



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 availably impact new development
- Existing review process
- Need for a more robust process
 - More complicated development
 - Potential for creation of new water providers

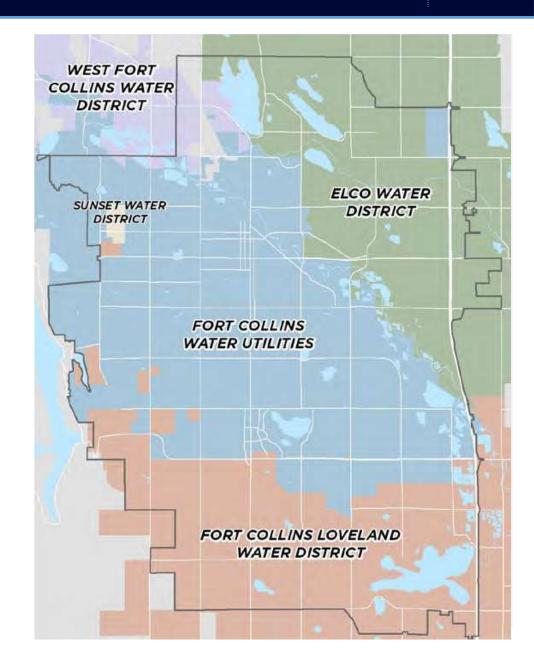


This review process is being proposed to further effectuate Section 29-20-301, et seq., C.R.S. which states:

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 <u>only once</u> 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.

Review Phases Conceptual Design

Developing a conceptual plan is the best way. to see how your ideas fit on the property. See the information below for ways to design a plan that meets your needs and City Plan.

Step 1. Research site constraints. opportunities and development requirements

Why Development Review Understanding Zoning Verify Permitted Uses Identify Existing Features Identify Missing Site Features Requirement Options What are my fees?

Historic? You must first consult with Historic Preservation staff if the site contains or is adjacent to designated or eligible historic structures, 50 years or older, to determine how historic review will be part of your review process.

Historic Preservation

Natural Features? An Ecological Characterization Study (ECS) may be required if there are streams, ponds, wetlands or other significant natural features on the site and specific protection requirements may apply.

Natural Features

Storm Protection? It's important to understand your project's starmwater detention, water quality, and potential flood protection requirements early in the process.

Compatible Design? How does my project fit into the surrounding area? See Examples

Step 2. Sign up for Conceptual Review or Preliminary Design Review

Meet with staff to review your proposed concept to prepare for a formal development review submittal (Step 3).

Should I sign up for Conceptual Review or PDR?

How do I sign up?

PDR Application Example | CR Application Example

Schedule LPC Conceptual Review: The Landmark Preservation Commission's design review subcommittee conducts this initial step if it applies to your project. Contact contact Historic Preservation. staff at 970-221-6205 for questions and scheduling.

Schedule Building Code Presubmittal Meeting: All projects (except single-family and tenant finishes) require a pre-submittel code review meeting with Building Services. For questions and to schedule this meeting Call 970-416-2341 or 970-416-2640 for questions and to schedule meeting .

Step 3. Present your plan at a Neighborhood Meeting

A neighborhood meeting may be required before you proceed with your formal submittel. Contact your staff planner to make sure you meet the requirements and to coordinate the time, location and mailing.

Neighborhood Meeting Guide

Pre-Hearing Review & Public Hearing

This phase is for all proposals that require a public hearing: PDPs, ODPs, Re-zonings and Annexations, and Major Amendments

Step 4. Submit Application for formal review

Submit e signed development application, review fees, plans and other documents to the DRC, City departments and outside agencies review your plans.

What documents do I need to submit?

Step 5. Project Review

Peor to beginn staff's initial and subsequent reviews each take 3 weeks Projects affecting

historic resourcesare presented to the Landmark Preservation Commission (EPC) prior to Step 5 to receive preliminary feedback and a hearing. recommendation. This meeting can occur before your initial submittel (Step 4) or during staff review.

2nd Neighborhood Meeting - How did we do?

Some proposals may benefit from a second meeting effer making revisions to receive feedback on plan changes prior to hearing.

Step 6. Public Hearing

An Administrative Hearing Officer (Type 1) or the Plenning and Zoning Board (Type 2) approves, conditionally approves, or denies the project. Move to Step 7 after you receive preliminary approval.

Public Participation

COMMON ACRONYMS:

BDR

DCP

DRC

FDP

Is there an Aspeal Process and how does it work?

Basic Development Review

Development Review Center

Development Construction Permit

Development Agreement

Final Development Plan

*Staff review of Steps 5 and 8 can be combined prior to scheduling your hearing by providing an initial submittel that includes all final plan information. Combining these steps is not recommended for most projects.

Final Plan Review

This phase is for all proposals that require a public hearing: PDPs, COPs, Rezonings and Annexations, and Major Amendments. The formal review process starts here for BDRs and MAs; Steps 3-5 do not apply.

Step 7. Submit Final Plans

Submit either new final or revised final documents including final application, final review fees, plans and other documents to the DRC. City departments and outside agencies review your plans.

