



WESTMINSTER

Staff Report

REVISED 01/30/09

10:04:18 AM

TO: The Mayor and Members of the City Council

DATE: January 28, 2009

SUBJECT: Study Session Agenda for February 2, 2009

PREPARED BY: Steve Smithers, Acting City Manager

Please Note: Study Sessions and Post City Council meetings are open to the public, and individuals are welcome to attend and observe. However, these meetings are not intended to be interactive with the audience, as this time is set aside for City Council to receive information, make inquiries, and provide Staff with policy direction.

Looking ahead to next Monday night's Study Session, the following schedule has been prepared:

A light dinner will be served in the Council Family Room 6:00 P.M.

CITY COUNCIL REPORTS

1. Report from Mayor (5 minutes)
2. Reports from City Councillors (10 minutes)

PRESENTATIONS

6:30 P.M.

1. Update on the State Legislature from Danny Tomlinson (**Verbal**)
2. Review Proposed New Policies for the use of Open Space, Park, and other City Owned Lands and Proposed Changes to Title XIII of the City Code – Att 1 – Att 2 – Att 3
3. Update on City's Financial Condition (**Verbal**)
4. Discussion of City Position on SB 09-108, FASTER - State Transportation Legislation (**Verbal**)

EXECUTIVE SESSION

None at this time.

INFORMATION ONLY ITEMS – Does not require action by City Council

1. Recreational Vehicle Dump Station Re-Opened

Additional items may come up between now and Monday night. City Council will be apprised of any changes to the Study Session meeting schedule.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager



WESTMINSTER

Staff Report

City Council Study Session Meeting
February 2, 2009



SUBJECT: Review Proposed New Policies for the Use of Open Space, Park, and other City Owned Lands and Proposed Changes to Title XIII, Chapters 1, 2 and 5 of the City Code.

PREPARED BY: Heather Cronenberg, Open Space Coordinator
Jane Greenfield, Assistant City Attorney

Recommended City Council Action:

Staff is requesting Council's direction on the proposed new policies for the use of open space, park, and other City owned lands and the proposed changes to Title 13 of the City Code. Staff is recommending that these changes move forward for official City Council action.

Summary Statement:

After receiving many requests by private development to cross the City's open space and park properties, a tentative policy was put in place to assist Staff in evaluating requests for use of publicly-owned land. This policy was drafted in order to have a consistent and coordinated approach for determining when lands that are dedicated to a particular public use may be put to another use, without adversely affecting the public interest.

Attached is a draft Resolution for Council's consideration to adopt these policies for the use of City lands. The Resolution authorizes the City Manager to administer the policies, create administrative processes to carry out the policies' intent, make minor modifications in the policy language, and authorizes the City Manager to set such fees as may be necessary to reimburse the City for its costs in evaluating private use requests.

Staff has also been working on revisions to Title 13 of the City Code to update the Parks and Open Space Chapters and make changes consistent with the proposed policies. In putting together these policies and the attendant code revisions to Title 13, the City Attorney's Office, Community Development, Open Space Division, and the Parks, Recreation and Libraries Department worked cooperatively through many iterations of the code revisions and the policies. Additionally, the entire policies document, and, specifically, the sections dealing with the use of "other" municipally-owned lands has been reviewed and commented on by the Department of Public Works & Utilities. On January 8, 2009 a joint meeting was held between the Parks, Recreation, and Libraries Board and the Open Space Advisory Board to review these policy changes and provide comments on those changes to City staff. To date, no recommended changes have been requested by Board members. Therefore, staff recommends moving forward with adoption of these changes pending City Council review.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue:

Does City Council concur with the proposed new policies for the use of Open Space, Park, and other City owned lands when private developers or internal City departments request use of these properties?

Alternatives:

- 1) Council could choose to not support formalizing the proposed policies related to use of open space, park, or other City property.
- 2) Council could direct staff to craft a different set of policies related to use of these properties by other City departments and/or outside private development.
- 3) Council could not support the proposed changes to Title 13 of the City Code and direct staff to modify these proposed changes based on their input.

Staff does not recommend any of these alternatives for the reasons discussed in the background section of this memorandum.

Background Information:

Over the years, private developers and City departments have requested use of open space, park, and other City property for uses other than the intended use. Examples of these requests include constructing water and sewer line connections by private developers or the City's Department of Public Works & Utilities, constructing private storm sewer facilities through City property to Big or Little Dry Creeks to serve residential and commercial development, or requests from Xcel or Quest to run power or telecommunication lines through City properties. After many of these requests were received, a tentative policy was put in place to assist Staff in evaluating these requests. This policy was drafted in order to have a consistent and coordinated approach for analyzing the most appropriate uses of publicly-owned land. The attached bubble diagram represents the temporary process that the City has been operating under since the spring of 2007. If the policies are adopted, this diagram would be revised to reflect the process confirmed by the City Manager.

The policies attached to the Resolution are divided into Exhibit A, addressing requests for interdepartmental use of open space, park lands, and other City lands, and Exhibit B, addressing requests for private use of open space, park lands and other City lands. The differences in the review criteria between these two policies recognizes that other municipal uses of parks and/or open space lands still constitute a "public" use, while private requests to use such lands may have a more tenuous public benefit and must meet a higher threshold in order to be considered. The policies addressing use of City land by other departments include in the approval criteria that *no reasonably available alternative* exists. The policies related to use of the City's lands for private development include in the approval criteria that *no feasible physical alternative* exists. Convenience or increased costs to the private applicant to use City properties will not be considered in determining feasibility, since the City, as owner, should not be viewed by the private sector as the "least cost" alternative.

There are a total of six separate policies, and although similar in many respects, they recognize the unique differences between open space properties and developed park lands and other municipally owned properties, such as lands upon which fire stations, treatment plants, and City Hall are located.

Staff also proposes modifications to Title 13 of the City Code related to regulations and use of the City's parks, open space areas, and community buildings. The proposed Ordinance revising Chapters 13-1, 13-2, and 13-5 is attached. The revisions, basically, accomplish the following:

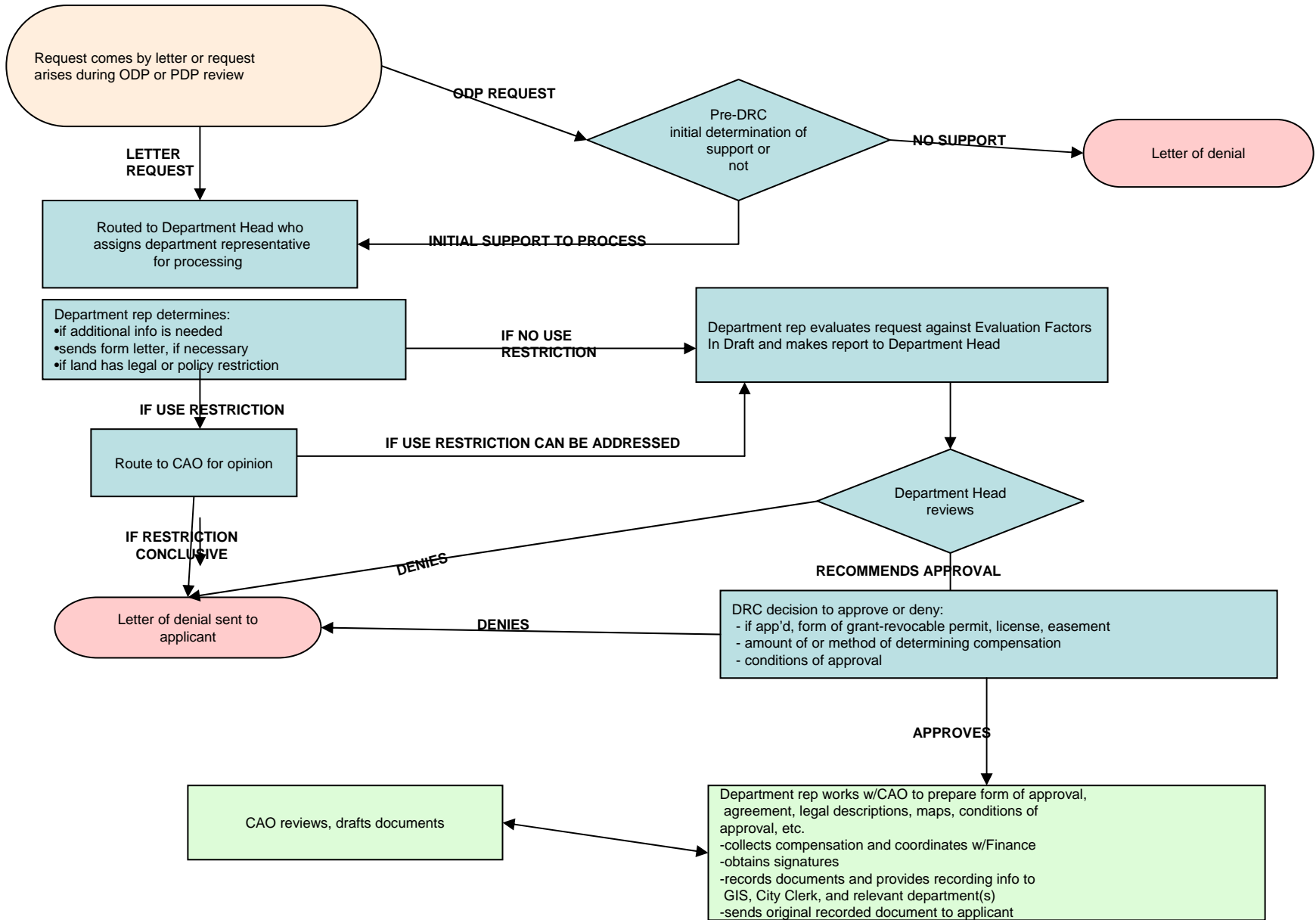
- Establishes the process for the policies to be adopted by Council for use of City parks and open space lands;
- Clarifies that park regulations also apply to open space properties;
- Expands the language in Section 13-5-4 regarding redesignation, sale or trade of open space lands and adds parallel language to the parks chapter consistent with these changes;
- Cleans up outdated or inconsistent language in Chapter 13-2 regarding use permits and clarifies their application to open space properties as well. In large part, Chapter 13-2 has not been amended since its adoption;
- Expands the language of Section 13-5-3 on the types of uses appropriate on open space properties; and,
- Cleans up outdated or inconsistent language in Chapter 13-5, which has not been amended since 1989.

