order of Abatement may be served upon the owner, agent or occupant in charge of such property or upon the person who caused the nuisance as set forth in the code. Such Notice may specify the extent of the abatement required as reasonably necessary to protect public health or 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, stating the requirements for

abatement to be abated within the specified timeframe in section 20.14.020 after mailing, posting, or delivery of such notice.

B. An owner, agent or occupant shall be deemed to have received a notice of abatement under this title or Titles 12, 15, 16, or 18 if the warning is personally served upon the owner, agent or occupant, posted on the owner's or agent's premises, or placed in the U.S. mail, postage prepaid and addressed to the owner, agent or occupant of the real or tangible personal property according to the address of the offense if real property or to the last address given by the owner, agent or occupant at the for Colorado Department of Motor Vehicle records.

**20.14.020 Notice Schedule.**

The following timeframes shall apply to the issuance of a Notice of Violation and Order of Abatement. In the event that the Notice contains multiple violations with varying timeframes, the least restrictive timeframe shall apply to all violations listed in the Notice.

- A. Accumulations of Waste Material:
  - 1. Health Hazard: 24 hours
  - 2. All other designations: 72 hours
- B. Unsanitary Conditions: 7 days
- C. Weed Control: 7 days
- D. Removal and Disposal of Abandoned Property Other Than Motor Vehicles: 30 days
- E. Graffiti: 15 days
- F. Unlawful vehicles: 30 days
- G. Trees: 30 days
- H. Shrubs: 30 days
- I. All other violations of this title or Titles 12, 15, 16, or 18: 30 days

**20.14.030 Complaint of nuisance.**

A. A police or enforcement officer may issue Notice of Violation and Order of Abatement after receiving a complaint using the following process:

- 1. The complainant must clearly identify himself or herself by stating his or her name, address and telephone number. The complainant shall further state, if known, the name of the owner or agent, the owner's address and telephone number, description of the offense, the date, time, place and duration of the offense.
- 2. A record or incident report shall be kept of any such complaint and investigation.
- 3. The Notice of Violation and Order of Abatement shall state that a complaint has been received, recite the date of the alleged violation, and conclude that the owner, agent or occupant has violated a section of this title or Titles 12, 15, 16, or 18. The Notice of Violation and Order of Abatement shall advise the owner, agent or occupant of the possible penalties for a violation of the code and advise the owner, agent or occupant that the next complaint may result in a summons being

issued against the owner, agent or occupant. The notice of abatement shall be identified as being issued by any police or enforcement officer empowered by the city to enforce the provisions of this title or Titles 12, 15, 16, or 18.

B. The identity of a complainant shall be kept confidential until a violation of this title or Titles 12, 15, 16, or 18 is charged. If a violation of this title or Titles 12, 15, 16, or 18 is to be charged, the police or enforcement officer may require the complainant to sign an affidavit attesting to the violation, or shall verify in writing the allegations of a complaint prior to its service upon the owner.

**20.14.040 Violations and Penalties.**

A. A police or code enforcement officer may issue a summons and complaint to any person who fails to comply with a Notice of Violation and Order of Abatement within the specified timeframe in section 20.14.020.

B. No person alleged to have violated any section of this title or Titles 12, 15, 16, or 18 shall be issued a summons and complaint unless the person has been issued a notice and order of abatement from a police or code enforcement officer within the preceding twelve months.

C. A violation of the requirements of this title or Titles 12, 15, 16, or 18 shall be punishable as provided by Chapter 1.12 of the Loveland Municipal Code.

D. When the City conducts or completes the abatement, the police or code enforcement officer may issue a summons and complaint for the failure to comply with the Notice of Violation and Order of abatement for prosecution and a determination of costs.

**20.14.050 City removal and assessment.**

A. If a Notice of Violation and Order to Abate is served under this title or Titles 12, 15, 16, or 18, and if the nuisance has not been abated within the stated timeframe, the city manager 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 enter upon the property or premises or in the adjoining streets and alleys and abate the nuisance and assess the whole cost thereof, including ten percent for inspection and other incidental costs in connection therewith, upon the land.

B. The costs and any charges assessed by the city under this chapter associated with abatement of any nuisance 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 the said owner or agent.

C. If the owner or agent 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.

D. 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.

E. The Notice of Abatement shall allow the owner a period of time, of not less than twenty (20) days, within which the owner may contact the city manager in writing, to object to the abatement of the nuisance by the City and to request an appeal hearing before the municipal court or before the city manager.