More about Final Review and documents.

Step 8. Final Plan Review

More construction detail is required during the final plan review phase. Staff's initial and subsequent reviews each take 3 weeks.

Projects affecting historic resources must receive a recommendation from the Landmark Preservation Commission (LPC) in a final review hearing before the development application will be approved (Step 9).

Pre-Mylar Review

You may coordinate minor corrections with DRC review staff prior to mylars (Step. 9) if only minor corrections are needed after the scheduled Staff Review meetings.

Begin drafting any required offsite easements ar other needed

Make Revisions

Ensuring that your project's

revisions are clear and

overall review time.

Attend Staff

Review Meeting

Staff meet to discuss their comments

at staff review. You are welcome and

encouraged to attend these meetings.

Contact your staff planner 4- complete can reduce

Resubmit

Application

to confirm items needed

for resubmittal.

agreements 4 Begin coordinating Engineering ble semis. DCP or other

(See Step 10).

LID

Apply for Building Code Review for your proposed building or renovation, prior to full building permit review (see Step 12)

Contact your steff planner to apply.

4 Presare escrows. bonds and other required securites.

Begin

coordinating

Development

Agreement

with your DRC

Engineer after

1 st round of

final review

Low Impact Development

Minor Amendment ODP Overall Development Plan PDP Project Development Plan PDR Preliminary Design Review

Final Documents Certified & Recorded

This step assures your rights and obligations to develop the project property in accordance with the approved plans.

Step 9. Signing and Recording Signing by the Owner/Developer:

- Submit a Snalized and signed Development Agreement to your staff Engineer.
- Submit Final Plan Mylers and other final documents with completed owner signatures.

Mylar submittal requirements and signing natructions

Final Documents include the following:

- One set of the planning documents;
- One set of the utility plans;
- One set of the plat;
- Any sompleted off-site easement dedications and filing fees needed.
- Paper copies of the completed stamped utility plan mylars and drainage report are also required which are signed and stamped by your engineer Contact your DRC Engineer for details.

Signing and Recording by the City. Staff sollects department signatures on the final mylars,

- Final plat and DA are recorded at the County and final document copies are filed with the City.
 - Development Review 100% Complete

Site Permits and Public Improvement Inspections

No Development is permitted prior to permit issuance, permit fee payments; and security payments.

Step 10. Coordinate Site Permits and Inspections:

Types of permits include: Development Construction Permit (DCP), Engroachment Pennit, Sidewalk or Drive Approach Permit, and a <u>Finadplan Use Permit</u>. Coordinate any needed <u>permit applications</u> for your site with your DRC Engineers. You can begin site work once your permit issued. and erosion control is inspected while your building permit. review process is completed (see Steps 11 and 12).

Install Erosion and Sediment Controls An initial inspection is required after accepting erosion and sediment control measures/security payments and before land disturbing activities begin. fore information and request an in

Begin Site Work and Complete Public Improvement Inspections Engineering Construction Inspectors work with the development and construction community to ensure compliance with City codes, standards, and specifications. inspection services are provided on capital projects. subdivision development, and construction permit work. More information and request an inspection.

Street Tree Permit

A free permit is required before trees are planted or pruned within the public right-of-way. Contact Forestry for more information and to coordinate tree planting inspections.

Full Building Permit Review

Steps 1 - 9 must be completed prior to full building permit submittel and review.

Step 11, Establish Land Records

This step prepares your project for full building permit. review by providing all necessary information about your plans to agencies reviewing your project.

- The City must eccept all Mylars and final documents for signatures and filling;
- Final AutoCAD drawing of plat and easements must be reviewed and accepted:
- GIS steps: plat and easement information entered into City database using AutoCAD drawing;
- Assign addresses (if not assigned):
- Import land records data into City database.
- Data is reviewed for accuracy and made evailable for full building permit review;
- The Development Review Center notifies you when this step is complete and the project is ready for full building germit submittel

Step 12. Full Building Permit Review

Building Services is the quality control and building safety expert for Fort Collins, ensuring your built project complies with the Municipal and Land Use Codes

Building Services Online Resources:

Building Permit Submittel Requirements Building Codes and Standards Permit Applications and Forms Permit Fees Green Building

Green Codes and Energy Forms Required Contractor Licerains Construction Activity Reports

- Contact City Light and Power to coordinate the design and installation of electrical services and steed lights while your permit is under review.
- Imigation plans must be approved prior to issuance of full building permit Impalian plan submittel
- You must pay all required fees prior to issuance of full building permit.
- Certain site work elements must be in place prior to issuance of a full building permit. F&F permits may be approved prior.
- Water meter/service line inspection and specs.
- Building Services issues Tenant Finish Points.

Building Permit Issuance

Check the status of your Building Permit review

Building Inspections & Completion

Inspections identify any issues with construction as it nears completion. Other inspections continue after completion. and C/O.

Step 13. Schedule and Complete Building and Site Inspections

City staff or an approved "special inspector" must perform prescheduled building inspections at various phases to ensure building code compliance in order to receive final project approval.

