



Water Adequacy Determination Review Land Use Code Update

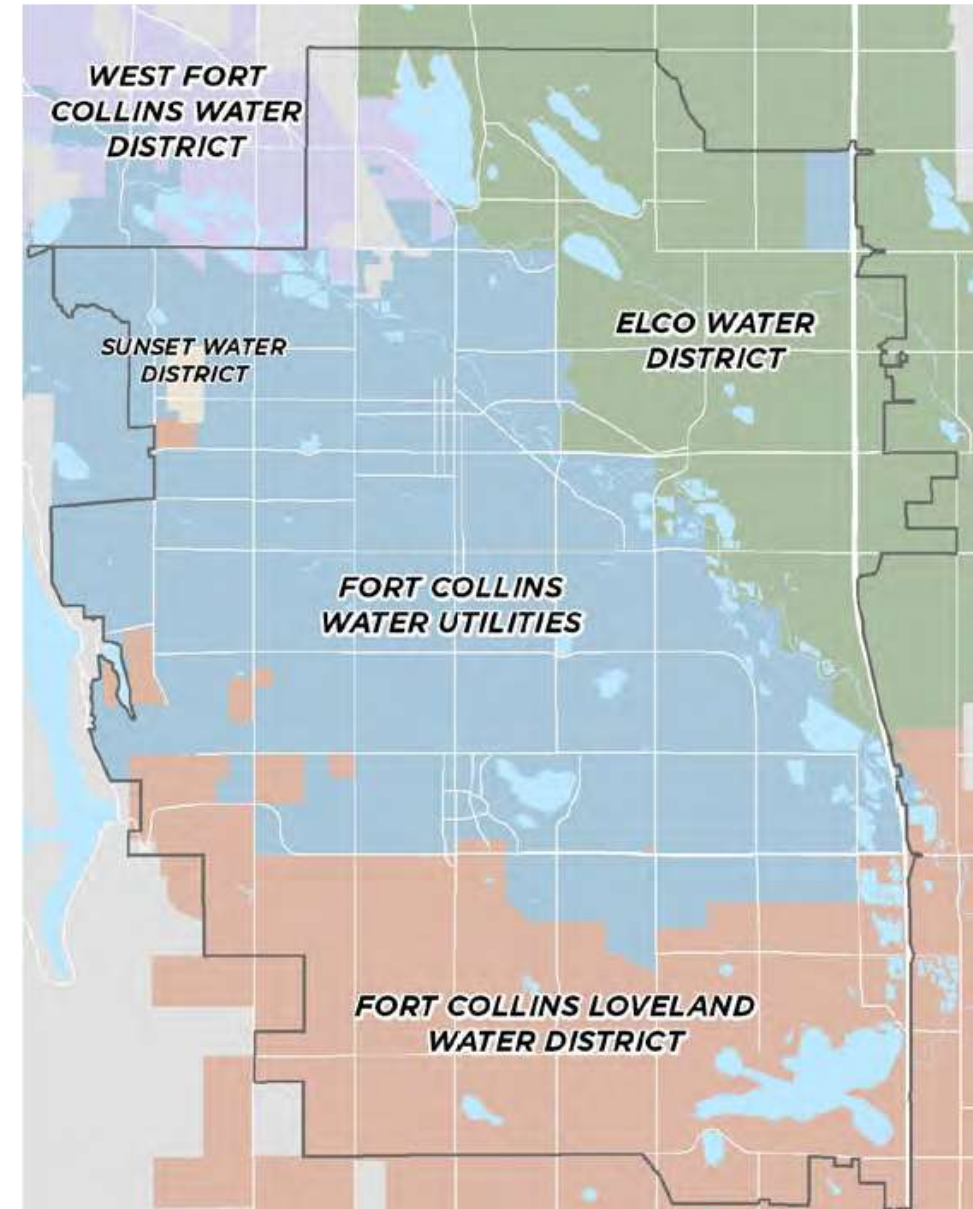
- Water Adequacy Determination Review Program supports the goals of
 - City Plan
 - Housing Strategic Plan
 - Climate Action Plan
- Viewed as a tool kit to look at water affordability and support sustainable development patterns
- Neighborhood Livability & Social Health - 1.6 - Align land use regulations and review procedures to guide development consistent with City Plan.

- Water is a critical resource and its cost and availability impact new development
- Existing review process
- Need for a more robust process
 - More complicated development
 - Potential for creation of new water providers

This review process is being proposed to further effectuate Section 29-20-301, et seq., C.R.S. which states:

A local government shall not approve an application for a development permit unless it determines in its sole discretion, after considering the application and all of the information provided, that the applicant has satisfactorily demonstrated that the proposed water supply will be adequate. A local government shall make such determination only once during the development permit approval process unless the water demands or supply of the specific project for which the development permit is sought are materially changed. A local government shall have the discretion to determine the stage in the development permit approval process at which such determination is made.

