



## AGENDA ITEM SUMMARY

City Council

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### STAFF

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Kirk Longstein, Senior Environmental Planner  
Rebecca Everette, Planning Manager  
Brad Yatabe, Legal

### SUBJECT

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**Second Reading of Ordinance No. 139, 2022, Extending the Moratorium on Certain Activities of State Interest Designated in Ordinance No. 122, 2021.**

### EXECUTIVE SUMMARY

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This Ordinance, unanimously adopted on First Reading on November 15, 2022, extends the length of a moratorium previously imposed through Ordinance No. 122, 2021, on two designated activities of state interest. The proposed Ordinance extends the length of the existing moratorium for three months beyond December 31, 2022, or until Council adopts guidelines for the administration of the two designated activities. Extending the moratorium allows staff to continue public engagement and seek feedback on version 2 of the Draft 1041 regulations discussed during the Council work session held on November 7, 2022.

### STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on Second Reading.

### BACKGROUND / DISCUSSION

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During the City Council work session held on November 7, 2022, Councilmembers generally supported the staff recommendation to extend a moratorium imposed on two designated activities of statewide interest: Major Domestic Water and Sewer and Highway projects. By extending the moratorium by 90 days, staff has additional time to seek public feedback on the current version-two of the draft 1041 regulations.

#### **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. The designation of areas and activities may occur only after a noticed public hearing where Council must consider, at a minimum, the intensity of current and foreseeable development pressures. Council must specify the boundaries of any designated area, why the designated area or activity is of state interest, the dangers from uncontrolled development of the area or conduct of such activity, and the advantages of developing such area or activity in a coordinated manner. The City may adopt guidelines, and regulations for carrying out such guidelines, for administering designated areas and activities that are more stringent than the criteria listed in the applicable state statutes.

Once the City holds a public hearing and initially 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 the City has finally determined the designation and guidelines. In other words, a moratorium goes into effect on development within the initially designated area or on the initially designated activity until the City makes a final determination on the designation and the applicable guidelines.

To the extent a person proposes to engage in development in an area of state interest or conduct and activity of state interest that the City has not previously designated and for which guidelines have not been adopted, the City is authorized to hold a public hearing to designate such area or activity and to adopt guidelines under which to review the proposal. In other words, the City has an opportunity to exercise 1041 powers over proposals for areas and activities not previously anticipated as requiring regulations.

### **Alignment with Citywide Policy**

In terms of policy alignment, both City Plan and the Strategic Plan identify policies and objectives that aim to direct development in a way that ensures compatibility between adjacent land uses, minimize infrastructure and resource needs, and protect historic and natural resources. Currently, the City's Land Use Code provides a limited local review process for public agency projects. As such, adopting 1041 regulations would offer the City greater authority over public development projects that qualify as areas or activities of statewide interest per House Bill 74-1041 and help the City achieve its stated policy objectives.

### **CITY FINANCIAL IMPACTS**

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There are no financial impacts to City resources.

### **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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The following Board and Commissions have requested staff follow up during their November meetings:

<b>Boards and Commissions</b>	<b>Dates</b>
<b>Water Board</b>	11/17/2022
<b>Transportation Board</b>	11/16/2022
<b>Planning and Zoning Commission</b>	11/17/2022
<b>Land Conservation and Stewardship Board</b>	11/9/2022
<b>Natural Resources Advisory Board</b>	11/23/2022
<b>Air Quality Advisory Board</b>	11/15/2022

### **PUBLIC OUTREACH**

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See public engagement summary in first reading materials.

### **ATTACHMENTS**

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First Reading attachments not included.

1. Ordinance for Consideration