20.14.060 Administrative Review of Assessment.

A. Any owner who disputes the amount of an assessment made against such owner's property under this title or Titles 12, 15, 16, or 18, 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 20.16 of this code.

## **Chapter 20.16**

### **ADMINISTRATIVE APPEALS PROCEDURE**

#### **Sections:**

- 20.16.010 Intent.**
- 20.16.020 Definitions.**
- 20.16.030 Certain appeals to be taken to City Manager.**
- 20.16.040 Filing of Notice of Appeal.**
- 20.16.050 Scheduling of Hearing.**
- 20.16.070 Available Remedies.**

#### **20.16.010 Intent.**

It is the intent of this chapter to protect the health, safety and welfare of the public by reducing the occurrence of nuisances, including but not limited to, graffiti, trash, rubbish, refuse, weeds, grass, brush, or other rank or noxious vegetation through abatement of the same, and to provide procedures for persons to appeal an administrative decision or action taken for enforcement of this title where allowed by this code.

#### **20.16.020 Definitions.**

The following words, terms and phrases, when used in this Title, shall have the following meanings:

- A. *Administrative decision maker* shall mean the City officer or employee whose decision or action is subject to appeal to the City Manager under the City Code.
- B. *Appellant* shall mean the person or organization who has taken an appeal from an administrative decision maker to the City Manager by the filing of a notice of appeal.
- C. *City Manager* for purposes of this chapter shall mean the current Loveland City Manager, or his or her designee.
- D. *Day* shall mean all calendar days including Saturday and Sunday. The computation of days shall not include the date a final decision was made. If a filing deadline falls upon a Saturday, Sunday or other legal holiday when City offices are closed, the filing deadline shall continue to the following day when City offices are open.
- E. *De Novo Hearing* shall mean a new hearing.

F. *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.

**20.16.030 Certain appeals to be taken to City Manager.**

Where the Code allows for appeals to the City Manager of decisions made or actions taken by an administrative decision maker, the appeals procedures set forth herein shall apply unless different or additional procedures are specifically set forth in the Code sections pertaining to such decision or action. Where different procedures are set forth, those procedures shall control. Where additional procedures are set forth, they shall be in addition to the procedures set forth in this Chapter.

**20.16.040 Filing of Notice of Appeal.**

An appeal may be taken by filing a written notice of appeal with the City Manager within twenty (20) days after the action which is the subject of the appeal. The notice of appeal shall be signed by all appellants and shall include the following:

1. The action which is the subject of the appeal;
2. The date of such action;
3. The name, address, telephone number and relationship of each appellant to the subject of the action or decision being appealed; and
4. A specific statement of the reasons for appeal and any data or documentation upon which the appellant seeks to rely;

**20.16.050 Scheduling of Hearing.**

Upon receipt of an appeal, the City Manager shall schedule a date for hearing the appeal, which hearing shall be held no later than fifteen (15) days after the filing of the notice of appeal. Written notice of the date, time and place of the hearing shall be mailed by the City Manager to the appellant no less than seven (7) calendar days prior to the date of said hearing. Notice shall also be provided to the administrative decision maker regarding the decision that is the subject of the appeal. Said notice shall include a copy of the notice of appeal.

**20.16.060 Procedure at Hearing; Burden of Proof; Final Decision.**

1. In hearing an appeal that has been filed under the provisions of this Chapter, the City Manager shall hear the matter de novo, and shall not be limited to the evidence originally presented by or to an administrative decision maker. The City Manager's decision shall be based on the evidence and such criteria as exist in the Code or administrative guidelines.
2. At the hearing, the City Manager shall provide the appellant and City staff an opportunity to present testimony and evidence regarding the matter being appealed. This shall include:
  - a. Explanation of the nature of the appeal by City staff;
  - b. Presentation by the appellant and any other interested parties of evidence and argument in support of the appeal;
  - c. Presentation by City staff and any other interested parties of evidence and argument in opposition to the appeal;
  - d. Presentation of rebuttal arguments, as permitted in the discretion of the City Manager.

