



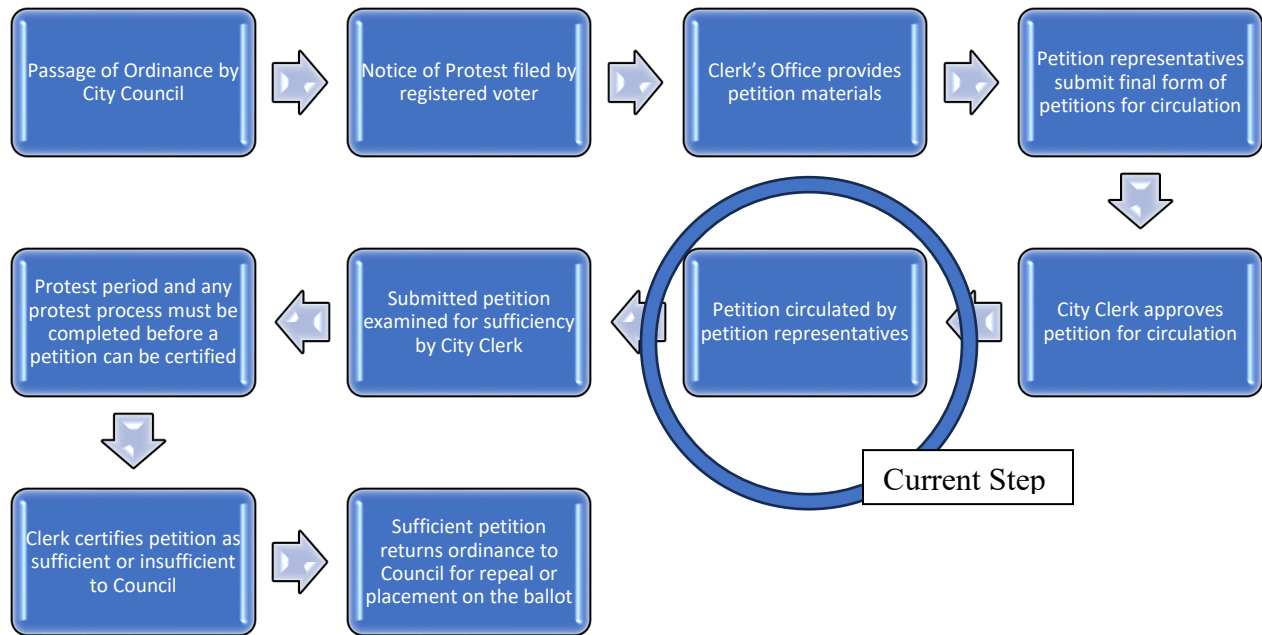
City Clerk
300 Laporte Avenue
PO Box 580
Fort Collins, CO 80522
970.221.6515
970.221-6295 - fax
fcgov.com/cityclerk

MEMORANDUM

DATE: November 9, 2023
TO: Honorable Mayor and City Councilmembers
FROM: Anissa Hollingshead, City Clerk
RE: **Ordinance Protest and Referendum Process Update No. 2**

The form of the referendum petition against Ordinance No. 136, 2023, was approved by the City Clerk on November 8, 2023, making today, November 9 the first day of their 20-day circulation period. The purpose of this memorandum is to provide an update of the known and potential timing of the referendum process at this point.

OVERVIEW OF REFERENDUM PROCESS



Process to date

There is also a chart included at the end of this packet for easy reference that shows each step in the referendum process and its associated timing.

COMPLETED ON 10-27-2023: Petition Representatives file a notice of protest against the going into effect of an ordinance

Timeframe: This must be done within 10 calendar days of the adoption of an Ordinance being protested.

This notice of protest against the going into effect of Ordinance No. 136, 2023, was filed on Friday, October 27, 2023, the tenth day after its adoption.

COMPLETED ON 11-3-2023: Clerk's Office provides referendum petition materials

Timeframe: This must be done in a timely manner that allows the petition representatives to meet their 10-day deadline to submit the final form petitions planned for circulation

Once the notice of protest was received, the Clerk's Office began working with the petition representatives to get their general statement of purpose and information about any petition representatives to prepare the form of the petition, which in this instance also included a separate bound exhibit book containing the full ordinance exhibits.

