

## AGENDA ITEM SUMMARY

City Council

September 21, 2021

### STAFF

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Kelly Smith, Senior City Planner  
Brad Yatabe, Legal

### SUBJECT

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Items Related to the Establishment of 1041 Regulations.

### EXECUTIVE SUMMARY

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- A. Public Hearing and First Reading of Ordinance No. 122, 2021, Designating Certain Activities as Matters of State Interest and Imposing a Moratorium on the Conduct of Such Activities Until City Council Makes a Final Determination Regarding the Adoption of Guidelines for the Administration of Such Activities.
- B. First Reading of Ordinance No. 123, 2021, Appropriating Prior Year Reserves to Support Completion of the 1041 Regulations Project.

The purpose of this item is to initiate the development of 1041 Regulations by holding a public hearing to designate activities of statewide interest, and to appropriate funding to support project completion. The designation ordinance designates the following activities:

1. Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems; and
2. Site selection and construction of arterial highways and interchanges and collector highways.

Specific reference to a moratorium is included in the designation ordinance until Council adopts regulations to administer the above two activities. Staff is also seeking further Council direction on what additional activities or areas, if any, should be included in the project. Should the scope expand beyond the two activities designated, the appropriation will increase in proportion to the expanded scope. Staff would return to Council later to hold a public hearing for Council to consider designating the additional activities or areas of state interest and adopting regulations.

### STAFF RECOMMENDATION

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Staff recommends adoption of both Ordinances on First Reading.

### BACKGROUND / DISCUSSION

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At the May 4, 2021, Council meeting, Councilmembers adopted Resolution 2021-055, which directed staff to evaluate whether 1041 regulations would help the City achieve its policy goals and to research the feasibility of adopting 1041 regulations.

The purpose of 1041 powers is to give local governments control over particular development projects occurring within their jurisdiction even when the project has statewide impacts. The term "1041" refers to the number of the bill, House Bill 74-1041, that created the 1041 powers in 1974 and the statutes regarding 1041 powers are also referred to as the *Areas and Activities of State Interest Act* set forth at Colorado Revised Statutes ("C.R.S.") Section 24-65.1-101 et seq. To exercise 1041 powers, a local government must identify the

areas or activities of state interest and adopt guidelines for the administration of the designated areas or activities pursuant to statutory procedures and limitations.

Staff returned to Council on July 27, 2021, which concluded that adopting 1041 regulations would help achieve the City's policy goals, particularly for large-scale projects currently regulated under the Site Plan Advisory Review (SPAR) process. Staff also concluded the process for developing 1041 regulations would require significant staff time and require an appropriation for consulting services to support project completion.

Two options for developing 1041 regulations were discussed: Option 1 focused on immediate development pressure (likely to occur within 10 years) and included two activities of state interest; Option 2 focused on immediate and potential future development pressure (likely to occur within 10-20+ years) and included five activities of state interest.

While Councilmembers were overwhelmingly supportive of the project and an appropriation, they were split in their preference for Option 1 and Option 2. Council requested staff return during a regular meeting to present a third option, and provide opportunity for discussion, public input and a vote. The regular meeting has been combined with a public hearing that initiates the process for designating the two activities presented in Option 1, as development pressure is imminent under those activities. A second public hearing will be scheduled later for additional activities or areas should more be added to the project scope.

### **PUBLIC HEARING and ORDINANCE**

The public hearing provides Council with the opportunity to designate the following activities to be of state interest and to impose a moratorium until December 31, 2022, on conducting of such activities or until Council adopts regulations for the administration of the designated activities:

- Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems.
- Site selection and construction of arterial highways and interchanges and collector highways.

Ordinance No. 122 addresses the following:

- Section 2: Designation as a matter of state interest the site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems.
- Section 3: Designation as a matter of state interest the site selection and construction of arterial highways and interchanges and collector highways.
- Section 4: Imposition of a moratorium on conducting designated activities, with certain exemptions, until December 31, 2022, or until Council adopts guidelines for the administration of the designated activities.
  - A. Water and sewer system activity subject to the moratorium.
  - B. Water and sewer system activity exempted from the moratorium.
  - C. Highway activity subject to the moratorium.
  - D. Highway activity exempted from the moratorium
  - E. Additional applications and requests subject to the moratorium.