3. The burden of proof in the hearing shall be on the appellant.
4. The City Manager shall issue his or her final decision in writing no later than fifteen (15) days following the hearing, and shall provide a copy of such decision to all appellants and the administrative decision maker. Other interested parties may obtain a copy of the decision upon request to the City Manager's Office.
5. The decision of the City Manager shall be final, subject only to such judicial review, if any, as may be available under the Colorado Rules of Civil Procedure. The date of the City Manager's written decision shall be the date of final action for the purpose of any such subsequent judicial review of the decision of the City Manager.

**20.16.070 Available Remedies.**

Nothing in this chapter shall limit criminal enforcement of any violations of this Code.

**Section 6.** That Chapter Title 15 of the Loveland Municipal Code is amended to read in full as follows:

**Title 15**

**BUILDINGS AND CONSTRUCTION**

**Chapters:**

- 15.04 Buildings and Construction - General Provisions.**
- 15.08 Building Code.**
- 15.10 Residential Code.**
- 15.12 Property Maintenance Code.**
- 15.14 Floodplain Building Code.**
- 15.16 Mechanical Code.**
- 15.18 Fuel Gas Code.**
- 15.20 Plumbing Code.**
- 15.24 Electrical Code.**
- 15.28 Fire Code.**
- 15.30 Building Contractors License.**
- 15.48 International Energy Conservation Code.**
- 15.52 International Existing Building Code.**
- 15.56 Historic Preservation.**
- 15.58 Repair of Construction Defects**
- 15.60 Abatement Code.**

**Section 7.** That Section 15.04.120 of the Loveland Municipal Code is amended to read in full as follows:

**15.04.120 Interpretation.**

- A. When the building code or other codes adopted in this title contain a provision that an act or activity must be accomplished in order to secure an approval from, or that an act or activity is subject to the direction of, the inspecting agents or any other officer of the city, then such provision shall be construed to give such officer only the discretion of determining whether the rules and standards established by ordinance or the respective codes have been

complied with. No such provision shall be construed as giving any officer or agent discretionary powers to make any ruling or determination concerning such conditions or things not prescribed by ordinance or code or to enforce ordinance provisions in an arbitrary or capricious manner.

B. When any reference in this Title, or other codes adopted in this Title, is made to the "International Building Code" such reference shall refer to the building code adopted in this Title.

C. When any reference in this Title, or other codes adopted in this Title, is made to the "International Residential Code" such reference shall refer to the building code adopted in this Title.

D. When any reference in this Title, or other codes adopted in this Title, is made to the "International Mechanical Code" such reference shall refer to the building code adopted in this Title.

E. When any reference in this Title, or other codes adopted in this Title, is made to the "International Fuel Gas Code" such reference shall refer to the building code adopted in this Title.

F. When any reference in this Title, or other codes adopted in this Title, is made to the "International Plumbing Code" such reference shall refer to the building code adopted in this Title.

G. When any reference in this Title, or other codes adopted in this Title, is made to the "International Energy Conservation Code" such reference shall refer to the building code adopted in this Title.

H. When any reference in this Title, or other codes adopted in this Title, is made to the "International Existing Building Code" such reference shall refer to the building code adopted in this Title.

I. When any reference in this Title, or other codes adopted in this Title, is made to the "ICC Electrical Code" such reference shall refer to the electrical code adopted in this Title.

J. When any reference in this Title, or other codes adopted in this Title, is made to the "International Fire Code" such reference shall refer to the fire code adopted in this Title.

K. When any reference in this Title, or other codes adopted in this Title, is made to the "International Private Sewage Disposal Code" such reference shall have no application.

L. When any reference in this Title, or other codes adopted in this Title, is made to the "International Property Maintenance Code" such reference shall refer to the property maintenance code adopted in this Title.

O. When any reference in this Title, or other codes adopted in this Title, is made to the "Uniform Code for the Abatement of Dangerous Buildings" such reference shall refer to the abatement code adopted in this Title.

**Section 8.** That a new Chapter of the Loveland Municipal Code 15.60 is hereby created to read in full as follows:

**Chapter 15.60**

**ABATEMENT CODE**

**Sections:**

**15.08.010 Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition – Adopted.**

**15.08.020 15.08.020 - Modifications to Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition.**

**15.08.030 Violations and penalties.**

**15.60.010 Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition – Adopted.**

The Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, issued and published by International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, is hereby adopted by reference as the abatement code of the city. The purpose of this code is to provide a just, equitable, and practical method, to be cumulative with and in addition to, any other remedy provided by the provisions of this code, or otherwise available at law, whereby buildings or structures which, from any cause, endanger the life, limb, health, morals, property, safety, or welfare of the general public or their occupants, may be required to be repaired, vacated, or demolished. At least one copy of the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, which has been certified by the mayor and city clerk, shall be on file in the office of the city clerk and may be inspected during regular business hours.