Printing for the exhibit book had to be outsourced and took multiple days. The Clerk's Office prepared the number of petition sections and exhibit books requested by the petition representatives and provided those to the petition representatives the afternoon of Friday, November 3, 2023.

COMPLETED ON 11-6-2023: Petition representatives submit final form of petitions for circulation

Timeframe: Deadline is 10 calendar days after the date the notice of protest is filed – by Monday, November 6, 2023

The petition representatives separately numbered each petition section provided to them from the City Clerk's Office for circulation. They then submitted those final petition forms, fully assembled and numbered, back to the City Clerk's Office the morning of Monday, November 6, 2023.

COMPLETED ON 11-8-2023: City Clerk approves petition for circulation

Timeframe: No timeline specified; best practice normally identified as 1-5 working days, in this instance anticipating 3-7 working days given volume of materials in each petition packet for circulation

Each section of the final petition forms provided back to the Clerk's Office and each bound exhibit were reviewed page by page by City Clerk staff to ensure completeness with nothing removed or added. This review was finished allowing the City Clerk to approve the final form of the petition to be circulated for signature the afternoon of Wednesday, November 8. During the 20-day circulation period, petition representatives may request additional petition sections be produced, which follow the same process of being provided for the representatives for numbering before being returned to the Clerk for approval for circulation. Doing this does not change the circulation period.

IN PROGRESS AS OF 11-9-2023: Circulation period

Timeframe: Starts once City Clerk approves petition for circulation and lasts for 20 calendar days

The first day of the 20-day circulation period is Thursday, November 9, 2023. Petition representatives will have up to 20 calendar days to circulate the petition and collect signatures from registered voters in Fort Collins.

LIKELY TO BE 11-28-2023: Completed petition must be filed with the City Clerk

Timeframe: Deadline is 11-28-2023, 20 days after the Clerk approves the petition for circulation

Completed petitions must be submitted to the City Clerk's Office as a single instrument by 5 p.m. on the 20th day after the Clerk approved the petition for circulation, which will be Tuesday, November 28, 2023.