While most of the proposed changes to the Code are not of a substantive nature, the above summary includes the larger proposed changes. Staff will attend the meeting to provide a summary of these changes and the proposed policies related to the use of City lands. If Council is supportive of these changes, staff will come back to Council requesting the formal changes to the City Code and with a resolution supporting the adoption of the policies at an upcoming Council meeting.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachment(s)
Bubble diagram
Draft Resolution with attached Policies
Revised Chapters 13-1, 13-2, and 13-5, W.M.C.



PROCESS FLOW CHART

1/24/07

RESOLUTION

RESOLUTION NO. _____

INTRODUCED BY COUNCILLORS

SERIES OF 2009

**A RESOLUTION
ADOPTING POLICIES FOR THE USE OF OPEN SPACE
PROPERTIES, PARKLANDS, AND OTHER CITY OWNED PROPERTIES**

WHEREAS, City-owned properties generally have been acquired for a specific municipal use, such as open space preservation, park and recreation use, utility installations, and location of public buildings; and

WHEREAS, from time to time, City-owned properties acquired for a particular municipal use may need to be utilized for another municipal use for which the property was not originally acquired; and

WHEREAS, the City also receives requests from private entities that are developing adjacent lands to use or cross City-owned property with utility lines or other encroachments serving the private development; and

WHEREAS, it is desirable to formalize a process for evaluating both requests for private use of City land and requests by one City department to utilize property managed by another City department.

NOW, THEREFORE, be it resolved by the City Council of the City of Westminster:

1. That the Policies, attached as Exhibit A and B hereto, for evaluating requests for the use of City-owned property, both internally and by the private sector, are hereby adopted.
2. That the City Manager is hereby authorized to administer such policy and may create such administrative processes as may be necessary to carry out the intent of these policies, including making minor modifications in the language of the policies attached.
3. That the City Manager is specifically authorized to set such fees as may be reasonably necessary to adequately reimburse the City for its administrative costs in evaluating and processing requests for the use of City property by the private sector.

PASSED AND ADOPTED this _____ day of _____, 2009.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney

Exhibit A

A. I. POLICY REGARDING REQUESTS BY CITY DEPARTMENTS FOR USE OF CITY OF WESTMINSTER OPEN SPACE PROPERTIES

A. PURPOSE. This Policy is adopted pursuant to Chapter 13-5, Westminster Municipal Code, to establish the process for review of, and criteria to be applied to, requests by other City Departments for other municipal use of the City's Open Space properties.

B. APPLICABILITY. This Policy applies only to requests for temporary or permanent use of, access over, under, or across City Open Space property from other City of Westminster Departments.

C. GENERAL OPEN SPACE POLICY. The Westminster Code provides that lands acquired with open space funds shall be preserved and managed in a natural condition, and will generally be open for passive public use and enjoyment. It anticipates the development of trails and use for compatible passive recreation, including hiking, nature study and photography. Development of traditional, active recreational facilities is precluded.

Section 13-5-12, W.M.C., recognizes that certain non-Open Space municipal uses of Open Space properties may be permitted in limited circumstances where public benefit is established and no other reasonable alternative exists.

D. PROCESS. In order to consistently and fairly evaluate requests to use open space property for non-open space purposes, the following process has been established:

1. Application

- a. The Department Director shall submit a request to the Open Space Coordinator for use of or access across open space.
- b. The request shall identify the exact location, including a map, of the proposed area of open space being affected with the specific details of the proposed project and the proposed timeframe for commencement and completion of the project, and provide such additional information as required by the Open Space Coordinator to evaluate the request.
- c. If additional studies, surveys, or technical information are required in order to evaluate the impact of the non-open space municipal use on the affected open space property, the costs of the same shall be borne by the requesting Department.

2. Criteria

Such requests will only be approved where:

- a. An examination of the manner of acquisition of the particular open space parcel shows no deed or grant restrictions prohibiting the particular use proposed, and
- b. No reasonably available alternative exists, and
- c. Such use provides a public benefit, and
- d. The request will not result in any long term negative impact to the open space values of the affected property and any short term damage will be adequately mitigated to City standards, and
- e. The use does not substantially interfere with the existing or potential future use by the public for Open Space purposes.

3. Evaluation Factors

The City will consider the following information in evaluating requests for use of or access across open space: [The information is **not** listed in any priority order.]

a. Natural area considerations:

- Impacts on wildlife and/or plant communities (including but not limited to temporary impacts and fragmentation of ecosystems)
- Introduction of invasive species
- Current condition of the property
- Ability to revegetate/restore property to original condition or enhanced condition
- Ability to provide temporary irrigation for reclamation or restoration

b. Property interest considerations/conflicts:

- Whether any alternate routes or options are feasible
- Whether requested use utilizes existing easement routes or trail routes
- Impact on other easements, if applicable
- Concerns of adjacent owners or others possessing an ownership interest
- Any restrictive covenants that may encumber the open space lands

c. Physical considerations:

- Length and width of easement
- Current condition of proposed easement route
- Visual impact of proposed easement
- If the easement involves new construction or reconstruction of existing roads describe: slope, grade, drainage impacts, revegetation, screening, mitigation, etc.

d. Open space management concerns:

- Estimated average number of vehicle trips per day or year to maintain and repair the facilities in the open space
- Effect on public use and enjoyment of the open space property i.e. trail corridors, proximity to picnic areas
- Noise impacts
- Impact on agricultural operations: lessee, livestock, ditch easements, irrigation systems, any financial impact on lease due to loss of crop revenue or permanent loss of land from the lease.
- Seasonal appropriateness

e. Purpose of easement

- Public benefit from granting the requested use
- Cost to the City to place the facility and/or utilities in another location

f. Other considerations:

- Conflicts with City Comprehensive Plan and/or City Land Use Code
- Conflicts with pending City plans
- Conflicts with existing City agreements or IGAs

4. Staff Review

Requests for access, or rights to use, of a temporary or permanent nature shall initially be reviewed by the Open Space Coordinator, who will prepare an initial recommendation and refer them to the Parks, Open Space and Trails Committee (POST) for its review and comment. The POST recommendation and, if different, the Open Space Coordinator's recommendation will be referred to the City Manager. Approval of the request, with or without conditions, is solely at the discretion of the City Manager if the request meets the requirements of §1-12-2(O), W.M.C., or, if not, at the discretion of the City Council.