- Development occurs within the district boundaries of existing water providers
- Will Serve Letter issued by provider
 - Part of the building permit process



- Other Agency Review
 - Other agencies have the authority to review new providers
 - CDPHE
 - Requires public water systems demonstrate adequate capacity to construct, operate and manage the new public waterworks.
 - Water Court
 - There is also likely a role for Water Court to plan in validating claims for water under Colorado Law.

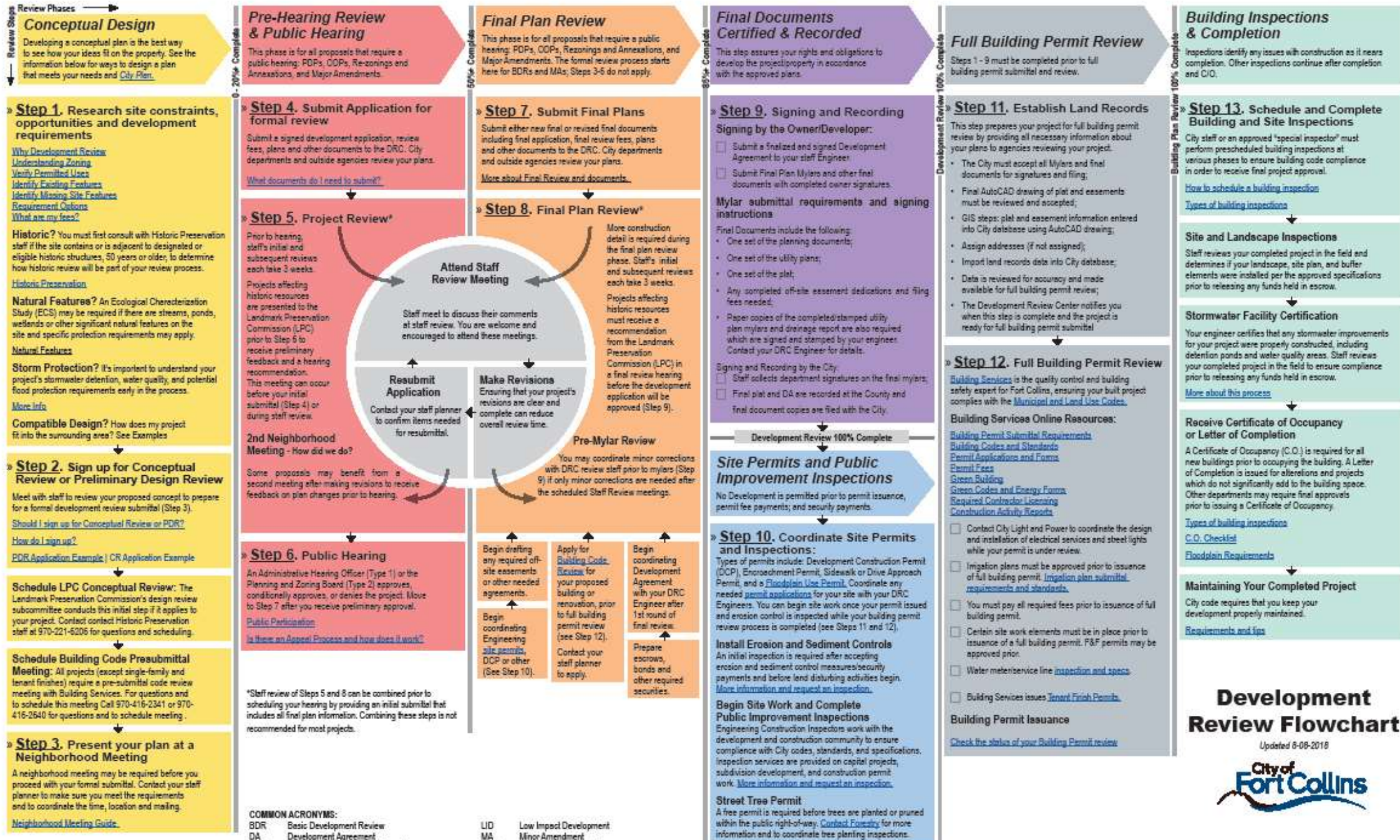
- Water Adequacy is a new code division, 3.13 that builds off of existing adequate public facilities section 3.7.3.
- Creates 3 determination processes for different providers:
 - Established potable water supply entities, such as Fort Collins-Loveland Water District and East Larimer County Water District
 - Other potable water supply entities such as new private water supplies or metro districts
 - Non-potable water supply entities, such as irrigation water supplied by metro districts

- Timing

- The state statute leaves the determination timing during the development process up to the purview of the local jurisdiction however they limit making the determination to **only once** unless something materially changes.
- The draft code identifies the milestone in the development review process when this determination will be made for each of the three different processes.

- Approval

- The determination of adequacy would be made administratively subject to a review and recommendation by a qualified water consultant.