LIKELY TO START 11-29-2023: Examination of submitted petition

Timeframe: Clerk must complete review in 5 working days

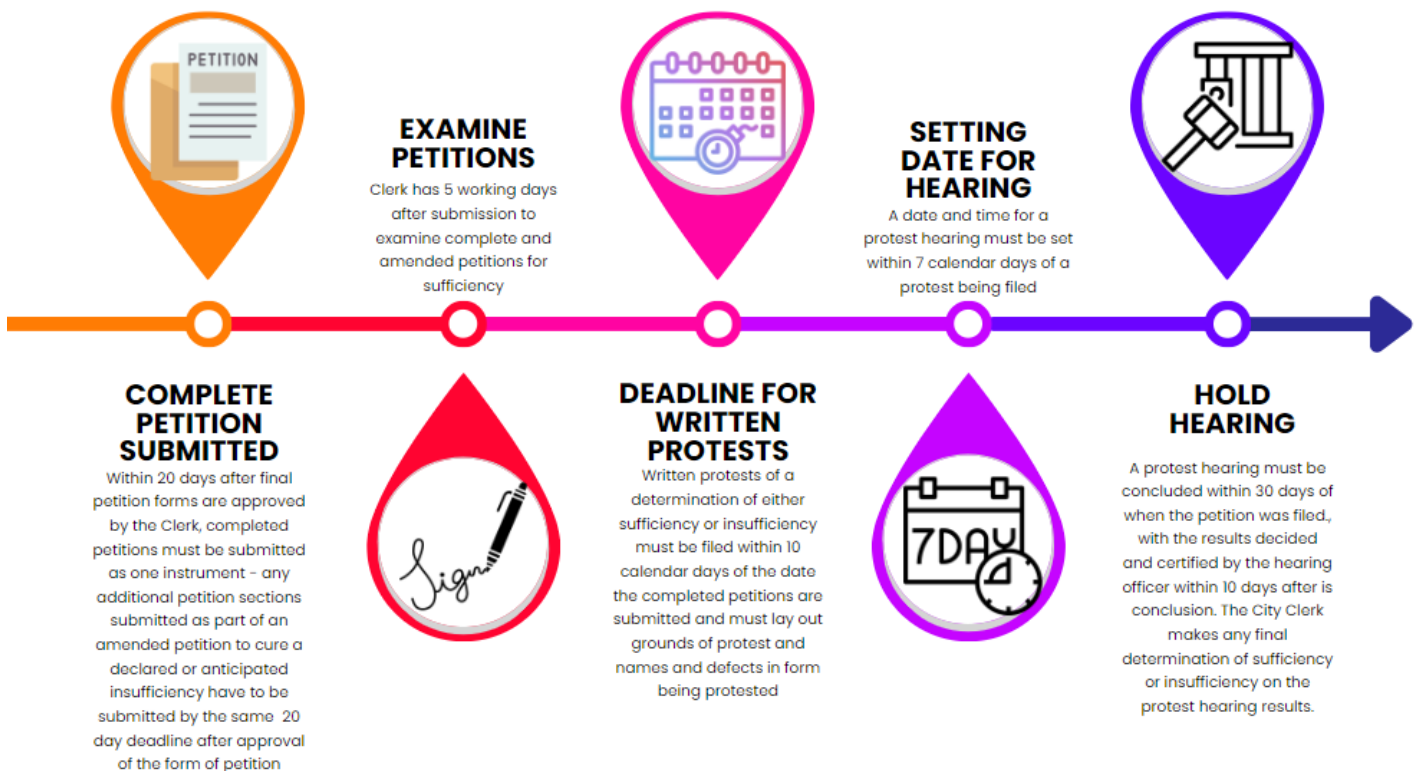
Once the complete petition is submitted to the Clerk's Office, it will be examined for sufficiency. The City Clerk has five working days to complete this process. The first step taken when a complete petition is submitted is to ensure a sufficient number of signatures are included to reach the minimum threshold required for the petition as a whole to be valid prior to an examination of validity of individual signatures. In this instance, there must be at least 4,228 signatures submitted for the petition to be valid and for the Clerk's Office to begin reviewing each individual signature to ensure it is from a registered voter in Fort Collins.

Examination of petitions includes the review of submitted names, addresses, and signatures to ensure each signature is from a Fort Collins resident registered to vote at the time they signed the petition under the name and address listed in the petition. There must be 4,228 valid signatures for the petition to be deemed sufficient.

Outline of Protest Provisions and Related Timing

Before a petition can be certified as sufficient to the City Council, either the period allowed for filing a protest must expire or any protests filed must be resolved. Written protests can be filed by any Fort Collins registered voter of the City Clerk's determination that a petition is either sufficient or insufficient within 10 days of the filing of the petition. The City Clerk must set a time for hearing any protest not more than 7 days after it is filed.

- A protest hearing must be completed within 30 days after the petition is filed
- Results must be decided and certified within 10 days after the conclusion of the hearing



If a Petition is Found Insufficient

If the City Clerk's initial determination is a petition is insufficient it can be amended to submit additional signatures, but only within the same initial 20-day circulation period – there is no additional cure period for referendum petitions.

- A petition that is found insufficient, assuming no protest is filed against that finding, ends the referendum process and does not impact the effective status of the protested ordinance. Friday, December 8, 2023, is the latest date a certification of insufficiency would be made in the absence of any protest proceedings.

If a Petition is Found Sufficient

At the point the City Clerk certifies a petition as sufficient, either at the expiration of the 10-calendar day protest period or the conclusion of the process if a protest is filed:

1. The Clerk presents the petition to the City Council, automatically suspending the operation of the ordinance subject to the petition.
 2. The Council must reconsider the ordinance at its next regular or special meeting. If the Council does not repeal the ordinance, it must refer the ordinance to the voters at the next regular or special city election scheduled for any other purpose, or may call a special election for that purpose.
- A petition that is found sufficient can be certified after the expiration of the protest period assuming no protest is filed against that finding. The certification of the petition as sufficient does suspend the operation of the protested ordinance. It is anticipated the latest this would occur would be Friday, December 8, 2023, in the absence of any protest proceeding.
At this time, the next planned regular or special meeting after that date would be Tuesday, December 19, 2023.