**15.60.020 - Modifications to Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition.**

The Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, adopted in this chapter, is modified as follows:

A. Section 101 is amended to read as follows:

**101 Title.** These regulations shall be known as the Dangerous Buildings Code of the City of Loveland, hereinafter referred to as “this code” or “abatement code.”

B. Section 103 under “Alterations, Additions, and Repairs” is amended to read as follows:

All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of Section 3405 of the Building Code.

C. Section 204 under “Inspection of Work” is amended to read as follows:

All buildings or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this code and Sections 109 and 110 of the Building Code.

D. Section 501(1) is amended to read as follows:

A heading in the words: “Before the Construction Advisory Board of the City of Loveland”

E. Section 501.2 under “Processing of Appeal” is amended to read as follows:

Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next regular or special meeting of the Construction Advisory Board.

F. Section 501.3 under “Scheduling and Noticing Appeal for Hearing” is amended to read as follows:

As soon as practicable after receiving the written appeal, the Construction Advisory Board shall fix a date, time, and place for the hearing of the appeal by the board. Such date shall not be less than 10 days nor more than 60 days from the date the appeal was filed with the building official. Written notice of the time and place of the hearing shall be given at least 10

days prior to the date of the hearing to each appellant by the secretary of the board either by causing a copy of appellant by the secretary of the board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

G. Section 701.1 under "General" is amended to read as follows:

After any order of the building official or the Construction Advisory Board made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

H. Section 7.01.2 under "Failure to Obey Order" is amended to read as follows:

If, after any order of the building official or Construction Advisory Board made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect, or refuse to obey such order, the building official may (i) cause such person to be prosecuted under Section 701.1 or (ii) institute any appropriate action to abate such building as a public nuisance.

I. Section 801.1 under "Procedure" is amended to read as follows:

When any work of repair or demolition is to be done under Section 701.3, Item 3, of this code, the building official shall issue an order and the work shall be accomplished by personnel of this jurisdiction or by private contract under the direction of the building official. Plans and specifications therefor may be prepared by the building official, or the building official may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard County contractual procedures shall be followed.

J. Section 901 under "Account of Expense, Filing of Report" is amended to read as follows:  
The building official shall keep an itemized account of the expense incurred by this jurisdiction in the repair or demolition of any building done under the provisions of Section 701.3, Item 3, of this code. Upon the completion of the work of repair or demolition, the building official shall prepare a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and address of the persons entitled to notice under Section 401.3.

K. Section 902 under "Notice of Hearing" is amended to read as follows:

Upon completion of said report, the building official shall schedule a public hearing before the board of appeals for consideration. A time, date and place for hearing said report and any protests or objections thereto shall be fixed by the building official. The building official shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in this jurisdiction, and served by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the last equalized assessment roll of the county, if such so appears, or as known to the building official. Such notice shall be given at least 10 days prior to the date set for the hearing and shall specify the day, hour and place when the board of appeals will hear and pass upon the building official's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed change.

L. Section 801.2 under "Costs" is amended to read as follows:

The cost of such work shall be paid from the abatement fund, and may be made a special assessment against the property involved or may be made a personal obligation of the

property owner, whichever the director of development services shall determine is appropriate.

M. Section 802.1 under "General" is amended to read as follows:

Payments shall be made out of the abatement fund upon the demand of the director of development services to defray the costs and expenses which may be incurred by this jurisdiction in doing or causing to be done the necessary work of repair or demolition of the dangerous buildings.

N. Section 802.2 under "Maintenance of Fund" is amended to read as follows:

The city council may at any time transfer to the abatement fund, out of any money in the general fund of this jurisdiction, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the abatement fund and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter provided for shall be to the abatement fund.

O. Section 903 under "Protests and Objections" is amended to read as follows:

Any person interested in or affected by the proposed change may file written protests or objections with the clerk of this jurisdiction at any time prior to the time set for the hearing on the report of the building official.

P. Section 904 under "Hearing of Protests" the first sentence is amended to read as follows:

Upon the day and hour fixed for the hearing, the legislative body of this jurisdiction shall hear and pass upon the report of the building official together with any such objections or protests.