Definitions relevant to the above two activities and contained in the Colorado Revised Statutes are as follows:

1. "Domestic water and sewage treatment system" means a wastewater treatment facility, water distribution system, or water treatment facility, as defined in C.R.S. Section 25-9-102(5), (6), and (7), and any system of pipes, structures, and facilities through which wastewater is collected for treatment. (C.R.S. Section 24-65.1-104(5))
2. "Water distribution system" means any combination of pipes, tanks, pumps, or other facilities that delivers water from a source or treatment facility to the consumer. (C.R.S. Section 25-9-102(6))

3. "Water treatment facility" means the facility or facilities within the water distribution system that can alter the physical, chemical, or bacteriological quality of the water. (Section 25-9-102(5), C.R.S.)
4. "Arterial highway" means any limited-access highway which is part of the federal-aid interstate system or any limited-access highway constructed under the supervision of the department of transportation. (Section 24-65.1-104(3), C.R.S.)
5. "Collector highway" means a major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers or recreation areas, or industrial centers and constructed under guidelines and standards established by, or under the supervision of, the department of transportation. "Collector highway" does not include a city street or local service road or a county road designed for local service and constructed under the supervision of local government. (Section 24-65.1-104(4), C.R.S.)

### **Procedure for the Designation of Areas and Activities and Adoption of Guidelines**

To exercise 1041 powers, the Colorado Revised Statutes require the City to designate the areas and activities to be regulated and adopt guidelines to administer the designated areas and activities. Once the City holds a public hearing and designates an area or activity to be of state interest, no person may engage in development within the designated area or conduct the designated activity until Council has determined and adopted regulations to administer designated areas and activities. The designation of areas and activities may occur only after a noticed public hearing where Council must consider, at a minimum:

1. The intensity of current and foreseeable development pressures;
2. The boundaries of any designated area;
3. Why the designated area or activity is of state interest;
4. The dangers from uncontrolled development of the area or conduct of such activity; and
5. The advantages of developing such area or activity in a coordinated manner.

Each consideration is listed below, with a summary that justifies the respective designation.

#### **1. Intensity of Current and Foreseeable Development Pressures**

The City is experiencing, and will continue to experience in the foreseeable future, projects that site and construct, partially or wholly within the City, domestic water and sewage treatment systems and arterial highways and interchanges and collector highways. Over the past two years, the City has processed two Site Plan Advisory Review applications that could have qualified for regulation under the activities being considered for designation. The City anticipates more development applications for such activities in the future.

#### **2. Boundaries of Designated Area**

No areas of state interest are being considered for designation at this time, and therefore, no area boundaries are proposed. Any designated activities would be subject to regulation throughout the City.

#### **3. Why the Designated Activity is of State Interest**

1. *Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems.*

The Cache la Poudre River is: essential to the lives of more than a half-million people in Northern Colorado; critical habitat for sensitive species; a designated National Heritage Area; and Colorado's only Wild and Scenic River. Given the population projections in Northern Colorado, coupled with the river being over-appropriated, it is likely that there will be new water and sewage treatment projects, or expansions of existing projects, that may impact the river's ecosystem health and resilience.

2. *Site selection and construction of arterial highways, arterial intersections and collector highways.*

Northern Colorado's federal and state highway system continues to expand to meet the region's growing population and transportation needs. These corridors provide the framework for local, regional and interstate travel and are important to our regional economy.

#### **4. The Dangers from Uncontrolled Development of the Conduct of Such Activity**

1. *Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems.*

Absent of 1041 Regulations, large infrastructure projects such as water supply and sewage treatment systems, are developed by public entities that are often exempt from local development standards and authority. Uncontrolled and unregulated construction of new and expansions of water and sewage treatment systems could adversely affect and conflict with surrounding land uses, residents, businesses, the natural environment, and City operations and projects.

