

CITIZEN-INITIATED ORDINANCE NO. 1, 2002
CITIZENS' INITIATIVE TO CONTINUE THE CITY'S EXISTING
OPEN SPACE SALES AND USE TAX

WHEREAS, the citizens of Fort Collins have shown strong support to preserve and provide open space, natural areas, community separators, wildlife habitat, and trails for today and for the future; and

WHEREAS, Fort Collins citizens currently enjoy the open spaces and natural areas; the recreation they provide, such as walking, hiking, biking, wildlife viewing, bird watching, and fishing; the educational opportunities and programs provided to people of all ages and backgrounds; and the beautiful landscapes and views they provide; and

WHEREAS, open space, natural areas, wildlife habitat, community separators, agricultural lands, and trails are resources that benefit all members of the Fort Collins community; and

WHEREAS, Fort Collins is a rapidly growing city in one of the fastest growing counties in the United States, and its open lands are rapidly disappearing; and

WHEREAS, land values in and around Fort Collins are quickly escalating; and

WHEREAS, the City of Fort Collins has demonstrated the ability to acquire important lands responsibly; to leverage funds through Great Outdoors Colorado, and to partner with Larimer County, land trusts, private landowners, and other public and private entities; and

WHEREAS, there is not enough existing funding to protect and preserve the desired open spaces, community separators, natural areas, wildlife habitat, and valued agricultural lands in and around Fort Collins.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

Section 1. THAT for purposes of acquiring, operating, and maintaining open spaces, community separators, natural areas, wildlife habitat, riparian areas, wetlands, and valued agricultural lands, and providing for the appropriate use and enjoyment of these areas by the citizenry, the existing twenty-five one-hundredths (.25) percent sales and use tax authorized by Ordinance No. 29-1997 of the City Council of the City of Fort Collins and approved by the City of Fort Collins voters, be extended, for a period of twenty five (25) years, expiring at midnight on December 31, 2030 (the "Tax").

Section 2. THAT land conservation projects using revenues from the Tax shall be undertaken where there is an identifiable benefit to the residents of the City of Fort Collins as determined by the City Council, whether undertaken by the City of Fort Collins alone or in partnership with one or more entities. The projects shall be undertaken within the City of Fort Collins and its Growth Management Area boundary; in the areas between Fort Collins and the communities of Wellington, Windsor, Loveland, Timnath, Bellvue, and LaPorte; in the foothills west of Fort Collins; in the Poudre River corridor; and regionally.

Section 3. THAT 100 percent (100%) of the proceeds from the Tax shall be deposited into the Sales and Use Tax Fund and shall be apportioned as follows:

- a) Not less than 80 percent (80%) of the total annual revenue of the Tax shall be used solely for Land Conservation Activities as defined herein.
- b) Not more than 20 percent (20%) of the total annual revenue of the Tax shall be used solely for Operations Activities and Maintenance Activities as defined herein.

Section 4. THAT "Land Conservation Activities" are herein defined to solely include the following:

- a) Acquiring interests in real property for the purposes of conserving and protecting open spaces, community separators, natural areas, wildlife habitat, riparian areas, wetlands, and valued agricultural lands. Acquiring interests in real property includes, without limitation, fee simple acquisition, acquisition of perpetual conservation or agricultural easements, and acquisition of development rights, whether alone or in cooperation with one or more entities;
- b) Acquiring or leasing water rights and water storage rights for the purpose of conserving, restoring, and maintaining conserved and protected lands, or if acquisition of interests in real property is contingent on acquisition of water rights;
- c) Acquiring subsurface rights, such as mineral (e.g. gravel) rights;
- d) Allowing expenditure of funds for joint projects between Larimer County, other municipalities, trusts, foundations, GOCO, or other public or private entities for the purpose of land conservation;
- e) Improving acquired lands by restoring and enhancing native plant and animal communities;
- f) Providing funds to the Natural Areas Enhancements grants program to protect, restore and enhance native plant and animal communities on private and publicly owned natural areas;
- g) Hiring land agents, as necessary, to act on behalf of the City of Fort Collins in negotiating contracts with the owners of such interests in real property; and
- h) Administering and directly supervising Land Conservation Activities as described in this section.
- i) Land Conservation Activities shall not include any activities defined herein as Operations Activities or Maintenance Activities.

Section 5. THAT "Operations Activities" of conserved and protected lands is herein defined to solely include the following:

- a) Conducting educational and volunteer programs to involve citizens in the ownership of conserved and protected lands;
- b) Informing the public about City of Fort Collins open spaces and programs, such as producing and distributing newsletters, a website, and brochures;

- c) Providing public capital facilities to manage human usage of conserved lands, such as trails, fencing, wildlife viewing structures, restrooms, drinking water, trash receptacles, parking areas, signage, interpretive exhibits, or information displays;
- d) Developing, implementing and updating an overall program master plan, as well as site-specific management plans for conserved and protected lands;
- e) Administering the natural areas and land conservation programs, including on-going accounting, record keeping, scheduling, personnel management, interacting with the City Council and the citizens, and administering easement requests in accordance with the adopted natural areas easement policy;
- f) Law enforcement activities for the purpose of enforcing natural areas and open lands regulations and other applicable laws;
- g) Providing funds for Fort Collins transportation capital needs related to Land Conservation Activities, as outlined in Section 9; and
- h) Administering and directly supervising all Operations Activities described in this section.
- i) Operations Activities shall not include any activities defined herein as Land Conservation Activities or Maintenance Activities.