COMMON ACRONYMS:

BDR	Basic Development Review	LID	Low Impact Development
DA	Development Agreement	MA	Minor Amendment
DCP	Development Construction Permit	ODP	Overall Development Plan
DRC	Development Review Center	PDP	Project Development Plan
FDP	Final Development Plan	PDR	Preliminary Design Review

- Keep similar process for existing providers
 - Will Serve Letter
 - Director can differ timing to building permit for review
 - Director as the decision maker
- Includes opportunities to
 - Review proposed updates to water supply plans by Council
 - Improve letters
 - Increase consistency between different providers

- Evaluation criteria for new providers
 - Water Quality
 - Quantity of Water
 - Dependability of Supply and Supplier
 - Supply Resiliency
 - System Redundancy
 - Maintenance and Outages
 - Availability of Supply
 - Financial Sustainability of Supplier
 - Capitalization

- Overall Standards Equivalent to Municipal Utility
 - Allows for a Modification of Standard for noncompliance
- Review Timing
 - At the time of Final Development Plan or Basic Development Review
 - Initial review anticipated to be done by a consultant
 - Cost agreement with applicant
- Final decision maker is CDNS Director

- Non-potable Entities
- Criteria:
 - Supply has enough quantity and;
 - Quality to support the associated uses such as irrigation for landscape.
- Review Timing
 - At the time of Development Construction Permit
 - Initial review anticipated to be done by a consultant
 - Cost agreement with applicant
- Final decision maker is CDNS Director

- Article Five, Division 5.1.2 – Definitions
- The proposed change to Division 5.1.2 is to add the following definitions that relate to the water adequacy determination review process and provide additional clarity on specific terms used in that section.
 - Adequate
 - Established Potable Water Supply Entities
 - Non-Potable Water
 - Non-Potable Water Supply
 - Other Potable Water Supply Entities
 - Potable Water
 - Water Adequacy Determination
 - Water supply entity
 - Water supply system

- Stakeholder Meetings:
 - Water Commission
 - West Fort Collins Water District
 - East Larimer County Water District
 - Fort Collins Loveland Water District
 - Hartford Homes/Bloom
 - HF2M/Montava
 - Polestar Gardens/Polestar Village
- Additional Feedback (no concerns):
 - Sunset Water District
 - Save the Poudre

- Requirement for new supply entities to petition out of existing water district or seek permission from existing water district.. There was both support and concern over this concept.
- The disparity between review criteria for established providers and new providers.
- The perception that the City was trying to regulate Special Districts through the review of a water supply plan or letter establishing the District's resources.
- A desire for more cooperation and consistency between all water suppliers.
- Concerns about duplicative review processes, especially for non-potable systems.
- Concerns over review costs
- Feedback that some metrics were vague.
- Feedback on the review timing proposed (FDP versus DCP) with a desire to complete the determination sooner.
- Feedback that there is a desire to be able to review new service for an entire development and then true up each phase at the time of final plan or BDR.
- Concerns on tight review timing for code update.

Staff is confident in the structure of the adequacy determination approach but incorporated feedback since the P&Z hearing that:

- Increased clarity
- Increased review efficiency
- Reduced duplication of efforts
- Provided additional review timing options
- Incorporated technical suggestions

Staff has identified 3 Decision Points for Council

1. Section 3.13.3 (A) Determination Timing
2. Section 3.13.4 (A) (1) Established Provider Review
3. Section 3.13.5(C)(5)(c) New Providers in Existing Service Areas

Alternatives outlined in subsequent slides.

In all three cases, staff is recommending to adopt the code as proposed and to not make any changes.

Decision Point 1 - Section 3.13.3 (A) Determination Timing

Entity	Current	Proposed	Deferred
Established	Building Permit	FDP/BDR	Building Permit
Other (New)	N/A	FDP/BDR	DCP All in Phase 1
Non-Pot	N/A	FDP/BDR	DCP

Alternatives:

- Move Earlier in Dev Review Process
- Move Later in Dev Review Process

Staff is recommending to adopt the code as proposed

Section 3.13.4 (A) (1) Established Provider Review

Requires Established Providers to provide a letter or water supply plan to Council outlining their water resources prior to submitting will serve letters.

Established Providers have indicated concerns with this approach

Alternatives:

- Remove the requirement
- Increase the level of required review

Staff is recommending to adopt the code as proposed

Section 3.13.5(C)(5)(c) New Providers in Existing Service Areas

- Provision requires new (other) providers to exclude from established providers service area or get their consent to operate.
- Potential new providers have indicated significant concerns with this approach.
- Established providers have indicated substantial support for the approach.

Alternatives:

- Remove the requirement
- Alter the code requirement

Staff is recommending to adopt the code as proposed

Planning and Zoning Commission recommends that Council not adopt the proposed code to allow for

- additional time to consider the impacts of the timing of the determination
- staff to further study section 3.13.5C(5) to fully understand implications for both applicants and supplier, particularly for an applicant's ability to appeal the decision of a district

Staff recommends the Council make a motion to approve the proposed Land Use Code changes.