2. *Site selection and construction of arterial highways, arterial intersections and collector highways.*

Absent 1041 Regulations, large infrastructure projects such as highway and interchange projects, can be disruptive to traffic, businesses, wildlife and residents, and result in serious socio-economic disparities. These projects are currently exempt from local development standards and authority where decisions on location and design can be made without consultation or authority from the City. Uncontrolled and unregulated construction of arterial highways, arterial highway intersections and collector highways could adversely affect and conflict with surrounding land uses, businesses, residents, the natural environment, and City operations and projects.

#### **5. The Advantages of Developing Such Area or Activity in a Coordinated Manner**

1. *Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems.*

Planned and coordinated water supply and sewage treatment systems will help ensure a resilient and sustainable Poudre River corridor, while protecting the City's public health, safety, welfare, the environment and wildlife resources, and City operations and projects. Coordination of water and wastewater treatment system projects will ensure the City achieves its policy goals to encourage development that reduces impacts on natural ecosystems and promotes sustainability and resilience.

2. *Site selection and construction of arterial highways, arterial intersections and collector highways.*

Planned and coordinated highway and interchange projects will help protect the City's public health, safety, welfare, the environment and wildlife resources, and City operations and projects. Coordination on the location and construction of new highway and interchange projects will help ensure the City achieves its policy goals to encourage development that reduces impacts on natural ecosystems and promotes sustainability and resilience.

## **MORATORIUM ON CONDUCTING DESIGNATED ACTIVITIES**

If Council decides to designate either or both activities, Section 24-65.1-404, C.R.S., prohibits any person from conducting such activity “[a]fter a matter of state interest is designated . . . until the designation and guidelines for such area or activity are finally determined pursuant to this article.” In other words, a moratorium on such activity is imposed until Council makes a final determination and adopts regulations for the administration of the designated activity or activities. In addition to the moratorium on conducting designated activities authorized by Section 24-65.1-404, C.R.S., the City has the power to impose a moratorium on development activity pursuant to its home rule powers granted under Article XX of the Colorado Constitution.

To provide sufficient time for staff to research and draft regulations for any activity that Council designates, staff recommends not only imposing a moratorium on designated activities, but also placing a moratorium on other City approvals related to such activities including on the receipt and processing of Site Plan Advisory Review applications, encroachment and flood plain permits, and requests to acquire City real property or rights in City property such as easements. The moratorium contains a number of exemptions as described in Ordinance No. 122.

## **COUNCIL APPROPRIATION ORDINANCE**

Based on development pressures the City is facing now and in the foreseeable future, three options have been prepared for Council consideration that range in project scope. Inherent in each option is an appropriation for consulting services to support project completion. The appropriation increases in proportion to the expanded scope.

### **Option #1: \$50K Needed; 10-12 Months to Complete**

This option is the recommended minimum scope for the adoption of 1041 Regulations. Because new development is imminent under each Activity, staff is initiating the designation of the Activities through a public hearing required by state statutes.

- Site selection and construction of water and sewage treatment systems
- Site selection and construction of highways and interchanges

### **Option #2: \$70K Needed; 10-12 Months to Complete**

The expanded scope includes one additional Activity, “Site selection and construction of major facilities of a public utility.” Projects under this Activity are regulated through the SPAR process and could result in significant impacts. While no new development under this Activity is known, this Activity is seen as a higher risk given its potential impacts and the City’s current lack of authority.

- Site selection and construction of water and sewage treatment systems
- Site selection and construction of highways and interchanges
- Site selection and construction of major facilities of a public utility

### **Option #3: \$80K Needed; 10-12 Months to Complete**

Option 3 includes all potential development categories the City could face now and in the foreseeable future.

The first additional Activity, “Efficient use of water for municipal and industrial projects,” could be applied to industrial projects with high operational water usage to ensure sustainable practices are employed. While the City’s local authority and design standards in the Land Use Code would apply, and a project of this scale within City limits is unlikely, 1041 Regulations could be advantageous to regulate water efficiency should a development of this type occur.