Attachments being provided with this memo include:

1. Form of Petition approved for circulation
2. Supplemental Instructions for Circulation provided to petition representatives
3. Chart with Outline and Timeline of the Referendum Process through Examination of Sufficiency

cc: **City Manager Kelly DiMartino**
 City Attorney Carrie Daggett
 Deputy City Manager Tyler Marr
 Assistant City Manager Rupa Venkatesh

PETITION FOR REFERENDUM

TO: The City Council of the City of Fort Collins

GENERAL STATEMENT OF PURPOSE

Preserve Fort Collins is petitioning to repeal, in its entirety, "Ordinance No. 136, 2023 of the Council of the City of Fort Collins repealing and reenacting Section 29-1 of the Code of the City of Fort Collins to adopt the revised Land Use Code and separately codifying the 1997 Land Use Code as the "Pre-2024 Transitional Land Use Regulations".

**WARNING:
IT IS AGAINST THE LAW**

for anyone to sign any referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign such petition when not a registered elector.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR.

TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF THE STATE OF COLORADO AND A RESIDENT OF THE CITY OF FORT COLLINS AND REGISTERED TO VOTE IN FORT COLLINS MUNICIPAL ELECTIONS.

Do not sign this petition unless you have read or had read to you the proposed referred measure or the summary of the referred measure in its entirety and understand its meaning.

PETITION REPRESENTATIVES (not less than 3, no more than 5)

	Name	Address
1.	Ross Cunniff	2267 Clydesdale Dr, Fort Collins, CO 80526
2.	Dawn Cramer	604 Smith St, Fort Collins, CO 80524
3.	Melissa Abrams	3819 Harbor Walk Ln, Fort Collins, CO 80525
4.	_____	_____
5.	_____	_____

NOTE: Throughout its circulation, each petition section shall contain or have attached immediately following this page the ordinance sought to be referred.

ORDINANCE NO. 136, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REPEALING AND REENACTING SECTION 29-1 OF THE CODE OF THE CITY
OF FORT COLLINS TO ADOPT THE REVISED LAND USE CODE AND
SEPARATELY CODIFYING THE 1997 LAND USE CODE AS THE
“PRE-2024 TRANSITIONAL LAND USE REGULATIONS”

WHEREAS, the City of Fort Collins, as a home-rule municipality, is authorized by Article XX, Section 6 of the Colorado Constitution, the provisions of state statutes, and its City Charter to develop and implement policies and ordinances regulating the development of land within the City; and

WHEREAS, on March 18, 1997, by adoption of Ordinance No. 051, 1997, the Fort Collins City Council adopted the Land Use Code referred to in Section 29-1 of the City Code, which was subsequently amended and on December 2, 1997, by adoption of Ordinance No. 190, 1997, the City repealed the Land Use Code so adopted and reenacted the Land Use Code dated December 12, 1997 (referred to herein as the “1997 Land Use Code”); and

WHEREAS, since adoption of the 1997 Land Use Code, the City Council adopted Resolution 2019-048 on April 16, 2019 (later ratified by Ordinance No. 040, 2020) adopting a major update of the comprehensive master plan for the City and its additional components and elements such as the Master Street Plan and subarea plans (the “2019 City Plan”); and

WHEREAS, on March 2, 2021, by adoption of Ordinance No. 033, 2021, City Council adopted the Housing Strategic Plan as an element of the City’s comprehensive plan establishing a goal that all residents have healthy stable housing they can afford and listing 26 housing strategies proposed for implementation to progress toward that goal; and

WHEREAS, the City commissioned the Land Use Code Audit dated January 2020 to align the 1997 Land Use Code with adopted City plans and policies with a focus on housing-related changes, code organization, and equity; and

