

RESOLUTION 2025-078
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF
THE CITY A CITIZEN-INITIATED ORDINANCE TO CONTINUE
THE CITY'S EXISTING OPEN SPACE SALES AND USE TAX

A. Under Article X, Section 1 of the City Charter, the registered electors of the City have the power to propose a measure to the City Council, and if the City Council fails to adopt a measure so proposed, then to adopt or reject such ordinance or resolution at the polls.

B. A citizen-initiated measure to continue the City's Open Space Sales and Use Tax for a period of 25 years (the "2002 Initiative") was approved by the registered electors of Fort Collins at a special City election on November 5, 2002.

C. An initiative petition amending the terms of the 2002 Initiative and extending the Open Space Sales and Use Tax without expiration (the "Initiated Measure") has been submitted to the City, and the City Clerk has certified said petition as sufficient for submission of the initiated ordinance to a vote of the people at the next regular City election on November 4, 2025.

D. In addition to removing the expiration of the Tax, the Initiated Measure amends the terms of the 2002 Initiative by:

a. Starting in 2061:

- i. reducing the percentage of revenues from the tax that *must* be used for "land conservation activities" to 70 percent (from 80 percent); and
- ii. increasing the percentage of revenues from the tax that *may* be used for maintenance and operations to 30 percent (from 20 percent);

b. Changing the definition of "land conservation activity", for which a specified amount of the tax revenues must be used, to include expenditures to support the ecological health of protected lands; and

c. Clarifying other language to eliminate confusion and more accurately reflect the policies and practices of the Natural Areas program.

E. The City Clerk has presented the petition for the Initiated Measure to the City Council as provided in Article X, Section 2(f) of the City Charter.

F. Under Article X, Section 3(a) of the City Charter, for a tax measure requiring voter approval under the Colorado Constitution, upon presentation of an initiative petition certified as to sufficiency by the City Clerk the City Council must submit said citizen-initiated ordinance, in the form petitioned for, to the registered electors of the City.

G. The ballot title for the measure must identify the measure as either a city-initiated or citizen-initiated measure.

H. The submission clause must be brief, must not conflict with those selected for any petition previously filed for the same election, and must unambiguously state the principle of the provision sought to be added.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. There is hereby submitted to the registered electors of the City at the next regular city election to be held on Tuesday, November 4, 2025, the following proposed citizen-initiated ordinance:

[THIS IS THE EXACT LANGUAGE OF THE INITIATED ORDINANCE AND CANNOT BE CHANGED IN ANY WAY]

CITIZEN-INITIATED ORDINANCE NO. 2

- A. The Fort Collins Natural Areas Department has protected over 55,000 acres and provided 114 miles of trails since the first citizens' initiative establishing a ¼ of one percent Natural Areas and Open Space sales tax in 1992 and its subsequent renewal in 2002 (Open Space, Yes!). Not only has the Natural Areas Program significantly improved the quality of life for Fort Collins residents, it continues to be a key partner in conserving native plant and wildlife communities, ecosystems, biodiversity, and other large landscapes in Northern Colorado.
- B. Fort Collins residents currently enjoy the open spaces and natural areas; the recreation they provide, such as walking, hiking, biking, wildlife viewing, bird watching, and fishing; the educational opportunities and programs provided to people of all ages and backgrounds; and the beautiful landscapes and views they provide. About 96% of Fort Collins residents reported visiting a City of Fort Collins natural area, open space or trail in the previous 12 months according to the Our Lands, Our Future 2023 survey.
- C. Continuing this initiative into the future will ensure the long-term sustainability of the Natural Areas Program. The Natural Areas Program can continue to protect natural areas, open spaces, and wildlife habitat; offer appropriate recreation (walking/hiking/biking and more) and education programs; provide revenue for restoration and management of protected lands; and partner with Larimer County, GOCO, and others to make funding go much further.
- D. This ordinance makes several modifications to Citizen-Initiated Ordinance No. 1, 2002 language (Open Space, Yes!) related to Land Conservation, Operations, and Maintenance Activities. This will ensure that long-term operations and maintenance needs can be met within the parameters of the initiative language. Maintaining native plant and animal communities for the primary purpose of improving the current and future ecological health of protected lands will be moved into the category of Land Conservation Activities from Maintenance Activities, as will monitoring of land conservation easements.