The second additional Activity, “Site selection of rapid or mass transit terminal, stations and fixed guideways,” would apply to the location of mass transit facilities. While local authority and design standards in the City’s Land Use Code (not SPAR) would apply, 1041 review might be a better tool for a project of significant scale.

1. Site selection and construction of water and sewage treatment systems
2. Site selection and construction of highways and interchanges
3. Site selection and construction of major facilities of a public utility
4. Efficient use of water for municipal and industrial projects
5. Site selection of rapid or mass transit terminals, stations, and fixed guideways

### Comparison of Options

|          | Considerations  |
|----------|---|
| Option 1 | <ul style="list-style-type: none"><li>• Addresses immediate development pressure</li><li>• State statutes are flexible and allow more activities and areas to be designated over time</li></ul>                                   |
| Option 2 | <ul style="list-style-type: none"><li>• Addresses development with lowest authority but potential for highest impact</li></ul>  |
| Option 3 | <ul style="list-style-type: none"><li>• Addresses all immediate and potential development pressure</li><li>• Includes project types that are already regulated by development standards in the Land Use Code (not SPAR)</li></ul> |

### CITY FINANCIAL IMPACTS

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Staff is seeking a mid-cycle appropriation from General Fund reserves to complete the project. Should the scope expand beyond the activities being designated through this Ordinance, the appropriation will increase in proportion to the expanded scope.

### BOARD / COMMISSION RECOMMENDATION

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Staff presented options to boards and commissions prior to the September 21, 2021, public hearing/Council meeting to solicit initial feedback. (**Attachment 1**)

### PUBLIC OUTREACH

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Public outreach will be performed as regulations are being developed.

### ATTACHMENTS

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1. Powerpoint Presentation (PDF)





September 21, 2021



**1041 Regulations & Public Hearing**  
Kelly Smith

## Purpose of Presentation

1. **Public Hearing and First Reading of an Ordinance** initially designating activities of state interest
  - a. Site selection and construction of water supply and treatment systems
  - b. Site selection and construction of highways and interchanges
  
2. **First Reading of an Ordinance appropriating \$50,000** to support project completion
  - a. If scope increases, appropriation will increase proportionally



## 1041 Regulations Implementation

1. **Hold Public Hearing** designating area or activity of state interest.
2. **No development can occur** until designation and guidelines are adopted
3. Once designation and guidelines are adopted, **applications for permits can be accepted.**

## 1041 Regulations Implementation

1. The intensity of current and foreseeable development pressures;
2. The boundaries of any designated area;
3. Why the designated area or activity is of state interest;
4. The dangers from uncontrolled development of the area or conduct of such activity; and
5. The advantages of developing such area or activity in a coordinated manner.

## Activities of Statewide Interest

New/Expanded  
Domestic Water

Municipal/  
Industrial Water  
Projects

Highways and  
Interchanges

New  
Communities

Public Utilities

Solid Waste  
Disposal

Mass Transit

Airports

Geothermal  
Resources

Nuclear  
Detonation

## New/Expanded Domestic Water

- **NISP**
- **NEWT 3 Water Pipeline\***

## Highways and Interchanges

- **CDOT Port of Entry**
- **Mulberry/1-25\***

\*Potential future projects

## 1041 Regulations Implementation

1. The intensity of current and foreseeable development pressures;
2. The boundaries of any designated area;
3. Why the designated area or activity is of state interest;
4. The dangers from uncontrolled development of the area or conduct of such activity, and
5. The advantages of developing such area or activity in a coordinated manner.