#### **15.08.030 Violations and penalties.**

It shall be unlawful for any person to violate any of the provisions of the Uniform Code for the Abatement of Dangerous Buildings, 1997 edition, as adopted, or the provisions of this ordinance. Any violation of the provisions of this ordinance, and any violation of any of the provisions of the Uniform Code for the Abatement of Dangerous Buildings, 1997 edition, as adopted, shall upon conviction, be punishable as provided in section 1.12 of this code.

**Section 9.** That nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, liability incurred, or cause of action acquired or existing under any ordinance hereby repealed, nor shall any legal right or remedy of any character be impaired by this Ordinance.

**Section 10.** That if any title, chapter, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid or unconstitutional.

**Section 11.** That the City Council hereby finds, determines, and declares that this ordinance is necessary for the preservation of the public health, safety and welfare.

**Section 12.** That copies of this Ordinance and the UCADB shall be kept on file with the Loveland City Clerk and are open to public inspection.

**Section 13.** That 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. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2017.

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Cecil A. Gutierrez, Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

# Nuisance & Abatement Code Changes

City Council Study Session

August 22, 2017

Presenters: Brett Limbaugh and John Schumacher

Team Members: Elizabeth Allen, Laura Coddington, Sharyn Frazer

# Agenda

- Request and Need for Revisions
- Current authority under the LMC
- Proposed Revisions
  1. Consolidating Existing Code / Creation of Title 20
  2. Revision to Powers and Duties Section & Unlawful Acts Section
  3. Addition of Abatement Ordinance
  4. Adoption of 1997 Uniform Code for the Abatement of Dangerous Buildings
  5. New Abatement Processes & Alternative Abatement Process
- Timeline for Implementation

# Request and Need for Revisions

Council requested a review and revision of the Code regarding Abatement at the City Council retreat in 2016. Concerns included:

- Authority of staff to adequately address code complaints
- The time it currently takes to resolve code issues
- Existing processes for abatement and prosecution

# Existing Loveland Municipal Code Powers & Duties

- **7.04.010 Powers and duties.**

The health department shall have the supervision and control of all matters relating to health and sanitation within the city, and shall have the power to compel the removal or abatement of any nuisance, source of filth, cause of disease, or unwholesome business or establishment within the city or within one mile of the outer boundaries thereof.

# Existing Loveland Municipal Code Penalty Section

- **1.12.010 General penalty and penalty for traffic infractions**

In addition to the penalties set forth above, any condition caused or permitted to exist in violation of any of the provisions of this code shall be deemed a public nuisance and may be abated by the city through any means permitted by law, and each such day that such condition continues shall be regarded as a new and separate offense.

# Proposed Revision 1

## Consolidation of Current Code / Creation of Title 20

- Currently, abatement exists in many different sections of the Code: Title 7, Title 12, Title 15, and, Title 18
- Often, abatement processes are different for each separate section of the Code
- Title 20 'Nuisances' will consolidate Code Enforcement and Building Official abatement areas (LPD and LFRA abatement areas will remain in current sections of the Code)
- The Consolidation will not alter *content* of violations
- The consolidation will alter the *abatement process* when violations occur in some sections

## Proposed Revision 2

### Change to Powers & Duties Section

- **Caveat Title 7.04.010 Powers and duties.**

The **health department** shall have the supervision and control of all matters relating to health and sanitation within the city, and shall have the power to compel the removal or abatement of any nuisance, source of filth, cause of disease, or unwholesome business or establishment **within the city or within one mile of the outer boundaries thereof**.

- Change “**health department**” to “**city manager**”
- Remove “**within one mile of the outer boundaries thereof**”

# Change to Unlawful Acts Section

- Caveat Title 7.12.050 Unlawful acts.
- It is unlawful for any person, being the owner, agent or occupant of any premises within the city or **within one mile of the city limits**, to fail, neglect or refuse to comply with any lawful order made by the **health department or the board of health**, or to fail to remove and abate any nuisance within the time stated in the notice served upon such person.
- Change “**health department or board of health**” to “**city manager**”
- Remove “**within one mile of the city limits**”

# Proposed Revision 3

## New Sections in Title 20:

### Unlawful vehicle prohibition and abatement

- **Unlawful vehicle prohibition and abatement.**
- Provides more tools to Code Enforcement to enforce inoperable campers on private property

# Proposed Revision 4 Adoption of 1997 Uniform Code for The Abatement of Dangerous Buildings

- Utilized by Northglenn, Lakewood, Pueblo, Larimer County, Johnstown, Mead, Castle Rock, Breckenridge, Larkspur, Sterling, Summit County, Wheat Ridge, Broomfield, Limon, Hot Sulphur Springs, Brighton, Fort Morgan, Fairplay, Nederland, Georgetown, Littleton, and more.

