



AGENDA ITEM SUMMARY

City Council

STAFF

Anissa Hollingshead, City Clerk
Carrie Daggett, City Attorney
Caryn Champine, Director of Planning, Development & Transportation
Sylvia Tatman-Burruss, Senior Project Officer

SUBJECT

Reconsideration of Ordinance No. 136, 2023, Repealing and Reenacting Section 20-1 of the Code of the City of Fort Collins to Adopt the Land Development Code and Separately Codifying the 1997 Land Use Code as “2023 Transitional Land Use Regulations,” Following a Successful Referendum Petition.

EXECUTIVE SUMMARY

The purpose of this item is to provide Council with the options available for action following the presentation of a petition certified as sufficient for referendum. These options include:

- **OPTION 1: Repealing the Ordinance subject to the referendum petition.**

First Reading of Ordinance No. 175, 2023, Repealing Ordinance No. 136, 2023, 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”, and Related Ordinance No. 137, 2023, and Ordinance No. 138, 2023.

- This option includes language repealing the associated Ordinance Nos. 137, 2023, and 138, 2023, that respectively made updates to City Code to align with the revised Land Use Code and renamed the Neighborhood Conservation zone districts to the Old Town zone district in alignment with the revised Land Use Code.

- If this option is approved, Council may choose to discuss next steps regarding a revised version of the repealed Land Use Code.

or

- **OPTION 2: Referring the Ordinance to a vote of the registered electors of the City. Such referral can be to the next regular or special election called for any other purpose or can be to a special election called for that specific purpose:**

Resolution 2023-115 Referring Ordinance No. 136, 2023, 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” to a Vote of the Registered Electors of the City at the Next Municipal Election.

○ This would refer the Ordinance to the November 4, 2025, Regular Municipal Election or the next special election called for any purpose prior to that date.

and, if desired,

● **OPTION 2A: Calling a Special Election**

First Reading of Ordinance No. 176, 2023, Calling a Special Municipal Election for the Purpose of Submitting to the Registered Electors a Citizen Referendum of Ordinance No. 136, 2023, 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.”

BACKGROUND / DISCUSSION

On November 28, 2023, a referendum petition was filed with the City Clerk seeking to repeal Ordinance No. 136, 2023, 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”.

On November 28, 2023, a protest was filed regarding the signatures of the petition. A hearing was held on December 13, 2023, to consider the protest and the hearing officer issued a decision denying the protest on December 14, 2023 (attached to this Agenda Item Summary for reference).

On December 14, 2023, following the completion of the protest process, the City Clerk presented the Council with her certification of the determination that the referendum petition contains a sufficient number of signatures (more than the required 4,228) to require further action by the Council. This certification is also attached to this Agenda Item Summary for reference.

Upon presentation to the Council of the petition certified as sufficient for referendum on December 14, 2023, the operation of Ordinance No. 136, 2023, was automatically suspended pending repeal by the Council or final determination by the voters. If the Ordinance is not repealed, Council must refer the ordinance to a vote of the registered electors of the City at the next regular election or special election scheduled for any other purpose. Council may call a special election for this specific purpose. Because of existing election events in 2024, there is a limited range of possible dates for a special election. This includes between April 9 and May 21, and then again between July 30 and August 6. It is also possible to call a special election that would be conducted as a coordinated election with Larimer County on November 5, 2024, if no other special election is held before that time.

Two main options available to the Council are presented here as Option 1 and Option 2. If Council chooses to call a special election now for this purpose, Council will also need to adopt the ordinance provided as Option 2A and will need to insert the date of the special election into the body of the Ordinance calling a special election. Without adopting this ordinance, the referendum on Ordinance No. 136, 2023, would need to occur whenever the next City election is, whether that is the regular election in November of 2025 or any special election called before that time for another purpose.

OPTION 1 – REPEAL THE ORDINANCE

If Council chooses to repeal the protested Ordinance, it can do so by adopting on First Reading Ordinance No. 175, 2023, Repealing Ordinance No. 136, 2023, 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”. When the revised Land Use Code was adopted, Ordinance No. 137, 2023, Updating City Code References to Align with the Adoption of the Revised Land Use Code, and Ordinance No. 138, 2023, Amending the Zoning Map of the City of Fort

Collins to Rename All Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer zone districts to the Old Town Zone District In Conjunction with the Adoption of the Revised Land Use Code, were concurrently adopted. Adoption of the ordinance repealing the revised Land Use Code includes language also repealing Ordinance Nos. 137 and 138, 2023.

If this option is approved, Council may choose to discuss next steps regarding a revised version of the repealed Land Use Code. Staff has attached information to assist with any discussion.

OPTION 2 – REFER THE ORDINANCE TO FORT COLLINS VOTERS AT THE NEXT ELECTION

If Council chooses not to repeal the protested Ordinance, it must refer it to the voters of Fort Collins by resolution. Council would refer the protested Ordinance to the voters by adopting Resolution 2023-115 Referring Ordinance No. 136, 2023, 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” to a Vote of the Registered Electors of the City at the Next Municipal Election. The Resolution directs that staff present at the next regular Council meeting a resolution to set the ballot title for this question to voters.

AND IF DESIRED, OPTION 2A – CALL A SPECIAL ELECTION

If it is desired to call a special election at this time, that is done by ordinance in addition to the resolution referring the Ordinance to the voters. If Council intends to call a special election, the process would be done by adopting Ordinance No. 176, 2023, Calling a Special Election for the Purpose of Submitting to the Registered Electors a Citizen Referendum of Ordinance No. 136, 2023, 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”. At the time of second reading of this Ordinance a resolution would also be provided to set the ballot title for this question to voters.

CITY FINANCIAL IMPACTS

There will be what are likely negligible costs associated with referring Ordinance No. 136, 2023, to the next regular municipal election on November 4, 2025 or a potential special election called for another purpose to be conducted as part of the coordinated election on November 5, 2024.

A special election called for the purpose of submitting a referendum of Ordinance No. 136, 2023, is estimated to cost in the likely range of \$300,000-\$400,000.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Ordinance for Consideration - Repeal Ordinance No. 136, 2023
2. Resolution for Consideration - Refer Ordinance No. 136, 2023
3. Ordinance for Consideration - Calling a Special Election
4. Order of Hearing Officer Dismissing Protest
5. Transmittal of Certification of Referendum Petition
6. Memo on Options for New Land Use Code
7. Presentation