- E. The minimum percentage of tax revenue that must be spent on Land Conservation activities shall decrease from 80% to 70% beginning January 1, 2061. Note that the Natural Areas Department share of the Larimer County Help Preserve Open Spaces sales tax may be used for Land Conservation, Operations, or Maintenance Activities, making these percentages sustainable into the future.
- F. Because the Fort Collins Natural Areas Department relies solely on sales tax revenues from sources with expiration dates, long-term planning for the future is difficult. This initiative will remove the expiration date of the Open Space, Yes! (Citizen-Initiated Ordinance No. 1, 2002) tax.

In light of the foregoing recitals, BE IT ORDAINED AS FOLLOWS:

Section 1. THAT for purposes of acquiring, operating, and maintaining natural areas, open spaces, community separators, wildlife habitat, river, streams and other riparian areas, wetlands, and biodiverse landscapes, and providing for the appropriate use and enjoyment of these areas by the citizenry, the existing twenty-five one-hundredths (.25) percent sales and use tax authorized by Citizen Initiated Ordinance No. 1, 2002 and approved by the City of Fort Collins voters, be extended without expiration (the "Tax").

Section 2. THAT land conservation projects using revenues from the Tax shall be undertaken where there is an identifiable benefit to the residents of the City of Fort Collins as determined by the City Council, whether undertaken by the City of Fort Collins alone or in partnership with one or more entities. The projects shall be undertaken within the City of Fort Collins and its Growth Management Area boundary; in the areas between Fort Collins and the communities of Wellington, Windsor, Loveland, Timnath, Bellvue, and LaPorte; in the foothills west of Fort Collins; in the Poudre River corridor; and regionally.

Section 3. THAT 100 percent (100%) of the proceeds from the Tax shall be deposited into the Sales and Use Tax Fund and shall be apportioned as follows:

- a) Not less than 80 percent (80%) of the total annual revenue of the Tax received during the time period January 1, 2031 to December 31, 2060 shall be used solely for Land Conservation Activities as defined herein.
- b) Not less than 70 percent (70%) of the total annual revenue of the Tax received beginning January 1, 2061, and not including revenues prior to January 1, 2061, shall be used solely for Land Conservation Activities as defined herein.
- c) Not more than 20 percent (20%) of the total annual revenue of the Tax received during the time period January 1, 2031 to December 31, 2060 shall be used solely for Operations Activities and Maintenance Activities as defined herein.
- d) Not more than 30 percent (30%) of the total annual revenue of the Tax received beginning January 1, 2061, and not including revenues prior to January 1, 2061, shall be used solely for Operations Activities and Maintenance Activities as defined herein. This percentage shall be calculated on a 10-year rolling average, beginning January 1, 2071, and the City of Fort Collins shall evaluate and verify annually, beginning January 1, 2071, that this 10-year rolling average does not exceed 30% of the average annual revenue of the Tax.

Section 4. THAT "Land Conservation Activities" are herein defined to solely include the following:

- a) Acquiring interests in real property for the purposes of conserving and protecting natural areas, open spaces, community separators, wildlife habitat, rivers, streams and other riparian areas, wetlands, and biodiverse landscapes. Acquiring interests in real property includes, without limitation, fee simple acquisition, acquisition of perpetual conservation or agricultural easements, and acquisition of development rights, whether alone or in cooperation with one or more entities;
- b) Acquiring or leasing water rights and water storage rights for the purpose of conserving, restoring, and maintaining conserved and protected lands, or if acquisition of interests in real property is contingent on acquisition of water rights;
- c) Acquiring subsurface rights, such as mineral (e.g. gravel) rights;
- d) Allowing expenditure of funds for joint projects between Larimer County, other municipalities, trusts, foundations, GOCO, or other public or private entities for the purpose of land conservation;
- e) Improving acquired lands by restoring, enhancing, and maintaining native plant and animal communities for the primary purpose of improving the current and future ecological health of protected lands and their native plant and animal communities;
- f) Providing grant funds to protect, restore and enhance native plant and animal communities on private and publicly owned natural areas in Fort Collins and unincorporated Larimer County;
- g) Hiring land agents, as necessary, to act on behalf of the City of Fort Collins in negotiating contracts with the owners of such interests in real property; and
- h) Monitoring lands protected by less than fee simple acquisition at least annually, through the use of third-party land trusts, the City of Fort Collins, or other appropriate parties, to ensure lands are protected and maintained in accordance with the terms of the acquisition and adopted management plans and agreements. Except as otherwise expressly agreed, owners of properties protected by less than fee simple acquisition shall be responsible for maintaining all lands, structures, enhancements, and facilities in accordance with the adopted site-specific management plans and agreements; and
- i) Administering and directly supervising Land Conservation Activities as described in this section.
- j) Land Conservation Activities shall not include any activities defined herein as Operations Activities or Maintenance Activities.