## Proposed Revision 5 Current Abatement Processes

- 1. Notice of non-compliance/abatement
- 2. Deadline reached, City abates
- 3. City places lien on property to recoup the cost of abatement
- \*\*Abatement may not be feasible, often may recur, and the cost may not be recovered
- This method does not address the underlying issue – violator unawareness of Codes or unwillingness to remedy

# Proposed Abatement Processes

1. Notice of non-compliance/abatement
2. Deadline based on Schedule (e.g., Dangerous Trees shorter timeframe than junk vehicles)
3. Discretion of Code Enforcement Officer to immediately Abate
4. Summons & Complaint issued
5. Compliance and education sought in municipal court

\*\*City retains ability to abate, but impetus placed on violator to abate through municipal court process

- This method educates violators on the Code and addresses purposeful non-compliance and habitual violators

# Proposed Abatement Process

- Add uniform abatement deadlines
- Add written statement requirements for citizen complaints
- Add uniform notice deadlines
- Ensure enforcement under 1.12.010 General penalty and penalty for traffic infractions

## Alternative Abatement Processes

- 1. Use current Abatement process; however, streamline the specific procedures to ensure consistent approaches
- 2. Deadline based on Schedule (e.g., Dangerous Trees shorter timeframe than junk vehicles)

## Timeline for Implementation

- Q3, 2017: Public Outreach Activities begin
- Q3, 2017: Code Enforcement reviews adopted revisions and prepares for implementation of new abatement policy
- Q4, 2017: Municipal Court prepares a Code Enforcement Docket and policies
- January 15, 2018: Proposed revisions take effect

Questions ?

# WICK & TRAUTWEIN, LLC

## ATTORNEYS AT LAW

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LOWER STANLEY VILLAGE  
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(970) 586-3505

Tuesday, October 24, 2017

**Via Email:**

Moses Garcia  
Construction Advisory Board  
[Moses.Garcia@cityofloveland.org](mailto:Moses.Garcia@cityofloveland.org)

***Re: Loveland Construction Advisory Board Matter-Troy Heckel/Christopher Solis***

***Motion to Reschedule Hearing Date***

Mr. Garcia & Board Members:

This Motion to Reschedule Hearing Date is submitted on behalf of the City of Loveland. At the present time, a hearing in this matter is scheduled for January 24, 2018 at 6:00 p.m.

The complaint from Cristofer Solis in this matter was submitted to John C. Schumacher, Chief Building Official, on February 19, 2017. There has been considerable delay in this matter and the City requests a hearing date in advance of January 24, 2018.

Undersigned counsel understands that the board may take up this matter in a special session as opposed to at its regularly scheduled monthly meetings. Accordingly, the City requests a hearing on this matter on one of the following dates in 2017: November 29, November 30, December 1, December 20, December 21, or December 22.

Undersigned counsel has been in contact with Randy Williams, counsel for Troy Heckel to confer regarding this motion. Mr. Williams generally opposes this motion. Mr. Williams currently has a trial scheduled for December 11, 2017 which he expects may carry over into the week of December 18, 2017. Due to the need for trial preparation for his December trial, Mr. Williams, specifically objects to holding a hearing on the proposed dates of November 29, November 30, or December 1.

The City acknowledges the trial schedule and need for preparation as stated by Mr. Heckel's counsel. However, the City believes a hearing in this matter can be held and at an earlier hearing date and that an earlier hearing will not significantly prejudice Mr. Heckel.

Respectfully requested this 24<sup>th</sup> day of October, 2017.

Sincerely,

WICK & TRAUTWEIN, LLC



Kevin William Ward, Esq.