Option 1: \$50K

Option 2: \$70K

Option 3: \$80K

### CONSULTANT SCOPE

- Assist w/ Draft Regulations
- Outside Legal Counsel
- Engagement

### CITY DEPT SUPPORT:

- CAO
- Utilities
- SSD
- Transportation
- CDNS

### New/Expanded Domestic Water

- **NISP**
- **NEWT 3 Water Pipeline\***

### Highways and Interchanges

- **CDOT Port of Entry**
- **Mulberry/1-25\***

\*Potential future projects

New/Expanded  
Domestic Water

Highways and  
Interchanges

Public Utilities

New/Expanded  
Domestic Water

Municipal/  
Industrial Water  
Projects

Highways and  
Interchanges

Public Utilities

Mass Transit

- Front Range  
Passenger Rail\*

\*potential future projects

| Option 1  | Option 2   | Option 3  |
|---|--|---|
| <ul style="list-style-type: none"><li>• Addresses immediate development pressure</li><li>• State statutes are flexible and allow more activities and areas to be designated over time</li></ul> | <ul style="list-style-type: none"><li>• Addresses development with lowest authority but potential for highest impact</li></ul> | <ul style="list-style-type: none"><li>• Addresses all potential development</li><li>• Includes projects that may be regulated by Land Use Code (not SPAR)</li></ul> |





## Board & Commissions

## Purpose of Presentation

1. **Public Hearing and First Reading of an Ordinance** initially designating activities of state interest
  - a. Site selection and construction of water supply and treatment systems
  - b. Site selection and construction of highways and interchanges
  
2. **First Reading of an Ordinance appropriating \$50,000** to support project completion
  - a. If scope increases, appropriation will increase proportionally

ORDINANCE NO. 122, 2021  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
DESIGNATING CERTAIN ACTIVITIES AS MATTERS OF STATE INTEREST AND  
IMPOSING A MORATORIUM ON THE CONDUCT OF SUCH ACTIVITIES UNTIL CITY  
COUNCIL MAKES A FINAL DETERMINATION REGARDING THE ADOPTION OF  
GUIDELINES FOR THE ADMINISTRATION OF SUCH ACTIVITIES

WHEREAS, Colorado Revised Statutes (“C.R.S.”) Section 24-65.1-101 et seq., commonly referred to as 1041 statutes or powers, empowers the City to designate areas and activities to be matters of state interest and to adopt guidelines and regulations for the administration of designated areas and activities; and

WHEREAS, pursuant to C.R.S. Section 24-65.1-401, the City may designate specified areas and activities to be of state interest after holding a public hearing and considering the intensity of current and foreseeable development pressures, specifying the boundaries of any proposed area, state reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner; and

WHEREAS, in compliance with the notice requirement set forth in C.R.S. Section 24-65.1-404, notice stating the time and place of the public hearing and the place at which materials relating to the matter to be designated and guidelines may be examined was published in the Fort Collins Coloradoan on August 15, 2021; and

WHEREAS, such notice stated that City Council would conduct a public hearing on September 21, 2021, to consider designating the following two activities as set forth in C.R.S. Section 24-65.1-203,

(1) Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems; and

(2) Site selection of arterial highways and interchanges and collector highways;

and

WHEREAS, on September 21, 2021, City Council held a public hearing as part of its regular meeting to consider the designation of the two noticed activities as matters of state interest.

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 City Council, in consideration of the information provided for and at the public hearing, hereby designates the site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems, as the term domestic water and sewage treatment system is defined in Sections C.R.S. Sections 24-65.1-104(5) and 25-9-102, and set forth in Exhibit "A" attached hereto and incorporated herein, as an activity of state interest with the following findings:

- (1) Such designation is justified by the current and foreseeable development pressures related to major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems;
- (2) Such designation shall apply to major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems located partially or entirely within the boundaries of the City;
- (3) This activity is of state interest because the site selection and construction of domestic water and sewage treatment systems occurs throughout Colorado and can negatively impact the environment and wildlife resources, and the public health, safety, and welfare of the communities where they are located. While this activity is of state interest, it is ideally suited for local regulation in the communities where such systems are located because of the local understanding of the unique local conditions and needs;
- (4) Uncontrolled development of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems would cause adverse impacts within the City to the public health, safety, and welfare, the environment and wildlife resources, and the City's operations and projects;
- (5) The coordinated development and regulation of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems would mitigate within the City the negative impacts on the public health, safety, and welfare, the environment and wildlife resources, and the City's operations and projects, that would be caused by uncontrolled development; and
- (6) Such designation is in the best interests of the residents of Fort Collins.