E. Departmental Obligations

1. The Department requesting the use of or access over open space will be responsible for all reclamation work on the site and all costs associated with reclamation, including without limitation the costs of hiring contractors to reclaim the area, supplemental irrigation for the site, reseeding in multiple growing seasons until vegetation is re-established, and repairing any damage to the open space resulting from the non-open space use, including damage to trails, signage or fencing. It may take up to three years before a determination can be made that the reclamation project is successful.
2. The requesting Department is responsible for all costs associated with surveying, construction, reclamation and maintenance of the property for which the non-Open Space use is granted. These costs are in addition to the value of the land described in paragraph F., below.
3. In the event the non-Open Space use involves improvements not visible on the surface of the land, the requesting Department shall provide the Open Space Coordinator with two (2) sets on as-built plans showing the exact final location(s) of any utility or other installations.

F. Reimbursement to Open Space Fund

The reimbursement amount, when required, shall be determined on a case-by-case basis, depending on the type of use and the extent to which it restricts or affects the use of the open space land. Generally, the reimbursement for a permanent underground use shall be 50% of the current market value of the property. Temporary uses shall generally be valued at approximately 10% of the current market value of the property, provided they extend for less than one year. Permanent surface use shall generally require 100% market value reimbursement. Factors that may increase or decrease the amount of the reimbursement may include anticipated damage to the property and difficulty of restoration of the property. In some circumstances the City Open Space division may accept consideration other than cash, such as an exchange or conveyance of land or water rights. In the case of the exchange of open space land, the exchange will be permitted if the land provided to the City Open Space division is equivalent in value to the value of the open space land exchanged and the exchange property is designated as open space property subject to the open space ordinance.

**A. II. POLICY REGARDING
REQUESTS BY CITY DEPARTMENTS FOR USE OF
CITY OF WESTMINSTER PARKLANDS**

A. PURPOSE. This Policy is adopted pursuant to Section 13-1-7, Westminster Municipal Code, to establish the process for review of, and criteria to be applied to, requests by other City Departments for other municipal use of the City's parklands.

B. APPLICABILITY. This Policy applies only to requests for temporary or permanent use of, access over, under, or across City parklands from other City of Westminster Departments.

C. GENERAL POLICY FOR USE OF PARKLANDS. Lands used for the development of parks and recreational facilities have been acquired with POST sales tax funds, with Park Development Fees, with GOCO and other funding grants, through public land dedications, and through private property donations. Development of these parklands for traditional, active recreational uses involved a major investment of public monies for recreation centers, athletic fields, swimming pools, playgrounds, landscaping, and other recreational use structures. As such, the primary use of parklands should remain open and unobstructed for the public use and enjoyment of active and passive recreational activities.

Section 13-1-7, W.M.C., recognizes that certain non-park related municipal uses of parklands may be permitted in limited circumstances where public benefit is established and no other reasonable alternative exists.

D. PROCESS. In order to consistently and fairly evaluate requests to use parklands for non-park purposes, the following process has been established:

1. Application

- a. The Department director shall submit a request to the Director of Parks, Recreation and Libraries for use of or access across parklands.
- b. The request shall identify the exact location, including a map, of the proposed area of parklands being affected with the specific details of the proposed project and the proposed timeframe for commencement and completion of the project, and provide such additional information as required by the Director of Parks, Recreation and Libraries to evaluate the request.
- c. If additional studies, surveys, or technical information is required in order to evaluate the impact of the non-park municipal use on the affected parklands, the costs of the same shall be borne by the requesting Department.

2. Criteria

Such requests will only be approved where:

- a. An examination of the manner of acquisition of the particular parklands parcel shows no deed or grant restrictions prohibiting the particular use proposed, and
- b. No reasonably available alternative exists, and
- c. Such use provides a public benefit, and
- d. The request will not result in any long term negative impact to the parklands and any short term damage will be adequately mitigated so as to meet any City standards for parklands, and
- e. The use does not substantially interfere with the existing or potential future use by the public for park purposes.

3. Evaluation Factors

The City will consider the following information in evaluating requests for use of or access across parklands: [The information is **not** listed in any priority order.]

a. Parklands considerations:

- Impacts on developed area of the park
- Impacts on permanent improvements, such as play lots, shelters, hard-surfaced trails, and restrooms
- Ability to build future improvements
- Impacts on the ability to maintain the park for active recreational uses
- Ability to revegetate/restore property to original condition or enhanced condition
- Impact on irrigation systems
- Terms and notification requirements when access to the area is needed for maintenance and/or repairs

b. Property interest consideration/conflicts:

- Alternate routes or options are feasible
- Whether requested use utilizes existing easement routes or trail routes
- Impact on other easements, if applicable
- Concerns of adjacent or other ownership interests
- Any restrictive covenants that may encumber the parklands lands

c. Physical considerations:

- Length and width of easement
- Current condition of proposed easement route
- Visual impact of proposed easement
- If the easement involves new construction or reconstruction of existing roads describe: slope, grade, drainage impacts, revegetation, screening, mitigation, etc.

d. Parklands management concerns:

- Estimated average number of vehicle trips per day or year to maintain and repair the facilities in the parklands
- Disruption of parking lots or public access ways to recreational facilities
- Effect on public use and enjoyment of the parklands property i.e. trail corridors, proximity to picnic areas
- Noise impacts
- Seasonal appropriateness

e. Purpose of easement

- Public benefit from granting the use
- Cost to the City to place the facility and/or utilities in another location

f. Other considerations:

- Conflicts with City Comprehensive Plan and/or City Land Use Code
- Conflicts with pending City plans
- Conflicts with existing City agreements or IGAs

4. Staff Review

Requests for access, or rights to use, of a temporary or permanent nature shall initially be reviewed by the Director of Parks, Recreation and Libraries, who will prepare an initial recommendation and refer them to the Parks, Open Space and Trails Committee (POST) for its review and comment. The POST recommendation and' if different' the Director of Parks, Recreation and Libraries recommendation will be referred to the City Manager for final decision. Approval of the request, with or without conditions, is solely at the discretion of the City Manager if the request meets the requirements of §1-12-2(O), W.M.C., or, if not, at the discretion of the City Council.

E. Departmental Obligations

1. The Department requesting the use of or access over parklands will be responsible for all reclamation work on the site and all costs associated with reclamation, including without limitation the costs of hiring contractors to reclaim the area, supplemental irrigation for the site, reseeding in multiple growing seasons until vegetation is re-established, and repairing any damage to the parklands resulting from the non-parklands use. It may take up to three years before a determination can be made that the reclamation project is successful.
2. The requesting Department is responsible for all costs associated with surveying, construction, reclamation and maintenance of the property for which the non-Parklands use is granted. These costs are in addition to the value of the land described in paragraph F., below.
3. In the event the non-Parklands use involves improvements not visible on the surface of the land, the requesting Department shall provide the Director of Parks, Recreation and Libraries with two (2) sets on as-built plans showing the exact final location(s) of any utility or other installations.

F. Reimbursement to the Park and Recreation Capital Reserve Fund

The reimbursement amount, when required, shall be determined on a case-by-case basis, depending on the type of use and the extent to which it restricts or affects the use of the parklands. Generally, the reimbursement for a permanent underground use shall be 50% of the current market value of the property. Temporary uses shall generally be valued at approximately 10% of the current market value of the property, provided they extend for less than one year. Permanent surface use shall generally require 100% market value reimbursement. Factors that may increase or decrease the amount of the reimbursement may include anticipated damage to the property and difficulty of restoration of the property. In some circumstances the City Parks Department may accept consideration other than cash, such as an exchange or conveyance of land or water rights. In the case of the exchange of parkland, the exchange will be permitted if the land provided to the City Parks Department is equivalent in value to the value of the land exchanged and the exchange property is designated as parklands.

**A. III. POLICY REGARDING
OTHER MUNICIPAL USES OF
CITY-OWNED LANDS**

A. PURPOSE. This Policy is adopted to establish the process for review of, and criteria to be applied to, requests by City Departments to use City property normally managed by another City Department for a municipal purpose different from the primary use of the property. [For example, the Fire Dept. wants to utilize a portion of the Big Dry Creek Treatment Plant land to conduct grass fire training exercises.]

B. APPLICABILITY. This Policy applies only to internal requests by City Departments for temporary or permanent use of City lands, excluding Open Space Properties or Parklands.

C. GENERAL POLICY FOR USE OF CITY-OWNED LANDS. Lands acquired for a particular municipal use, such as sites for fire stations, treatment plants, and utility or maintenance operations may have the capacity to be used for additional municipal purposes. However, unless the City Manager determines that lands acquired for a particular municipal use should be put to a different use, the primary use of such lands should not be affected in a material way by any subsidiary public uses.

