

WORK SESSION AGENDA ITEM SUMMARY

City Council



STAFF

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SUBJECT FOR DISCUSSION

Appeals Procedure – Draft Code Update.

EXECUTIVE SUMMARY

The purpose of this item is to present and discuss a proposed code update related to the appeals procedures, contained in Chapter 2, Article II, Division 3, of the Fort Collins Municipal Code. The update rewrites this section of code to address a variety of issues and considerations discussed by the Council in prior work sessions.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. What feedback do Councilmembers have on the proposed updated appeals procedures?
2. What additional issues or solutions are Councilmembers interested in developing further?

BACKGROUND / DISCUSSION

On November 14, 2023, Council held a work session to discuss the current state of the appeals process when the Council sits as a quasi-judicial body to consider appeals of decisions of boards, commissions, or other decision makers. The work session reviewed and discussed various elements of that process that might be updated to create a more fair, consistent, and simple appeals system. The 2023 work session resulted in direction to staff to present a range of alternatives and possible solutions to Council to simplify and streamline the process, provide a better experience for all parties and the community, and investigate some specific elements of the current process that might impact our current state.

On August 27, 2024, a second work session provided specific feedback on issues and elements of the current process, including who is the appropriate decision maker, who has standing to appeal, what are allowable grounds for appeal, should there be multiple levels of appeals, what evidence and arguments are allowed, and some process improvements. The Agenda Item Summary from the August work session is attached for reference.

The proposed code presented here provides updates and revisions to the overall process and decision makers at different levels to simplify the appeals process for the community, staff, and Council. A version

showing marked changes is provided, as well as a “clean” version. Significant elements that propose a process shift include:

- Creating a distinction between persons eligible to appeal and actual appeal parties who have registered with the Clerk their intention to participate in an appeal instead of lumping both types of persons all together as parties-in-interest.
- Clarifying who is eligible to appeal by requiring participation at the time of the original decision with the original decision maker (removing receipt of an original hearing notice as a basis for eligibility).
- Creating two routes for an eligible person to raise questions about a decision:
 - A Council appeal route for Council to examine questions of interpretation and application of Code that were raised before the original decision maker; and
 - An administrative route for an administrative decision maker (from the City Manager’s Office or City Attorney’s Office) to examine procedural defects such as fair hearing issues.
- Creating a completeness review and a screening procedure for any notices of appeal to ensure they have the required information and they raise viable questions for the hearing before Council.
- Requiring any eligible persons who want to become appeal parties to register with the City Clerk and adding a prehearing conference for all appeal parties.
- Clarifying timeframes, submittals of evidence, communication with appeal parties, and composition of the record on appeal.
- Eliminating the organized site visit.

NEXT STEPS

Based upon feedback and direction that staff receives at the work session from Council, staff is prepared to make any required revisions to the proposed code language. Then, in the first quarter of 2025, staff will prepare an ordinance for Council’s consideration to approve the revised code.

ATTACHMENTS

1. August 27, 2024, Work Session Summary
2. Proposed Appeal Code Revisions (redlined)
3. Proposed Appeal Code Revisions (clean)
4. Flow Chart of Proposed Appeal Procedure
5. Process Duration Comparison Table
6. Presentation