Section 3. That City Council, in consideration of the information provided for and at the public hearing, hereby designates the site selection of arterial highways and interchanges and collector highways, as the terms arterial highway and collector highway are respectively defined in C.R.S. Sections 24-65.1-104(3) and (4), and set forth in Exhibit "A", as an activity of state interest with the following findings:

- (1) Such designation is justified by the foreseeable development pressures related to the site selection of arterial highways and interchanges and collector highways;
- (2) Such designation shall apply to the site selection of arterial highways and interchanges and collector highways located partially or entirely within the boundaries of the City;
- (3) This activity is of state interest because the site selection of arterial highways and interchanges and collector highways occurs throughout Colorado and can negatively impact the environment and wildlife resources and the public health, safety, and welfare of the communities where they are located. While this activity is of state interest, it is ideally suited for local regulation in the communities where such highways and interchanges are located because of the local understanding of the unique local conditions and needs;
- (4) Uncontrolled development of the site selection of arterial highways and interchanges and collector highways would cause significant adverse impacts within the City to the public health, safety, and welfare, the environment and wildlife resources, and the City's operations and projects
- (5) The coordinated development and regulation of the site selection of arterial highways and interchanges and collector highways would mitigate the negative impacts within the City to the public health, safety, and welfare, the environment or wildlife resources, and the City's operations and projects that would be caused by uncontrolled development; and
- (6) Such designation is in the best interests of the residents of Fort Collins.

Section 4. That with regards to the activities designated in Section 2 ("Water and Sewer System Activity") and Section 3 ("Highway Activity") (collectively, the "Activities"), no person shall conduct the Activities, as further defined below, unless otherwise specified in this Section 4 until December 31, 2022, or until City Council has finally determined and adopted guidelines for the administration of the Activities pursuant to C.R.S. Section 24-65.1-101 et seq. This moratorium ("Moratorium") on the conduct of the Activities is authorized pursuant to C.R.S. Section 24-65.1-404(4) and the City's power to impose a moratorium on development activity pursuant to its home rule powers granted under Article XX of the Colorado Constitution. The Moratorium shall go into effect on the effective date of this Ordinance.

- (1) Water and Sewer System Activity subject to the Moratorium shall be projects that:
  - (i) Meet the term domestic water and sewage treatment system as defined in C.R.S. Section 24-65.1-104(5), and set forth in Exhibit "A"; and



- (ii) Consist of pipelines designed for transmission of treated or untreated water that are 12-inch diameter or larger or designed for transmission of sewage that are 15-inch diameter or larger.

The Moratorium shall apply to projects regardless of whether they have completed or are undergoing Site Plan Advisory Review pursuant to the Land Use Code, if they meet the criteria set forth in (i) and (ii) above.

- (2) The following projects do not qualify as Water and Sewer System Activity subject to the Moratorium:

- (i) Projects to upgrade existing water or sewer facilities that are required maintenance or otherwise required by federal, state or Larimer County regulations, including repairing and/or replacing old or outdated equipment, or installing new equipment, provided the improvements do not expand levels of service beyond an increase to the next standard incremental pipeline size, and provided further that the upgrade does not alter the location of the existing facility beyond the existing easement or right-of-way; and
- (ii) Any project that the City Council determines by adopted ordinance after a quasi-judicial hearing to be unlikely to result in significant adverse impacts within the City to the public health, safety, and welfare, the environment and wildlife resources, and the City's operations and projects.

- (3) Highway Activity subject to the Moratorium shall be projects that meet the terms arterial highway and collector highway as such terms are respectively defined in C.R.S. Sections 24-65.1-104(3) and (4), and set forth in Exhibit "A", and interchanges associated with arterial highways. The Moratorium shall apply to projects that have completed or are undergoing Site Plan Advisory Review pursuant to the Land Use Code and which meet the terms arterial highway and collector highway.