D. PROCESS. In order to evaluate requests to use City-owned lands for another municipal purpose other than the primary purpose for which the lands were originally acquired, the following process has been established:

1. Application

a. The Department director shall submit a request to the City Manager for use of or access to City-owned lands managed by another Department or Division.

b. The request shall identify the exact location, including a map, of the proposed area being affected with the specific details of the proposed project and the proposed timeframe for commencement and completion of the project, and provide such additional information as required by the City Manager to evaluate the request.

c. If additional studies, surveys, or technical information is required in order to evaluate the impact of the additional municipal use on the affected lands, the costs of the same shall be borne by the requesting Department.

2. Criteria and Evaluation

Such requests may be approved where:

a. An examination of the manner of acquisition of the particular land shows no deed or grant restrictions prohibiting the particular use proposed, and

b. Such use provides a public benefit, and

c. The use does not substantially interfere with the existing or potential future primary municipal use, and

d. The request will not result in any long term negative impact to the land or its primary municipal use and any short term damage will be adequately mitigated or repaired to meet City standards, and

e. The effects of any noise, disruption of parking lots or public access ways, or increased construction or other traffic will be minimal or will be mitigated.

3. City Manager Review

Approval of the request, with or without conditions, is solely at the discretion of the City Manager.

D. Interdepartmental Obligations

1. The Department requesting the use of or access over other City-owned lands will be responsible for all reclamation work on the site and all costs associated with reclamation, including without limitation the costs of hiring contractors to reclaim the area, supplemental irrigation for the site, reseeding in multiple growing seasons until vegetation is re-established, and/or repairing any damage to pavement, fencing, or other site improvements.

2. The requesting Department is responsible for all costs associated with surveying, construction, reclamation, repair and maintenance required for the secondary use of the land.

E. Reimbursement

Unless otherwise required by the City Charter or City Code, the City Manager will determine the appropriate amount of reimbursement, if any, to be made from one departmental budget to another.

Exhibit B

B. I. POLICY REGARDING PRIVATE REQUESTS FOR USE OF CITY OF WESTMINSTER OPEN SPACE PROPERTIES

A. PURPOSE. This Policy is adopted pursuant to Chapter 13-5, Westminster Municipal Code, to establish the process for review for, and criteria to be applied to, requests for use of, or access over, under, across or on, City open space by private parties.

B. APPLICABILITY. This Policy applies to requests for temporary or permanent use of, or access to, City Open Space Property to serve private property or private development, including but not limited to the installation of public or quasi-public utilities to serve private development.

C. GENERAL OPEN SPACE POLICY. The Westminster Code provides that lands acquired with open space funds shall be preserved and managed in a natural condition and, generally, will be open for passive public use and enjoyment. It anticipates the development of trails and use for compatible passive recreation, including hiking, nature study and photography. Development of traditional, active recreational facilities is precluded.

Use of public lands for private gain is not permitted and, generally, private use of Open Space Properties should be discouraged. However, Section 13-5-12, W.M.C., recognizes that requests may be submitted to the City Open Space Coordinator for permanent or temporary use of or access rights across City Open Space Property, and that, in limited cases, it may be appropriate for the City to grant licenses for private use when there is little or no impact to the public's use of the property. This policy is adopted to provide guidelines for granting such licenses.

***LIMITATIONS:** This policy in no way implies or assures that an application will be approved. Such approval does not replace any review and approval that is required under the Westminster Municipal Code or other applicable regulation; the City reserves all rights of review and approval as would normally be exercised by the City in its regulatory capacity. An application, if approved or denied, establishes no precedent for any other application. Conveyance of any interest in real property requires approval of the City Manager or the Council, pursuant to W.M.C., and is solely at the discretion of the City Manager or the Council and is subject to the requirements of all provisions of the Westminster Municipal Code related to real property transfers or conveyances.*

D. PROCESS. In order to consistently and fairly evaluate requests to use public open space consistently and fairly, the following process has been established.

1. Application

a. The applicant shall submit a request to the Open Space Coordinator for use of or access across open space.

b. The request shall identify the exact location, including a map, of the proposed area of open space being affected with the specific details of the proposed project and the proposed timeframe for commencement and completion of the project, and provide such additional information as required by the Open Space Coordinator to evaluate the request.

c. If additional studies, surveys, or technical information is required in order to evaluate the impact of the non-open space municipal use on the affected open space property, the costs of the same shall be borne by the applicant.

2. Criteria

The City may only approve access requests where:

- a. An examination of the manner of acquisition and the source of funds used to acquire the particular open space parcel shows no restrictions prohibiting the type of access proposed, and
- b. No feasible physical alternative exists (Inconvenience or increased costs to applicant will not be considered in determining feasibility), and
- c. Such use provides a public benefit or does not impair the open space purpose in any material way, and
- d. The request will not result in any long term negative impact to the open space values of the affected property and any short term damage will be adequately mitigated, which determination is solely at the discretion of the City , and
- e. The use does not substantially interfere with the existing or potential future use of the land by the public, and
- f. The nature of the use is such that a license for such use is sufficient, and the applicant agrees to sign a license agreement with the City governing the term and conditions for its use of the property.

3. Evaluation Factors

The City will consider the following information in evaluating requests for access across open space. The information is **not** listed in any priority order.

- a. Natural area considerations:
 - Impacts on wildlife and/or plant communities (including but not limited to temporary impacts and fragmentation of ecosystems)
 - Introduction of invasive species
 - Current condition of the property
 - Ability to revegetate or restore property to original condition or enhanced condition
 - Ability to provide temporary irrigation for reclamation or restoration
- b. Property interest considerations/conflicts:
 - Whether alternate routes or options are available
 - Whether requested use utilizes existing easement routes or trail routes
 - Impact on other easements, if applicable
 - Concerns of adjacent property owners or other ownership interests
 - Any restrictive covenants that may encumber the Open Space property
- c. Physical considerations:
 - Length and width of proposed license area
 - Current condition of proposed route
 - Visual impact of proposed use
 - If the use involves new construction or reconstruction of existing roads describe: slope, grade, drainage impacts, revegetation, screening, mitigation, etc.
- d. Open space management concerns:
 - Estimated average number of vehicle trips per day or year to maintain and repair the facilities in the access

- Effect on public use and enjoyment of the open space property i.e. trail corridors, proximity to picnic areas
 - Noise impacts
 - Impact on agricultural operations: lessee, livestock, ditch easements, irrigation systems, any financial impact on lease due to loss of crop revenue or permanent loss of land from the lease.
 - Seasonal appropriateness
- e. Purpose of proposed use
- Public benefit from granting the license
- f. Other considerations:
- Conflicts with City Comprehensive Land Use Plan and/or City Code
 - Conflicts with pending City plans
 - Conflicts with existing City agreements or IGAs

Note: Cost to the applicant to locate the facilities on private lands or in a City right-of-way is not a factor that will be considered by the City in evaluating feasibility of other sites.

4. Staff Review

Requests for private access, or rights to use, of a temporary or permanent nature shall initially be reviewed by the Open Space Coordinator, who will prepare an initial recommendation and refer the request to the Parks, Open Space and Trails Committee (POST) for its review and comment. The POST recommendation and, if different, the Open Space Coordinator recommendation will be referred to the City Manager. Approval of the application, with or without conditions, is solely at the discretion of the City Manager if the request meets the requirements of §1-12-2(O), W.M.C, or, if not, at the discretion of the City Council.

E. Applicant Obligations

1. A reclamation plan will be required for the applicant to proceed with the project. If a license is approved, the City will estimate the costs for the City's monitoring of the applicant's use of the license, compensation to the City for any anticipated damages, and costs for reclamation. The City shall require the applicant to place funds equal to those costs into an escrow account with the City pursuant to an escrow agreement that specifies requirements for dispersal of the funds. After the applicant has demonstrated to the City that it has compensated the City for any actual damages, successfully reclaimed the site, and repaired any other damages caused by the use of the open space, the City shall return all escrowed funds minus costs for monitoring the construction and reclamation of open space. It may be necessary to hold such funds for up to three years before a determination can be made that the reclamation project is successful.

2. The applicant is solely responsible for all costs associated with surveying, construction, reclamation and maintenance of the improvements installed under the access license, as well as any costs associated with maintaining the escrowed funds described above. These costs are in addition to the value of the license described in paragraph F., below.