WHEREAS, changes to the 1997 Land Use Code to implement the 2019 City Plan and the Housing Strategic Plan goals of improving housing supply and affordability are desired; and

WHEREAS, in preparation for a future comprehensive review and rewrite of the 1997 Land Use Code as contemplated in the 2019 City Plan, reorganization of the 1997 Land Use Code to consolidate standards, eliminate repetition, simplify language, and increase user-friendliness is also desired; and

WHEREAS, in light of the proposed changes to the 1997 Land Use Code, the anticipated future comprehensive review and rewrite, and to better describe its purpose, the code replacing the 1997 Land Use Code is known as the Land Use Code; and

WHEREAS, City Council adopted a prior version of the Land Use Code known as the Land Development Code on second reading of Ordinance No. 114, 2022; and

WHEREAS, City Council repealed Ordinance No. 114, 2022, through Ordinance No. 007, 2023, after receiving a certified referendum petition regarding Ordinance No. 114, 2022; and

WHEREAS, City staff conducted extensive public outreach regarding the Land Use Code in response to issues raised by community members including mailing a City wide postcard, conducting public meetings both remote and in person upon request while offering interpreting services during such meetings, hosting a deliberative forum and a separate open house, making recordings of public meetings available, conducting neighborhood specific walking tours, answering questions in person and by email, maintaining a website with the latest information in the process, outreach to City boards and commissions including the Planning and Zoning Commission, Historic Preservation Commission, Transportation Board, Affordable Housing Board, and multiple Council work sessions; and

WHEREAS, based upon the additional public outreach and City Council feedback, City staff has drafted a revised version of the Land Use Code; and

WHEREAS, on September 27, 2023, the Planning and Zoning Commission on a 4-1 vote (Haelele Nay) recommended that City Council adopt the Land Use Code as presented by City staff; and

WHEREAS, the Land Use Code, effective January 1, 2024, will replace the 1997 Land Use Code in its entirety; and

WHEREAS, City Council has determined that the 1997 Land Use Code shall be separately codified as the “Pre-2024 Transitional Land Use Regulations” and limited in their application to the review of pending land development applications submitted and determined to be complete and ready for review pursuant to Land Use Code Section 2.2.4 prior to the effective date of the Land Use Code adopted pursuant to this Ordinance; and

WHEREAS, City Council has determined that adoption of the Land Use Code is appropriate to accomplish the goals set forth above and is in the best interests of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 29-1 of the Code of the City of Fort Collins is hereby repealed and reenacted to read as follows:

Sec. 29-1. - Cross reference to Land Use Code

The Land Use Code, as adopted by Ordinance No. 136, 2023, shall be codified separately from the Code of the City of Fort Collins and, although not a numbered Chapter of the Code of the City of

Fort Collins, is a part of the Code of the City of Fort Collins with the same legal significance as though it were a numbered Chapter. The Land Use Code may be used, as applicable, to support the implementation of the Code of the City of Fort Collins, and the Code of the City of Fort Collins may be used, as applicable, to support the implementation of the Land Use Code.

Section 3. That the Land Use Code attached hereto and incorporated herein by this reference as Exhibits “A” through Exhibit “G”, with each exhibit corresponding to a separate Land Use Code Article 1 through Article 7 respectively, is hereby adopted and shall be codified separately from the Code of the City of Fort Collins.

Section 4. That the 1997 Land Use Code is hereby repealed and separately codified as the “Pre-2024 Transitional Land Use Regulations” and shall be limited in its application to the review of pending land development applications submitted and determined to be complete and ready for review pursuant to the Pre-2024 Transitional Land Use Regulations Section 2.2.4 prior to the effective date of the Land Use Code as set forth in this Ordinance.

Section 5. That the Land Use Code shall be effective for all land development applications submitted on or after January 1, 2024.

Section 6. That after the Land Use Code effective date, all references to the Land Use Code in the Code of the City of Fort Collins and City Council administratively adopted policy, planning, regulatory, and other documents including, but not limited to, the 2019 City Plan, the Larimer County Urban Area Street Standards, the Stormwater Criteria Manual, Dust Prevention and Control Manual shall be interpreted to refer to the appropriate provisions of the Land Use Code until conforming changes can be made.