Section 6. THAT "Maintenance Activities" of conserved and protected lands is herein defined to solely include the following:

- a) Controlling noxious weeds and invasive species and maintaining native vegetation and habitats;
- b) Repairing, cleaning, or replacing public capital facilities as described in Section 5, such as trails, fencing, wildlife viewing structures, restrooms, drinking water, trash receptacles, parking areas, signage, interpretive exhibits, or information displays, and removing trash and debris;
- c) Controlling erosion and preventing soil loss due to natural causes or human impacts;
- d) Monitoring lands protected by less than fee simple acquisition at least annually, through the use of third party land trusts, the City of Fort Collins, or other appropriate parties, to ensure lands are protected and maintained in accordance with the terms of the acquisition and adopted management plans and agreements. Except as otherwise expressly agreed, owners of properties protected by less than fee simple acquisition shall be responsible for maintaining all lands, structures, enhancements, and facilities in accordance with the adopted site-specific management plans and agreements; and
- e) Administering and directly supervising all Maintenance Activities described in this section.
- f) Maintenance Activities shall not include any activities defined herein as Operations Activities or Land Conservation Activities.

Section 7. THAT all Land Conservation Activities as defined in Section 4 shall be accomplished by agreement with willing sellers.

Section 8. THAT the City of Fort Collins shall expend moneys for Land Conservation Activities in a timely and expedient manner, seeking to avoid substantial escalation in costs of real property or the real property being no longer available, including, where appropriate, cooperating with land trusts and other public and private land conservation entities.

Section 9. THAT not more than five percent (5%) of the total revenue of the Tax may be used for Fort Collins transportation capital needs, as provided in subsection 5g. Such revenue shall only be used for improvement of existing roads or acquisition of rights-of-way adjacent to property owned in fee simple by the City of Fort Collins that was acquired with the proceeds of this initiative. Such revenue shall not be used for such improvements or acquisitions adjacent to interests in real property that were acquired in whole or in part prior to January 1, 2006; provided that such revenue may be used to address the impacts of only the portion of property acquired on or after January 1, 2006 with the proceeds of this initiative. Acquisition of rights-of-way shall be at the fair market value of such right-of-way at the time such interest in real property was acquired by the City of Fort Collins. The equivalent of such fair market value of such right-of-way shall be transferred from the fund or account used for Operations Activities to the fund or account used for Land Conservation Activities.

Section 10. THAT all revenues generated on open space, natural areas, wildlife habitat, and other Land Conservation Activities performed or acquired with the Tax shall be used for the purposes stated herein. Revenues generated from leasehold interests in real property shall subsequently be used for Land Conservation Activities.

Section 11. THAT investment earnings on the revenues of the Tax shall be used for the purposes stated herein and apportioned as provided in Section 3.

Section 12. THAT, except with the express approval of the City Council, (a) no interest in real property acquired with the revenues provided by the Tax may be sold, leased, traded, or otherwise conveyed, (b) nor may an exclusive license or permit on such interest in real property be given, (c) nor may the use of such interest in real property be converted to purposes other than those permitted hereby. Prior to such action, the proposed action shall be reviewed by the appropriate board, and a recommendation shall be forwarded to the City Council. Approval of the action may be given only by a majority vote of the members of City Council after a public hearing held with notice provided in accordance with the applicable law.

Section 13. THAT, except as provided in Section 9, (a) if any real property or interest therein acquired by use of proceeds of the Tax pursuant to this initiative ever be sold, exchanged, transferred, leased or otherwise disposed of, the consideration for such sale, exchange, transfer, lease or disposition shall be deposited into a fund or account for Land Conservation Activities and be subject to the same expenditure and use restrictions as those set forth herein for the original proceeds of the Tax, including restrictions set forth in this Section; and (b) if any real property or interest therein acquired by use of proceeds of the Tax pursuant to Section 1 of this initiative shall ever be converted to purposes other than those described herein, the City of Fort Collins shall pay into a fund or account for Land Conservation Activities, from any legally available municipal moneys other than the

Tax, the then estimated fair market value of such property, as determined by an appraisal.

Section 14. THAT the City of Fort Collins is authorized to adopt such uniform rules, regulations, and ordinances as may be necessary for the administration and enforcement of this initiative in a manner consistent with the language herein; and that the City Council or its authorized representatives are hereby empowered to enter into and execute on behalf of the City of Fort Collins any agreements necessary for the administration and enforcement of this initiative in a manner consistent with the language herein.

Section 15. THAT the City Council shall designate a voluntary City Advisory Board, either existing or new, to advise and make recommendations to the City Council regarding the expenditure of moneys for the purposes stated herein.

Section 16. THAT the City of Fort Collins shall prepare for review by the appropriate board(s) and City Council quarterly financial reports to include revenues, expenditures, and balances in the applicable funds or accounts, and any other appropriate related accounts, and shall prepare a report to the public annually regarding the use of the revenues derived from the Tax.

Section 17. THAT the full amount of revenues, and any investment earnings thereon, derived from the Tax may be retained and expended by the City of Fort Collins, notwithstanding any state revenue or expenditure limitations including, without limitation, those contained in Article X, Section 20 of the Colorado Constitution.

Section 18. THAT, when the Tax expires at midnight on December 31, 2030, all moneys remaining from the proceeds of this initiative shall continue to be expended for the purposes set forth herein until completely exhausted, and on December 31, 2033, any funds remaining in a fund or account for Operations Activities and Maintenance Activities, as defined herein, shall be transferred to a fund or account for Land Conservation Activities, as defined herein.

Section 19. THAT this initiative shall become effective at 12:01 a.m. January 1, 2006.