Section 5. THAT "Operations Activities" of conserved and protected lands is herein defined to include the following:

- a) Conducting educational and volunteer programs to involve citizens in the ownership of conserved and protected lands;
- b) Informing the public about City of Fort Collins open spaces and programs, such as producing and distributing newsletters, brochures and maps and providing a website and social media content;
- c) Providing public capital facilities to manage human usage of conserved lands, such as trails, fencing, wildlife viewing structures, restrooms, drinking water, trash and recycling receptacles, traffic-related infrastructure and parking areas associated with usage, signage, interpretive exhibits, or information displays;
- d) Developing, implementing and updating an overall program master plan, as well as site-specific management plans for conserved and protected lands;
- e) Administering the natural areas and land conservation programs, including on-going accounting, record keeping, scheduling, personnel management, interacting with the City Council and the citizens, and administering easement requests in accordance with the adopted natural areas easement policy;
- f) Law enforcement activities for the purpose of enforcing natural areas and open lands regulations and other applicable laws; and
- g) Administering and directly supervising all Operations Activities described in this section.
- h) Operations Activities shall not include any activities defined herein as Land Conservation Activities or Maintenance Activities.

Section 6. THAT "Maintenance Activities" of conserved and protected lands is herein defined to include the following:

- a) Repairing, cleaning, or replacing public capital facilities as described in Section 5, such as trails, fencing, wildlife viewing structures, restrooms, drinking water, trash and recycling receptacles, parking areas, signage, interpretive exhibits, or information displays, and removing trash and debris;
- b) Administering and directly supervising all Maintenance Activities described in this section.
- c) Maintenance Activities shall not include any activities defined herein as Operations Activities or Land Conservation Activities.

Section 7. THAT all Land Conservation Activities as defined in Section 4 shall be accomplished by agreement with willing sellers.

Section 8. THAT the City of Fort Collins shall expend moneys for Land Conservation Activities in a timely and expedient manner, seeking to avoid substantial escalation in costs of real property or the real property being no longer available, including, where appropriate, cooperating with land trusts and other public and private land conservation entities.

Section 9. THAT all revenues generated on open space, natural areas, wildlife habitat, and other Land Conservation Activities performed or acquired with the Tax shall be used for the purposes stated herein. Revenues generated from leasehold interests in real property shall subsequently be used for Land Conservation Activities.

Section 10. THAT investment earnings on the revenues of the Tax shall be used for the purposes stated herein and apportioned as provided in Section 3.

Section 11. THAT, except with the express approval of the City Council, (a) no interest in real property acquired with the revenues provided by the Tax may be sold, leased, traded, or otherwise conveyed, (b) nor may an exclusive license or permit on such interest in real property be given, (c) nor may the use of such interest in real property be converted to purposes other than those permitted hereby. Prior to such action, the proposed action shall be reviewed by the appropriate board, and a recommendation shall be forwarded to the City Council. Approval of the action may be given only by a majority vote of the members of City Council after a public hearing held with notice provided in accordance with the applicable law.

Section 12. THAT (a) if any real property or interest therein acquired by use of proceeds of the Tax pursuant to this initiative ever be sold, exchanged, transferred, leased or otherwise disposed of, the consideration for such sale, exchange, transfer, lease or disposition shall be deposited into a fund or account for Land Conservation Activities and be subject to the same expenditure and use restrictions as those set forth herein for the original proceeds of the Tax, including restrictions set forth in this Section; and (b) if any real property or interest therein acquired by use of proceeds of the Tax pursuant to Section 1 of this initiative shall ever be converted to purposes other than those described herein, the City of Fort Collins shall pay into a fund or account for Land Conservation Activities, from any legally available municipal moneys other than the Tax, the then estimated fair market value of such property, as determined by an appraisal.