Section 7. That the water adequacy determination provisions that City Council adopted through Ordinance No. 117, 2023, on second reading on September 19, 2023, shall be incorporated into the Land Use Code with appropriate renumbering of sections and references as follows:

- a. Amendments to 1997 Land Use Code Section 3.7.3 shall be incorporated into Land Use Code Section 5.7.3;
- b. New Division 3.13 added to the 1997 Land Use Code shall be incorporated into Land Use Code Article 5 as Division 5.17; and
- c. New definitions added to 1997 Land Use Code Article 5 shall be incorporated alphabetically into Land Use Code Article 7.

Section 8. That the oil and gas buffer code language that City Council adopted through Ordinance No. 116, 2023, on second reading on September 19, 2023, shall be incorporated into the Land Use Code with appropriate renumbering of sections and references as follows:

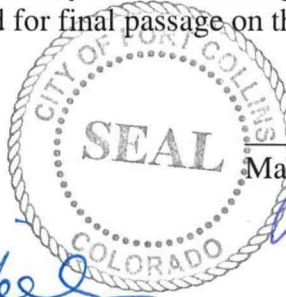
- a. Amendments to 1997 Land Use Code Section 3.8.26 shall be incorporated into Land Use Code Section 5.10.2;
- b. New Section 3.8.36 added to the 1997 Land Use Code shall be incorporated into Land Use Code Article 5 as Section 5.10.3; and
- c. New definitions added to 1997 Land Use Code Article 5 shall be incorporated alphabetically into Land Use Code Article 7.

Section 9. That in relation to the incorporation of the provisions described in Section 7 and Section 8, all necessary renumbering of internal Land Use Code references shall be made.

Introduced, considered favorably on first reading and ordered published this 3rd day of October, 2023, and to be presented for final passage on the 17th day of October, 2023.

ATTEST:

City Clerk



Mayor

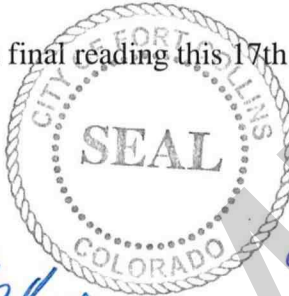
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Passed and adopted on final reading this 17th day of October, 2023.

ATTEST:

City Clerk



Mayor

[Handwritten signature]

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EXAMINER

The circulator carrying this petition section has been provided with a bound copy of Exhibits A through G (collectively known as the Land Use Code) for your review, if you desire, prior to signing this petition.

The contents of the bound copy can also be found online at

<https://fcgov.com/elections/referendums>

**DO NOT SIGN THIS PETITION UNLESS YOU ARE A RESIDENT OF FORT COLLINS
AND REGISTERED TO VOTE AT YOUR CURRENT ADDRESS**

Before signing this petition, you are encouraged to read the full text of the initiated or referred measure,
or the purpose statement in the case of a recall petition, which immediately precedes these signature pages.

1	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
2	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
3	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
4	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
5	Signature	Residence Address (Street and Number)	Date Signed
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6	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
7	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
8	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
9	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
10	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	

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11	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
12	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
13	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
14	Signature	Residence Address (Street and Number)	Date Signed
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15	Signature	Residence Address (Street and Number)	Date Signed
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16	Signature	Residence Address (Street and Number)	Date Signed
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17	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
18	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
19	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
20	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	

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21	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
22	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
23	Signature	Residence Address (Street and Number)	Date Signed
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	Printed Name	City	
28	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
29	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	
30	Signature	Residence Address (Street and Number)	Date Signed
	Printed Name	City	



INSTRUCTIONS REGARDING THE REFERENDUM PETITION CIRCULATION PROCESS RELATING TO ORDINANCE NO. 136, 2023

The purpose of this document is to provide information to the petition representatives that can also be shared with petition circulators to ensure an understanding of the expectations of the City Clerk's Office regarding the circulation and potential submission of a complete petition in the protest of Ordinance No. 136, 2023. This information is believed to be accurate and in compliance with the City Charter and Code. It is not intended to serve as legal advice. In all matters, the City Charter and the City Code are the authority on all aspects of the referendum petition process.

