



Water Adequacy Determination Review
Land Use Code Update

- 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

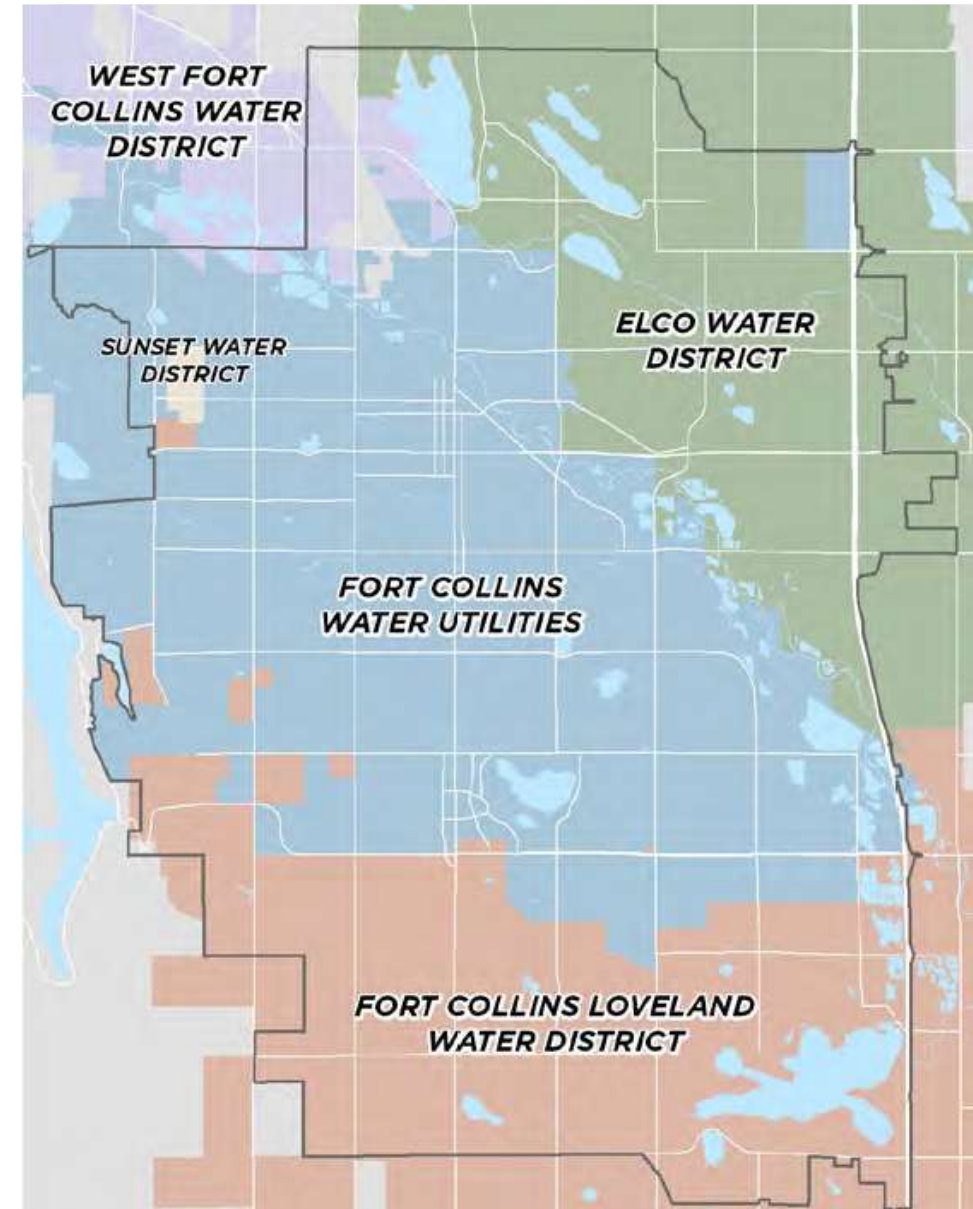
- Water Adequacy Determination Review Program supports the goals of
 - City Plan
 - Housing Strategic Plan
 - Climate Action Plan
- Viewed as a tool kit to look at water affordability and support sustainable development patterns
- Neighborhood Livability & Social Health - 1.6 - Align land use regulations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



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 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.



- 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

- Disagreement on the ability for established potable water supply entities to veto new potable water supply entities
- Updates to the Code to increase clarity
 - Consistency with State statute
 - Provision of water supply plans by existing water potable water supply entities is purely informational (i.e., City Council will not “approve” water supply plans of existing water providers)
- Suggestions on how to achieve outcomes of State statutory requirements without implementing Water Adequacy Determination Review process

- Recommended approval of Ordinance
 - 4-2 vote
- Discussion focused on 3.13.5(C)(5)(c)
 - Does this give existing providers more authority?
 - Discussion about need to compensate existing districts in the event of an exclusion
 - “Reasonable level of service” not defined
 - Importance of natural monopolies
 - Rationale for this provision

- Water district board considers exclusions
 - 8 criteria for exclusions
 - Best interest of stakeholders
 - Cost/benefit
 - Ability of district to provide service
 - **Economic impact**
 - Potential financial compensation for impact to existing district
 - Feasibility of alternative service
- Decisions by special districts appealable to County Commissioners
- Decisions by County Commissioners appealable to District Court
- Decisions by District Court appealable to Appeals Court

Staff recommends adoption of the Ordinance on First Reading.