- (4) The following projects do not qualify as Highway Activity subject to the Moratorium:

Any project that the City Council determines by adopted ordinance after a quasi-judicial hearing to be unlikely to result in significant adverse impacts within the City to the public health, safety, and welfare, the environment and wildlife resources, and the City's operations and projects.

- (5) The Moratorium shall also apply to the following to the extent any of the following are related to a project subject to the Moratorium:

- (i) The City's acceptance and processing of applications for Site Plan Advisory Review pursuant to the Land Use Code for development that qualifies as one of the Activities;

(ii) The acceptance and processing of applications or requests for City permits, including flood plain and encroachment permits; and

(iii) The acceptance and processing of applications or requests to acquire City real property or rights therein, including easements.

Introduced, considered favorably on first reading, and ordered published this 21st day of September, A.D. 2021, and to be presented for final passage on the 5th day of October, A.D. 2021.

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Mayor

ATTEST:

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Interim City Clerk

Passed and adopted on final reading on the 5th day of October, A.D. 2021.

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Mayor

ATTEST:

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Interim City Clerk

## EXHIBIT “A”

### Colorado Revised Statutes Definitions Relevant to the City Council Designation of Matters of State Interest

“Domestic water and sewage treatment system” means a wastewater treatment facility, water distribution system, or water treatment facility, as defined in section 25-9-102(5), (6), and (7), C.R.S., and any system of pipes, structures, and facilities through which wastewater is collected for treatment. (Section 24-65.1-104(5), C.R.S.)

“Water distribution system” means any combination of pipes, tanks, pumps, or other facilities that delivers water from a source or treatment facility to the consumer. (Section 25-9-102(6), C.R.S.)

“Water treatment facility” means the facility or facilities within the water distribution system that can alter the physical, chemical, or bacteriological quality of the water. (Section 25-9-102(5), C.R.S.)

“Arterial highway” means any limited-access highway which is part of the federal-aid interstate system or any limited-access highway constructed under the supervision of the department of transportation. (Section 24-65.1-104(3), C.R.S.)

“Collector highway” means a major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers or recreation areas, or industrial centers and constructed under guidelines and standards established by, or under the supervision of, the department of transportation. “Collector highway” does not include a city street or local service road or a county road designed for local service and constructed under the supervision of local government. (Section 24-65.1-104(4), C.R.S.)

ORDINANCE NO. 123, 2021  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROPRIATING PRIOR YEAR RESERVES TO  
SUPPORT COMPLETION OF THE 1041 REGULATIONS PROJECT

WHEREAS, Colorado Revised Statutes (“C.R.S.”) Section 24-65.1-101 et seq, commonly referred to as 1041 statutes or powers, empowers the City to designate areas and activities to be matters of state interest and to adopt guidelines and regulations for the administration of designated areas and activities; and

WHEREAS, City Council held a public hearing to designate water and sewer system and highway activities as matters of state interest which requires City staff to research and draft regulations for City Council adoption; and

**[WHEREAS, City Council is considering further designations of other activities and areas which will require additional City staff research and drafting of regulations for City Council adoption; and]**

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of Fort Collins by providing funding for consultants and other resources to assist City staff in researching and drafting regulations and serves the public purpose of enabling the effective creation of development requirements and standards pursuant to the City’s 1041 powers for the benefit of the residents of Fort Collins; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon the recommendation of the City Manager, to appropriate by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, the Interim City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues and all other funds to be received in that fund during this fiscal year.

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 there is hereby appropriated from prior year reserves in the General Fund the sum of **[FIFTY THOUSAND DOLLARS (\$50,000) / SEVENTY THOUSAND DOLLARS (\$70,000) / EIGHTY THOUSAND DOLLARS (\$80,000)]** for expenditure from the General Fund to support completion of the 1041 regulations project.

Introduced, considered favorably on first reading, and ordered published this 21st day of September, A.D. 2021, and to be presented for final passage on the 5th day of October, A.D. 2021.

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Mayor

ATTEST:

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Interim City Clerk

Passed and adopted on final reading on the 5th day of October, A.D. 2021.

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Mayor

ATTEST:

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Interim City Clerk