Cc:

Randy Williams  
Counsel for Troy Heckel  
[rlwatty1@mindspring.com](mailto:rlwatty1@mindspring.com)

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October 26, 2017

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Moses.garcia@cityof Loveland.org

## *RE: Loveland Construction Advisory Board Matter- Troy Heckel/Christopher Solis*

### *Response of Troy Heckel to Motion to Reschedule Hearing Date*

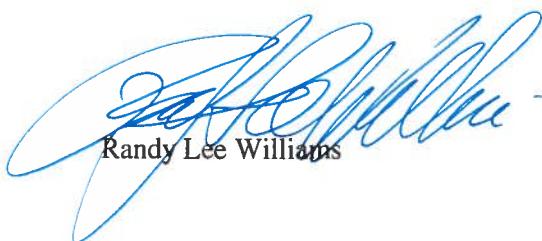
Dear Mr. Garcia and Ms. Allen & Members of the Construction Advisory Board,

This is to provide a clarification to my letter of yesterday regarding the above referenced matter. That letter stated that the needed information described in the letter had not been received as of that date.

The statement should have been that some, but not all, of the information has been provided.

In particular the identification of the specific items alleged to be deficient that are alleged to be work performed by Mr. Heckel's company, and the identification of how such alleged deficiencies are contrary to the building code, have not been provided.

Sincerely,



Randy Lee Williams

RLW: jev  
CC: Troy Heckel, Kevin William Ward, Esq.

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October 25, 2017

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***RE: Loveland Construction Advisory Board Matter- Troy Heckel/Christopher Solis***

***Response of Troy Heckel to Motion to Reschedule Hearing Date***

Dear Mr. Garcia and Ms. Allen & Members of the Construction Advisory Board,

I am representing Mr. Troy Heckel with respect to the above referenced matter. This is in response to the letter of Kevin William Ward, Esq., dated October 24, 2017, seeking to reschedule the hearing date in this matter.

Mr. Heckel opposes the motion to reschedule the date for hearing, which is now scheduled for January 24, 2018.

The hearing in this matter has been rescheduled in the past, however those changes in the hearing date are not attributable to Mr. Heckel. At the suggestion of the city the previous hearing date scheduled for the September 2017 meeting was changed to be held at the meeting in October. This was to provide an opportunity for Mr. Ward to gather information from the staff, provide information to Mr. Heckel as to the specific items which were alleged to be deficient and were the alleged work of Mr. Heckel, and the sections of the building code alleged to have been violated.

The intent was not only to provide that information to Mr. Heckel prior to the hearing date, so that he would be aware of these specific claims and be able to respond to that; but also, it was intended to allow sufficient time for Mr. Heckel to meet with Mr. Ward and representatives of the city to discuss this matter and determine if resolution could be reached without the necessity of hearing.

Mr. Heckel's company acquired ownership of the property from a bank that had foreclosed on the builder that had completed all construction, other than interior finish. The complaint filed by Mr. Solis in this matter alleges deficiencies which all relate to the exterior portions of the building, none of which work was done by Mr. Heckel's company.

Accordingly, obtaining the information from the city as to what specific allegations related to the work of Mr. Heckel's company are being made is crucial in being able to respond to the complaint, and to meaningfully discuss with the city representatives the possibility of resolution without the necessity of hearing.

Most recently the change in hearing date from the October meeting until January 24, 2018, was also at the instance of the city, because the relevant information had not yet been gathered and provided to Mr. Heckel. As of this date that information has not yet been provided.

At the time the city proposed the change from the October hearing date, possible alternative hearing dates were discussed. Due to my trial obligations and the holidays it was agreed that the hearing date would be rescheduled to January 24, 2018.

As Mr. Ward sets forth in his letter of October 24, 2017, because of a lengthy trial which I will have, and the necessity to prepare for that trial, the proposed new dates for hearing at the end of November and first of December would interfere with that long-scheduled trial obligation, as well as making it extremely difficult for me to assist Mr. Heckel in this matter.

On October 6, 2017, Mr. Heckel, Mr. Ward, and I were advised that the Construction Advisory Board Chair had granted the city's motion to continue the hearing until January 24, 2018. In reliance on that change in date, Mr. Heckel advises me that he made travel arrangements to be gone from December 18 thru the end of December, and is committed to do so. Accordingly, the proposed dates in December are ones that he will not be available for.

For the forgoing reasons it is requested that the motion to again reschedule the hearing date for dates in November or December 2017 not be granted, and that the existing hearing date of January 24, 2018, be maintained.

Sincerely,

Randy Lee Williams

RLW:jev  
CC: Troy Heckel, Kevin William Ward, Esq.