3. In the event the use involves improvements not visible on the surface of the land, the applicant shall provide the Open Space Coordinator with two (2) sets on as-built plans showing the exact final location(s) of any utility or other installations.

F. Value of the License; Reimbursement to the Open Space Fund

The value of, or consideration for, an approved license shall be determined on a case-by-case basis, depending on the type of license and the extent that it restricts or affects the use of the open space land. Generally, the cost of a permanent license shall be 50% of the current market value of the property, and generally such access shall be restricted to underground facilities. Temporary construction access rights shall generally be valued at approximately 10% of the current market value of the property, provided they extend for less than one year. Permanent surface use shall generally be valued at 100% market value. These values may be increased at the discretion of the City. Factors that may increase the cost of the license may include anticipated damage to the property and difficulty of restoration of the property. Payment for all licenses granted by the City shall be required prior to any grading or excavation work commencing on the property. In some circumstances the City may accept consideration other than cash, such as an exchange or conveyance of land or water rights. Acceptance of non-cash consideration is at the sole discretion of the City.

**B. II. POLICY REGARDING PRIVATE
REQUESTS FOR USE OF
CITY OF WESTMINSTER PARKLANDS**

A. PURPOSE. This Policy is adopted pursuant to Section 13-1-7, Westminster Municipal Code, to establish the process for review of, and criteria to be applied to, requests for use of, or access over, under, across or on, City Parklands by private parties.

B. APPLICABILITY. This Policy applies only to requests for temporary or permanent use of, access over, under, or across City parklands to serve private property or private development, including but not limited to the installation of public or quasi-public utilities to serve private development.

C. GENERAL POLICY FOR USE OF PARKLANDS. Lands used for the development of parks and recreational facilities have been acquired with POST sales tax funds, with Park Development Fees, with GOCO and other funding grants, through public land dedications, and through private property donations. Development of these parklands for traditional, active recreational uses involved a major investment of public monies for recreation centers, athletic fields, swimming pools, playgrounds, landscaping, and other recreational use structures. As such, the primary use of parklands should remain open and unobstructed for the public use and enjoyment of active and passive recreational activities.

Use of public lands for private gain is not permitted and, generally, private use of Parklands should be discouraged. However, Section 13-1-7, W.M.C., recognizes that requests may be submitted to the Director of Parks, Recreation and Libraries for permanent or temporary use of or access rights across Parklands, and that, in limited cases, it may be appropriate for the City to grant licenses for private use when there is little or no impact to the public's use of the property. This policy is adopted to provide guidelines for granting such licenses.

***LIMITATIONS:** This policy in no way implies or assures that an application will be approved. Such approval does not replace any review and approval that is required under the Westminster Municipal Code or other applicable regulation; the City reserves all rights of review and approval as would normally be exercised by the City in its regulatory capacity. An application, if approved or denied, establishes no precedent for any other application. Conveyance of any interest in real property requires approval of the City Manager or the Council, pursuant to W.M.C., and is solely at the discretion of the City Manager or the Council and is subject to the requirements of all provisions of the Westminster Municipal Code related to real property transfers or conveyances.*

D. PROCESS. In order to consistently and fairly evaluate requests to use parklands for private purposes, the following process has been established:

1. Application

a. The applicant shall submit a request to the Director of Parks, Recreation and Libraries for use of or access across parklands.

b. The request shall identify the exact location, including a map, of the proposed area of parklands being affected with the specific details of the proposed project and the proposed timeframe for commencement and completion of the project, and provide such additional information as required by the Director of Parks, Recreation and Libraries to evaluate the request.

c. If additional studies, surveys, or technical information is required in order to evaluate the impact of the non-park municipal use on the affected parklands, the costs of the same shall be borne by the applicant.

2. Criteria

The City may only approve such requests where:

- a. An examination of the manner of acquisition of the particular parklands parcel shows no deed or grant restrictions prohibiting the particular use proposed, and
- b. No feasible physical alternative exists (Inconvenience or increased costs to applicant will not be considered in determining feasibility), and
- c. Such use provides a public benefit or does not impair the park purpose in any material way, and
- d. The request will not result in any long term impact to the parklands and any short term damage will be adequately mitigated, which determination is solely at the discretion of the City, and
- e. The use does not substantially interfere with the existing or potential future use by the public for park purposes.
- f. The nature of the use is such that a license for such use is sufficient, and the applicant agrees to sign a license agreement with the City governing the term and conditions for its use of the property.

3. Evaluation Factors

The City will consider the following information in evaluating requests for use of or access across parklands: [The information is **not** listed in any priority order.]

a. Parklands considerations:

- Impacts on developed area of the park
- Impacts on permanent improvements, such as play lots, shelters, hard-surfaced trails, and restrooms
- Ability to build future improvements
- Impacts on the ability to maintain the park for active recreational uses
- Ability to revegetate/restore property to original condition or enhanced condition
- Impact on irrigation systems
- Terms and notification requirements when access to the areas is needed for maintenance and/or repairs

b. Property interest consideration/conflicts:

- Whether alternate routes or options available
- Whether requested use utilizes existing easement routes or trail routes
- Impact on other easements, if applicable
- Concerns of adjacent property owners or other ownership interests
- Any restrictive covenants that may encumber the parklands

c. Physical considerations:

- Length and width of proposed license area
- Current condition of proposed route
- Visual impact of proposed use

- If the use involves new construction or reconstruction of existing roads describe: slope, grade, drainage impacts, revegetation, screening, mitigation, etc.
- d. Parklands management concerns:
- Estimated average number of vehicle trips per day or year to maintain and repair the facilities in the parklands
 - Disruption of parking lots or public access ways to recreational facilities
 - Effect on public use and enjoyment of the parklands property i.e. trail corridors, proximity to picnic areas
 - Noise impacts
 - Seasonal appropriateness
- e. Purpose of proposed use
- Public benefit from granting the license
- f. Other considerations:
- Conflicts with City Comprehensive Land Use Plan and/or City Land Use Code
 - Conflicts with pending City plans
 - Conflicts with existing City agreements or IGAs

Note: Cost to the applicant to locate the facilities on private lands or in a City right-of-way is not a factor that will be considered by the City in evaluating feasibility of other sites.

4. Staff Review

Requests for private access, or rights to use, of a temporary or permanent nature shall initially be reviewed by the Director of Parks, Recreation and Libraries, who will prepare an initial recommendation and refer the request to the Parks, Open Space and Trails Committee (POST) for its review and comment. The POST recommendation, and if different the Director of Parks, Recreation and Libraries recommendation, will be referred to the City Manager for final decision. Approval of the request, with or without conditions, is solely at the discretion of the City Manager if the request meets the requirements of §1-12-2(O), W.M.C., or, if not, at the discretion of the City Council.

E. Applicant Obligations

1. A reclamation plan will be required for the applicant to proceed with the project. If a license is approved, the City will estimate the costs for the City's monitoring of the applicant's use of the license, compensation to the City for any anticipated damages, and costs for reclamation. The City shall require the applicant to place funds equal to those costs into an escrow account with the City pursuant to an escrow agreement that specifies requirements for dispersal of the funds. After the applicant has demonstrated to the City that it has compensated the City for any actual damages, successfully reclaimed the site, and repaired any other damages caused by the use of the Parklands, the City shall return all escrowed funds minus costs for monitoring the construction and reclamation of the Parklands. It may be necessary to hold such funds for up to three years before a determination can be made that the reclamation project is successful.
2. The applicant is solely responsible for all costs associated with surveying, construction, reclamation and maintenance of the improvements installed under the access license, as well as any costs associated with maintaining the escrowed funds described above. These costs are in addition to the value of the license described in paragraph F., below.

3. In the event the use involves permanent improvements not visible on the surface of the land, the applicant shall provide the Director of Parks, Recreation and Libraries with two (2) sets on as-built plans showing the exact final location(s) of any utility or other installations.

F. Value of the License; Reimbursement to the Park and Recreation Capital Reserve Fund

The value of, or consideration for, an approved license shall be determined on a case-by-case basis, depending on the type of license and the extent that it restricts or affects the use of the Parklands. Generally, the cost of a permanent license shall be 50% of the current market value of the property, and generally such access shall be restricted to underground facilities. Temporary construction access rights shall generally be valued at approximately 10% of the current market value of the property, provided they extend for less than one year. Permanent surface use shall generally be valued at 100% market value. These values may be increased at the discretion of the City. Factors that may increase the cost of the license may include anticipated damage to the property and difficulty of restoration of the property. Payment for all licenses granted by the City shall be required prior to any grading or excavation work commencing on the property. In some circumstances the City may accept consideration other than cash, such as an exchange or conveyance of land or water rights. Acceptance of non-cash consideration is at the sole discretion of the City.