The petition form approval for the current referendum petition effort regarding Ordinance No. 136, 2023, is being issued today, Wednesday, November 8, 2023. This approval marks the start of the 20-day circulation period for the petition, which must conclude with the full submission of the petition by 5 p.m. on Tuesday, November 28, 2023.

As part of this referendum petition process, there are two parts of the petition for circulation that must be kept together at all times during the solicitation and collection of any signatures on each petition section.

1. Petition Sections:

Each section consists of

- Page 1, addressing the petition for referendum to the City Council of the City of Fort Collins, and including a general statement of purpose as provided by the petition representatives, the warning required in the City Charter, and the names and addresses of the three petition representatives.
- Pages 2-5, the full text of Ordinance No. 136, 2023, excluding any exhibits.
- Page 6, containing a notice that the circulator of the section has a bound copy of Exhibits A through G of the ordinance for review by those being asked to sign.
- Pages 7-9 for petition sections printed for 30 signatures, Pages 7-11 for sections printed for 50 signatures, and Pages 7-16 for sections printed for 100 signatures, containing signature pages for those wishing to sign the petition.
- Page 10 (or 12, or 17), containing space for the notarized affidavit of the petition circulator that must be completed by the individual who circulates that section.

2. Exhibit Books

Each exhibit book is spiral bound, with a clear plastic front cover and black vinyl back cover. Each book contains:

- 539 numbered color-printed pages containing exhibits A-G to Ordinance No. 136, 2023, comprising the Land Use Code adopted on October 17, 2023.
- A label assigning the book a sequential 3-digit number, starting with Book #001, along with a notice the book must remain in the custody of the circulator and returned to the petition representatives with completed petition(s).



The petition form approval records every petition section approved and provided to the petition representatives for circulation, along with the numbers of the exhibit books provided to the representatives.

REQUIREMENTS EACH CIRCULATOR MUST FOLLOW FOR EVERY PETITION SECTION THEY CIRCULATE FOR SIGNATURES:

- Be at least 18 years of age or older
- Personally circulate the petition section
- Ensure each signature is the signature of the person whose name it purports to be
- Ensure to the best of their knowledge and belief each person signing the petition is a registered elector (voter) in Fort Collins when they sign
- Ensure each signer has an opportunity before signing to read the full text of the entire petition, including both the petition section AND the exhibit book
- Any time they are circulating a petition section for signatures, always carry their assigned exhibit book and have it available for review
- Not pay or agree to pay in the future, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing the person to sign the petition

Every petition section includes an affidavit on its final page that must be completed by the person who circulated that section, attesting to adherence to each of the above requirements affirmed by the circulator's notarized signature. This affidavit must remain attached to the rest of the petition section.

The petition sections and exhibit books should be treated as two equal parts of the petition for circulation by the petition representatives and circulators. The only differentiation between the two is that one exhibit book should be provided to each circulator, while a circulator may be provided and may return multiple petition sections.

- All approved petition sections should be returned to the City Clerk's Office as part of the final complete petition submitted.
- All exhibit books provided to the petition representatives should also be returned to the City Clerk's Office at the time the final complete petition is submitted.
- It is the responsibility of the petition representatives to:
 - assign an exhibit book to each circulator who is provided petition sections for circulation, and to track which number exhibit book has been assigned to each circulator;
 - ensure all circulators clearly understand they must maintain both all petition sections they are provided and the exhibit book in the condition it was provided, without removing or adding any pages to either document, and without making extraneous markings or notes on either document;
 - ensure all circulators clearly understand the exhibit book must be carried and available to those being asked to sign at all times a petition section is being circulated.
- Please note any modification of a petition section or an accompanying exhibit book could result in invalidation of signatures.

Outline and Timeline of the Referendum Process through Examination of Sufficiency