How to schedule a building inspection

Types of building inspections

Site and Landscape Inspections

Staff reviews your completed project in the field and determines if your landscape, site plan, and buffer elements were installed per the approved specifications prior to releasing any funds held in escrow.

Stormwater Facility Certification

Your engineer certifies that any stormwater improvements for your project were properly constructed, including detention ponds and water quality areas. Staff reviews your completed project in the field to ensure compliance prior to releasing any funds held in escrow.

More about this process

Receive Certificate of Occupancy or Letter of Completion

A Certificate of Occupancy (C.O.) is required for all new buildings prior to occupying the building. A Letter of Completion is issued for alterations and projects which do not significantly add to the building space. Other departments may require final approvals prior to issuing a Certificate of Occupancy.

Types of building inspections

C.O. Checklist

Floodplain Requirements

Maintaining Your Completed Project

City code requires that you keep your development properly maintained.

Requirements and tigs

Development **Review Flowchart**

Updated 8-08-2018





- 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 <u>Later</u> in Dev Review Process

Staff is recommending to adopt the code as proposed



Alternative 1 - Move the determination timing for any or all the three entity types to <u>earlier</u> in the development review process such as at the project development plan.

- Pros: Provide assurance that water supply issues are being addressed earlier in the development review process so that unrealistic projects don't waste resources.
- <u>Cons</u>: Projects can change, potentially significantly, as they go through the development process and those impacts could change the amount of water the development ultimately needs to be successful.
 For example, a commercial space could change from a retail store to a restaurant or brew pub, all having different water supply requirements.

Alternative 2 - Move the determination timing for any or all the three entity types to <u>later</u> in the development review process such as at building permit.

- Pros: Gives Staff the most accurate and detailed information on the water supply requirements to make the determination.
- Cons: Allows projects with unrealistic water supply proposals to move through the development review process to the point of having created detailed construction drawings and incurred those design expenses.



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 <u>prior</u> 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



Alternative 1 - Remove this requirement from both subsections (a) and (b).

- Pros: Allows established potable water supply entities to continue submitting will serve letters, as they have previously done with minimal changes to the current process.
- Cons: There is a missed opportunity for education for both parties on how these established potable water supply entities provide services within the City and how these services impact the community.

Alternative 2 - Require a greater level of review for these documents such as a presentation before Council, or another City Board or Commission, during a meeting or work session.

- Pros: Allows for greater dialogue and understanding on how water resources are provided to all parts of the Fort Collins community.
- <u>Cons</u>: Established potable water supply entities would likely feel that this infringes on their quasigovernmental entity's rights to serve their established purpose, and could create a misunderstanding that the City has some oversight over the districts, when the City does not.



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



General requirement. All proposed development within four hundred (400) feet of a water main of a public water system or designated regional public water system shall connect to such system, unless the applicable provider certifies, in writing, that the system lacks sufficient capacity to serve the proposed development; or the connection would be technically impracticable; or the provider otherwise refuses to serve the proposed development.



Alternative 1 - Remove this requirement from the proposed code.

o Pros:

- Removes the City from the middle of the issue of whether privately-owned potable water supply entities should also be excluded / get consent from established potable water supply entities.
- Potentially allows new, privately-owned water supply entities to innovate, provide cheaper water supply alternatives, and supply water in a manner that makes denser development in accordance with the vision of City Plan possible where it might not otherwise be economically feasible.



Alternative 1 - Remove this requirement from the proposed code.

Cons:

- From the perspective of the established potable water providers, including the City, removing this requirement would allow the potential for new, privately-owned potable water supply entities to operate within the established potable water provider's service area. Various policy concerns are raised by the prospect of small potable water supply entities in the GMA.
- This more easily allows additional water providers in the Grown Management Area (GMA), adding additional complexity for water supply, including regional coordination on various issues, including drought response, and fees and rates. That some new potable water supply entities could be small and privately-owned, thus perhaps lacking economies of scale and elected representation adds potential additional considerations.
- This could harm the established potable water supply providers and their ratepayers by eliminating service in areas where service was already planned for and where expenses such as infrastructure or other less obvious costs such as treatment capacity have already been accrued by the established potable water supply entity. In some instances, bonds may have been issued based, in part, on this service area. This could affect future rates and fees.
- Offers less certainty and transparency regarding where and when privately-owned water supply entities can operate.



Alternative 2 - Alter the code requirement.

- Pros: Staff was unable to find a reasonable compromise that would satisfy all parties with the concerns of this proposed code provision, however staff would be open to exploring alternative language if there is a desire to do so.
- Cons: The proposed language is based on an existing municipal code provision (Sec. 26-4) that gives general policy direction with the respect to the City respecting the service area boundaries of established potable water supply entities. The current language achieves the desired purpose as written.



Decision		Alternative 1	Alternative 2	Staff Recommendation
1.	Determination Timing	Earlier in the process	Later in the process	FDP/BDR as currently proposed
2.	Established Provider Review	Remove requirement	Increase requirement	Adopt as currently proposed
3.	New Providers in Existing Service Areas	Remove requirement	Alter the requirement	Adopt as currently 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 approve the proposed Land Use Code changes.