B. III. POLICY REGARDING OTHER USES OF CITY-OWNED LANDS

A. PURPOSE. This Policy is adopted to establish the process for review of, and criteria to be applied to, requests by private parties.

B. APPLICABILITY. This Policy applies to requests for temporary or permanent use of, or access to, City lands, excluding Open Space Properties or Parklands, to serve private property or private development, including but not limited to the installation of public or quasi-public utilities to serve private development.

C. GENERAL POLICY FOR USE OF CITY-OWNED LANDS. Lands acquired for a particular municipal use, such as sites for fire stations, treatment plants, utility or maintenance operations, or transportation ROWs, may have the capacity to be used for other purposes not inconsistent with their primary municipal use. Use of public lands for private gain is not permitted and, generally, private use of City-owned lands should be discouraged. However, in limited cases, it may be appropriate for the City to grant licenses for private use when there is little or no impact to the public's use of the property. This policy is adopted to provide guidelines for granting such licenses.

D. PROCESS. In order to evaluate requests to use City-owned lands for private purposes, the following process has been established:

1. Application

- a. The applicant shall submit a request to the City Manager for use of or access to City-owned lands.
- b. The request shall identify the exact location, including a map, of the proposed area being affected with the specific details of the proposed project and the proposed timeframe for commencement and completion of the project, and provide such additional information as required by the City Manager to evaluate the request.
- c. If additional studies, surveys, or technical information is required in order to evaluate the impact of the additional municipal use on the affected lands, the costs of the same shall be borne by the applicant.

2. Criteria and Evaluation

Such requests may be approved where:

- a. An examination of the manner of acquisition of the particular land shows no deed or grant restrictions prohibiting the particular use proposed, and
- b. No feasible physical alternative exists (Convenience or increased costs to applicant will not be considered in determining feasibility), and
- c. The use does not substantially interfere with the existing or potential future primary municipal use, and
- d. Such use provides a public benefit or does not impair the public purpose in any material way, and
- e. The request will not result in any long term impact to the affected property and any short term damage will be adequately mitigated, which determination is solely at the discretion of the City, and
- f. The effects of any noise, disruption of parking lots or public access ways, or increased construction or other traffic will be minimal or will be mitigated.

- g. The nature of the use is such that a license for such use is sufficient, and the applicant agrees to sign a license agreement with the City governing the term and conditions for its use of the property.

3. Staff Review

Requests for private access, or rights to use, of a temporary or permanent nature shall initially be reviewed by the Department Director whose department or division normally oversees and manages the City-owned land and who will prepare an initial recommendation to the City Manager. Approval of the request, with or without conditions, is solely at the discretion of the City Manager if the request meets the requirements of §1-12-2(O), W.M.C., or, if not, at the discretion of the City Council.

E. Applicant Obligations

1. A reclamation plan will be required for the applicant to proceed with the project. If a license is approved, the City will estimate the costs for the City's monitoring of the applicant's use of the license, compensation to the City for any anticipated damages, and costs for reclamation. The City shall require the applicant to place funds equal to those costs into an escrow account with the City pursuant to an escrow agreement that specifies requirements for dispersal of the funds. After the applicant has demonstrated to the City that it has compensated the City for any actual damages, successfully reclaimed the site, and repaired any other damages caused by the use of the land, the City shall return all escrowed funds minus costs for monitoring the construction and reclamation of the land. It may be necessary to hold such funds for up to three years before a determination can be made that the reclamation project is successful.
2. The applicant is solely responsible for all costs associated with surveying, construction, reclamation and maintenance of the improvements installed under the access license, as well as any costs associated with maintaining the escrowed funds described above. These costs are in addition to the value of the license described in paragraph F., below.
3. In the event the use involves permanent improvements not visible on the surface of the land, the applicant shall provide the Department Director with two (2) sets on as-built plans showing the exact final location(s) of any utility or other installations.

F. Value of the License; Reimbursement to the appropriate fund

The value of, or consideration for, an approved license shall be determined on a case-by-case basis, depending on the type of license and the extent that it restricts or affects the use of the City-owned lands. Generally, the cost of a permanent license shall be 50% of the current market value of the property, and generally such access shall be restricted to underground facilities. Temporary construction access rights shall generally be valued at approximately 10% of the current market value of the property, provided they extend for less than one year. Permanent surface use shall require 100% market value reimbursement to the City. These values may be increased at the discretion of the City. Factors that may increase the cost of the license may include anticipated damage to the property and difficulty of restoration of the property. Payment for all licenses granted by the City shall be required prior to any grading or excavation work commencing on the property. In some circumstances the City may accept consideration other than cash, such as an exchange or conveyance of land or water rights. Acceptance of non-cash consideration is at the sole discretion of the City.

BY AUTHORITY

ORDINANCE NO. _____

COUNCILLOR'S BILL NO. _____

SERIES OF 2009

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING CHAPTERS 1, 2 AND 5 OF TITLE XIII OF THE WESTMINSTER MUNICIPAL CODE CONCERNING PARKLAND AND OPEN SPACE

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The index for Chapter 1 of Title XIII, and section 13-1-1, W.M.C., are hereby AMENDED to read as follows:

CHAPTER 1

~~GENERAL~~ **PARKS, OPEN SPACE, AND COMMUNITY BUILDING REGULATIONS**

13-1-1: PURPOSE AND INTENT

13-1-2: DEFINITIONS

13-1-3: USE REGULATIONS

13-1-4: ENFORCEMENT OF RULES

13-1-5: ENFORCEMENT OF APPLICABLE LAWS AND ORDINANCES

13-1-6: FISHING, HUNTING, WILDLIFE AND BOATING REGULATIONS

13-1-7: POLICIES FOR NON-PARK USE OF PARKLANDS

13-1-8: REDESIGNATION, SALE, OR TRADE OF PARKLANDS

13-1-1: PURPOSE AND INTENT: The purpose of this Chapter is to regulate the use ~~to~~ OF the CITY'S parkLANDs, OPEN SPACE PROPERTIES, and community buildings ~~of the City~~ in order that all persons may enjoy and make use of such RESOURCES ~~parks and buildings~~ and to protect the rights of those in the surrounding areas.

Section 2. Section 13-1-2, W.M.C., is hereby AMENDED to read as follows:

13-1-2: DEFINITIONS: The following words, TERMS, and phrases, WHEN USED IN THIS TITLE XIII, SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE ~~whenever used in this Section:~~ (796 815 1889 2910)

(A) "City-" ~~The term "City" refers to~~ SHALL MEAN the City of Westminster, Colorado.

(B) "Amplified Sound:" ~~The term "Amplified Sound"~~ SHALL means speech or music projected or transmitted by electronic equipment including amplifiers, loudspeakers, microphones, bull horns or similar devices or combinations of devices which are intended to increase the volume, range, distance or intensity of speech or music and are powered by electricity, battery or combustible fuel.

(C) "Community Buildings:" ~~The term "Buildings" includes~~ SHALL MEAN ONE OR MORE OF those STRUCTURES, buildings, or any portion thereof, under the supervision of the Westminster Department of

Parks, Recreation and Libraries; and ANY ~~all~~ other publicly owned buildings OR STRUCTURE used for recreational purposes within the City.

(D) "Director:" ~~The term "Director" refers to~~ SHALL MEAN the Director of the Department of Parks, Recreation and Libraries or ~~his~~ THAT PERSON'S designated agent or employee. ~~The Director shall make and publish such regulations, not inconsistent with the terms of this Chapter, as he deems necessary for the orderly use and management of the City's park and recreation facilities and programs.~~

(E) "OPEN SPACE COORDINATOR" SHALL MEAN THE MANAGER OF THE OPEN SPACE PROGRAM OR THAT PERSON'S DESIGNATED AGENT OR EMPLOYEE.

(F) "OPEN SPACE PROPERTIES" SHALL MEAN THE PARCELS OF LAND COMPRISING THE OPEN SPACE PROGRAM, AS DESCRIBED IN CHAPTER 13-5, W.M.C., INCLUDING ALL PROPERTIES ACQUIRED FOR OPEN SPACE, DONATED TO THE OPEN SPACE PROGRAM, OR DESIGNATED OR REDESIGNATED AS OPEN SPACE BY THE CITY COUNCIL.