Section 13. THAT the City of Fort Collins is authorized to adopt such uniform rules, regulations, and ordinances as may be necessary for the administration and enforcement of this initiative in a manner consistent with the language herein; and that the City Council or its authorized representatives are hereby empowered to enter into and execute on behalf of the City of Fort Collins any agreements necessary for the administration and enforcement of this initiative in a manner consistent with the language herein.

Section 14. THAT the City of Fort Collins Land Conservation and Stewardship Board shall advise and make recommendations to the City Council regarding the expenditure of moneys for the purposes stated herein.

Section 15. THAT the City of Fort Collins shall prepare for review by the appropriate board(s) and City Council quarterly financial reports to include revenues, expenditures, and balances in the applicable funds or accounts, and any other appropriate related accounts, and shall prepare a report to the public annually regarding the use of the revenues derived from the Tax.

Section 16. THAT the full amount of revenues, and any investment earnings thereon, derived from the Tax shall be retained and expended by the City of Fort Collins, notwithstanding any state revenue or expenditure limitations including, without limitation, those contained in Article X, Section 20 of the Colorado Constitution.

Section 17. THAT this initiative shall become effective at 12:01 a.m. January 1, 2031.

Section 2. The foregoing proposed citizen-initiated ordinance is hereby submitted to the registered electors of the City at said regular city election in substantially the following form:

CITY OF FORT COLLINS BALLOT ISSUE NO. ____
A CITIZEN-INITIATED QUESTION

WITHOUT RAISING ADDITIONAL TAXES, SHALL THE CITY'S EXISTING 0.25% SALES AND USE TAX (25 CENTS ON A \$100 PURCHASE), AUTHORIZED BY CITIZEN-INITIATED ORDINANCE NO. 1, 2002, FOR THE ACQUISITION, MAINTENANCE, AND OPERATIONS OF NATURAL AREAS, BE EXTENDED, WITHOUT EXPIRATION, FROM ITS CURRENT EXPIRATION AT THE END OF 2030;

PROVIDED THAT REVENUES DERIVED FROM SUCH TAX EXTENSION SHALL BE USED TO ACQUIRE, OPERATE AND MAINTAIN NATURAL AREAS, OPEN SPACES, COMMUNITY SEPARATORS, WILDLIFE HABITAT, RIVER, STREAMS, RIPARIAN AREAS, WETLANDS, AND BIODIVERSE LANDSCAPES, AND TO PROVIDE FOR THE APPROPRIATE USE AND ENJOYMENT OF THEM BY THE CITIZENRY CONSISTENT WITH CITIZEN-INITIATED ORDINANCE NO. 2, 2025, INCLUDING THE FOLLOWING CHANGES FROM THE 2002 ORDINANCE:

- BEGINNING IN 2061, REDUCE THE MINIMUM PERCENTAGE OF ANNUAL REVENUE THAT MUST BE SPENT ON LAND CONSERVATION ACTIVITIES, AS DEFINED IN THE ORDINANCE, TO 70% (INSTEAD OF 80%).
- BEGINNING IN 2061, INCREASE THE MAXIMUM PERCENTAGE OF ANNUAL REVENUE THAT MAY BE SPENT ON OPERATIONS AND MAINTENANCE ACTIVITIES, AS DEFINED IN THE ORDINANCE, TO 30% (INSTEAD OF 20%);
- TREAT IMPROVING ACQUIRED LANDS BY RESTORING, ENHANCING, AND MAINTAINING NATIVE PLANT AND ANIMAL COMMUNITIES FOR THE PRIMARY PURPOSE OF IMPROVING THE ECOLOGICAL HEALTH OF PROTECTED LANDS AS "LAND CONSERVATION ACTIVITY"; AND
- CLARIFY OTHER LANGUAGE OF THE ORDINANCE FOR CONSISTENCY WITH THE CITY'S NATURAL AREAS PROGRAM.

AND PROVIDED THAT ALL REVENUES FROM THE TAX EXTENSION MAY BE RETAINED AND EXPENDED BY THE CITY NOTWITHSTANDING ANY STATE REVENUE OR EXPENDITURE LIMITATION, INCLUDING, BUT NOT LIMITED TO, ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

YES/FOR _____

NO/AGAINST _____

Passed and adopted on August 19, 2025.

Mayor

ATTEST:

Sr. Deputy City Clerk

Effective Date: August 19, 2025
Approving Attorney: Carrie Daggett

Exhibit: None