(G) "PARK" OR "Parks": ~~The term "Parks" includes~~ SHALL MEAN all grounds, roadways, avenues, parkLANDs, OPEN SPACE PROPERTIES, parking lots and areas, and recreation facilities therein under the supervision of the Westminster Department of Parks, Recreation and Libraries; and all other publicly owned or operated parks and recreation facilities within the City, including Standley Lake and the land around it (Standley Lake Recreation Area), the publicly owned areas of the Westminster Promenade, the property on which City Hall is located, and the property on which the public safety center is located. "PARKLANDS" SHALL MEAN A SUBSET OF "PARKS," TRADITIONALLY UNDERSTOOD TO BE DEVELOPED PARCELS OF LAND IMPROVED WITH RECREATIONAL FACILITIES OR COMMUNITY BUILDINGS, FORMALLY PLANTED WITH TURFGRASS AND OTHER VEGETATION, AND DESIGNED AND MAINTAINED FOR ACTIVE RECREATIONAL USES.

~~(F)~~(H) "Persons": ~~The term "Persons" shall include~~ MEAN NATURAL persons, associations, partnerships, firms, ORGANIZATIONS, or corporations.

~~(G)~~(I) "Recreation Facilities:" SHALL MEAN THOSE ~~The term "Recreation Facilities" refers to~~ specialized recreation facilities such as swimMING pools, tennis courts, ball fields, PICNIC SHELTERS, and similar facilities under the supervision of the Westminster Department of Parks, Recreation and Libraries.

~~(H)~~ Permit. ~~The term "Permit" means a permit for exclusive use of parks, buildings and recreation facilities as provided for and defined in this Chapter.~~

~~(I)~~ Written Consent of Director. ~~The term "Written Consent of Director" refers to the power of the director to consent to certain otherwise prohibited uses by organized groups of people. Such consent may not be granted to individuals.~~

(J) "USE PERMIT" SHALL MEAN A PERMIT FOR THE EXCLUSIVE USE OF PARKS, OPEN SPACE PROPERTIES, BUILDINGS AND RECREATION FACILITIES, OR A PORTION THEREOF, AS PROVIDED FOR IN CHAPTER 13-2, W.M.C., AND DOES NOT INCLUDE A SPECIAL ALCOHOLIC BEVERAGE PERMIT.

Section 3. Section 13-1-3, subsections (A), (E), (K), (L), (M), (O), (P), (T), (U), (Y) and (Z), W.M.C., are hereby AMENDED to read as follows:

13-1-3: USE REGULATIONS: (796 847 1889 2811) It shall be unlawful for any person to ~~fail to comply with the following:~~

(A) ~~Compliance Required~~ TRESPASS. Enter, be or remain in any park or building of the City unless he OR SHE complies with this ~~Chapter~~ TITLE and regulations promulgated hereunder AND ANY RULES POSTED IN ANY PARK OR BUILDING OF THE CITY.

(E) Amplified Sound. Utilize any machine or device for the purpose of amplification of human voice, music or any other sound in parks or community buildings without the written consent of the Director, except City employees, firemen or law enforcement officers in the performance of their duty.

(K) ~~Bicycles: Operate, drive, or ride upon any motorcycle, snowmobile, auto or other motorized or non motorized vehicle in any park except when posted specifically for such use or with the written consent of the Director, provided that non motorized cycles shall be permitted to use pathways within any park unless such use is specifically prohibited and signs are posted giving notice of such prohibition.~~ VEHICLE USE: OPERATE, DRIVE, OR RIDE UPON ANY MOTORCYCLE, SNOWMOBILE, SCOOTER, SEGWAY™, AUTO OR OTHER MOTORIZED OR NON MOTORIZED VEHICLE IN ANY PARK EXCEPT WHEN POSTED SPECIFICALLY FOR SUCH USE OR WITH THE WRITTEN CONSENT OF THE DIRECTOR, PROVIDED THAT NON MOTORIZED CYCLES SHALL BE PERMITTED TO USE PATHWAYS WITHIN ANY PARK UNLESS SUCH USE IS SPECIFICALLY PROHIBITED AND SIGNS ARE POSTED GIVING NOTICE OF SUCH PROHIBITION. THIS PROHIBITION OF MOTORIZED OR NON-MOTORIZED VEHICLES WILL NOT APPLY TO A VEHICLE DETERMINED TO BE REQUIRED BY THE AMERICANS WITH DISABILITIES ACT.

(L) Control of Dogs, Cats and Other ~~Animals~~ HOUSEHOLD PETS. Bring or maintain in or upon any park or community building any dog, cat, or other ~~animal~~ HOUSEHOLD PET, unless such dog, cat or other ~~animal~~ HOUSEHOLD PET is kept at all times on a leash, not to exceed fifteen feet (15') in length, and under full control of its owner or custodian, except with the written consent of the Director. Persons shall not leave or deposit dogs, cats, fowl, fish, or other animals, whether dead or alive, in any park, lake, or community building except with the written consent of the Director.

(M) Riding Horses and Other Animals. Ride upon any horse, or any other animal CAPABLE OF BEING RIDDEN, in any park except in areas designated and posted specifically for such use, or with the expressed written consent of the Director. No cattle, sheep, goats, horses or any animal shall graze in any park except in areas designated and posted specifically for such use or with the expressed written consent of the Director.

(O) Alcoholic Beverage. Possess, distribute, use or consume any alcoholic beverages or 3.2 beer in parks or community buildings, except by A special ALCOHOLIC BEVERAGE permit issued by and at the discretion of the Director of Parks, Recreation and Libraries, and then only in conformance with the statutes of the State of Colorado and ordinances of the City of Westminster regarding the sale or consumption of alcoholic beverages or 3.2 beer.

(P) Interference. Use or attempt to use or interfere with the use of any table, space or facility within said park or building which at the time is reserved for any other person or group which has received a USE permit from the Director therefor. Unless the actual use of table, space, area, building, or facility referred to in any such permit is commenced within one hour after the period covered by such permit begins, such permit shall terminate.

(T) Flora, INCLUDING Turf and Soil. Dig, remove, destroy, injure, mutilate or cut any tree, plant, shrub, bloom or flower, or any portion thereof, growing in any park or area of a community building, or to remove any wood, turf, grass, soil, rock, sand or gravel from any park. Duly authorized City employees in the performance of their duties or persons participating in City sponsored activities are excepted from the foregoing provisions. METAL DETECTORS MAY NOT BE USED WITHOUT THE SPECIFIC

AUTHORIZATION OF THE DIRECTOR. ADDITIONALLY, TREASURE HUNTING OR GEO-CACHING IS PROHIBITED, UNLESS SUCH SPECIFIC ACTIVITY RECEIVES A PERMIT, YEARLY, FROM THE DEPARTMENT OF PARKS, RECREATION AND LIBRARIES.

(U) Marking, Injuring or Disturbing any Structure. Cut, break, injure, mark, write or print upon or otherwise deface or disturb any rock, building, cage, pen, monument, sign, fence, bench, structure, apparatus, equipment or property in a park; attach thereto any sign, card, display or other similar device, except ~~as authorized by permit~~ WITH THE EXPRESSED WRITTEN CONSENT OF THE DIRECTOR; or attach to any community building materials, devices, or equipment for the purpose of decorating that facility or for any other purpose. Duly authorized City employees in the performance of their duties or persons authorized by the Director shall be excepted from the foregoing provisions.

(Y) Parks Closed Eleven P.M. - Sunrise. Remain in any park or building between eleven o'clock (11:00) P.M. and sunrise, OR BETWEEN SUCH HOURS POSTED AT THE FACILITY AS CLOSED, other than a City employee in the performance of his duty or persons participating in City sponsored activities, or with the written consent of the Director.

(Z) Off-leash dog site. NOTWITHSTANDING THE PROHIBITION IN SUBSECTION (L) ABOVE, the Director of Parks, Recreation and Libraries is authorized to establish or discontinue off-leash dog park sites. At such sites, owners may allow dogs to run without a leash, subject to the following conditions:

1. The site will be open from sunrise to sunset seven (7) days a week.
2. Dogs must be leashed when entering or leaving off-leash site and owners must have a visible leash at all times.
3. Dogs are not allowed to chase or harass wildlife or other dogs.
4. Owners may not leave dogs unattended.
5. Animals must be spayed or neutered.
6. Owners must remove dog's waste.
7. The following dogs are not allowed in the off-leash site:
 - (a) aggressive dogs.
 - (b) female dogs in heat.
 - (c) dogs without current vaccination tag attached to collar, worn by the dog.
 - (d) Dogs too young to vaccinate against rabies.
 - (e) Dogs known to be ill or exhibiting signs of illness.
 - (f) Dogs not under voice command.
8. For purposes of this Section, "owner" shall be the person who brings the dog to the site or as defined in section 6-7-1 of this code.
9. All provisions of the animal control code, chapter 7 of title 6 of this code, shall be in force at the off-leash site unless specifically changed by this paragraph (z).
10. The owner assumes the legal responsibility for any damage, disease, or injury to persons, other dogs, or property caused by the dog.

Section 4. Section 13-1-4, W.M.C., is hereby AMENDED to read as follows:

13-1-4: ENFORCEMENT OF RULES:

(A) THE DIRECTOR SHALL MAKE AND PUBLISH SUCH REGULATIONS, NOT INCONSISTENT WITH THE TERMS OF THIS TITLE, AS NEEDED, FOR THE ORDERLY USE AND MANAGEMENT OF THE CITY'S PARKS, RECREATION FACILITIES, AND BUILDINGS.

(B) The Director, ~~his duly authorized agents and employees,~~ and any law enforcement officers acting in the line of duty shall diligently enforce the provisions herein and shall have the authority to eject, from any

park or community building, any person acting in violation of these rules and regulations. Further, the Director shall have the authority to deny use of parks or community buildings to individuals or groups who refuse to comply with the provisions of this Chapter, THE CONDITIONS OF ANY USE PERMIT, and regulations promulgated hereunder.

(C) ANY VIOLATION OF THIS CHAPTER IS A CRIMINAL OFFENSE, PUNISHABLE BY A FINE OF NO LESS THAN ONE HUNDRED DOLLARS (\$100) OR IMPRISONMENT, OR BOTH, AS PROVIDED IN SECTION 1-8-1 OF THIS CODE. VIOLATION OF ANY PROVISION SHALL BE A SEPARATE VIOLATION AND EACH DAY OF A CONTINUING VIOLATION SHALL BE A SEPARATE OFFENSE.

Section 5. Section 13-1-5, subsection (A), W.M.C., is hereby AMENDED to read as follows:

13-1-5: ENFORCEMENT OF APPLICABLE LAWS AND ORDINANCES: (796 2000 2910)

(A) All persons entering parks or community buildings shall abide by the rules and regulations of the City of Westminster, as provided herein, and the instructions and directions of duly authorized agents, employees or law enforcement officers of the City of Westminster in their line of duty.

Section 6. Section 13-1-6, subsection (D), is hereby DELETED:

13-1-6: FISHING, HUNTING, WILDLIFE AND BOATING REGULATIONS: (2670)

~~(D) **Penalties:** Any violation of this Section is a criminal offense, punishable by a fine of no less than fifty dollars (\$50) or imprisonment, or both, as provided in Section 1-8-1 of this code. Violation of any provision shall be a separate violation and each day of a continuing violation shall be a separate offense.~~

Section 7. Chapter 1 of Title XIII, W.M.C., is hereby amended BY THE ADDITION OF NEW SECTIONS 13-1-7 AND 13-1-8 to read as follows:

13-1-7: POLICIES FOR NON-PARK USE OF PARKLANDS: From time to time, the City may find it desirable and in the public interest to permit certain municipal non-Park uses, and, in limited circumstances, certain private uses on, in, or under parklands. The City Council will adopt, by resolution, such policies to address when and under what circumstances such additional uses of parklands may occur.

13-1-8: REDESIGNATION, SALE, OR TRADE OF PARKLANDS:

(A) IN CERTAIN CASES, IT MAY BE DETERMINED BY THE CITY COUNCIL THAT A PROPERTY ORIGINALLY ACQUIRED FOR PARK PURPOSES MAY BE BETTER UTILIZED FOR ANOTHER PUBLIC PURPOSE, INCLUDING BUT NOT LIMITED TO OPEN SPACE. IN SUCH CASES, THE PARKS AND RECREATION CAPITAL RESERVE FUND SHALL BE REIMBURSED THE CURRENT MARKET VALUE OF THE AFFECTED PROPERTY AT THE TIME OF ITS CONVERSION OR THE COST OF THAT LAND AT THE TIME OF ITS ORIGINAL ACQUISITION, WHICHEVER IS HIGHER.

(B) IN CERTAIN CASES, IT MAY BE NECESSARY TO ACQUIRE A TOTAL PROPERTY IN ORDER TO PRESERVE A PORTION OF THE PROPERTY AS PARKLANDS. IN SUCH CASES, THE CITY COUNCIL MAY DISPOSE OF THE REMAINDER, AND THE PARKS AND RECREATION CAPITAL FUND SHALL BE REIMBURSED THE CURRENT MARKET VALUE OF THE DISPOSED LAND AT THE TIME OF ITS SALE OR THE COST OF THAT LAND AT THE TIME OF ITS ORIGINAL ACQUISITION, WHICHEVER IS HIGHER.

(C) THE CITY COUNCIL MAY APPROVE LAND TRADES OF PARKLANDS FOR OTHER LANDS. IN SUCH CASES, FOR THE PURPOSE OF REIMBURSING THE PARKS AND RECREATION CAPITAL RESERVE FUND, THE RELATIVE CURRENT MARKET VALUES OF THE LANDS TRADED SHALL BE AS DETERMINED BY THE CITY COUNCIL AS PART OF THE APPROVAL OF THE TRADE, BUT IN NO EVENT SHALL A VALUE BE PLACED ON THE PARKLANDS THAT IS LOWER THAN ITS COST AT THE TIME OF ITS ORIGINAL ACQUISITION.

(D) ONCE A PROPERTY IS DESIGNATED AS PARKLAND, IT SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THIS CHAPTER AND CHAPTER 13-2, W.M.C.. PROPERTY THAT IS SUBJECT TO RESTRICTIONS LIMITING ITS USE TO PARKLAND PURPOSES MAY NOT BE REDESIGNATED WITHOUT APPROVAL OF THE RESTRICTING GRANTOR.

(E) FOR THE PURPOSES OF DETERMINING THE "CURRENT MARKET VALUE" UNDER SUBSECTIONS (A), (B), AND (C) ABOVE, THE CITY MANAGER MAY RELY ON AN MAI OR AIA APPRAISAL OF THE PROPERTY OR, FOR PARCELS LESS THAN FIVE ACRES IN SIZE, MAY RELY ON PUBLICLY VERIFIABLE INFORMATION CONCERNING RECENT SALES OF SUBSTANTIALLY SIMILAR PROPERTIES.

(F) NOTWITHSTANDING THE FOREGOING, THE REDESIGNATION BY THE CITY COUNCIL OF PARKLANDS, OPEN SPACE PROPERTY, OR OTHER CITY-OWNED LANDS THAT WERE ACQUIRED THROUGH THE PUBLIC LAND DEDICATION REQUIREMENTS OF §11-6-8, W.M.C., WILL NOT REQUIRE REIMBURSEMENT FROM ONE CITY FUND TO ANOTHER.

Section 8. Section 13-2-1, W.M.C., is hereby AMENDED to read as follows:

13-2-1: PURPOSE AND INTENT: The City's parks, community buildings and recreation facilities shall be made available for the exclusive use of persons and groups subject to the issuance of a USE permit by the Director and subject to payment of fees therefore as provided. No use of any park, building or recreational facilities for pre-advertised assemblies or groups consisting of twenty five (25) or more persons may be made without the issuance of permit therefor. All applications for exclusive use of any park, building or recreation facility must be signed or co-signed by some person at least twenty one (21) years of age who shall agree to be responsible for payment for any damage occurring during said exclusive use. No exclusive use permit will be granted, if prior to the time the application was filed, the City has scheduled a City sponsored event at the same time and place as the activity proposed in the application.

No exclusive use permit shall be granted for use of a park or other facility for any activity involving more than one hundred (100) participants during any of the time between one hour before sunset and one hour after sunrise, unless the park or facility has the appropriate program lighting, and the desired park is large enough to accommodate the anticipated number of participants. Special requests, such as for Easter Sunrise Services, will be considered on an individual basis by the Director.

Section 9. Section 13-2-4, subsection (B), W.M.C., is hereby AMENDED to read as follows:

13-2-4: CONTENTS OF USE PERMIT APPLICATION: The application shall contain, but not be limited to the following:

(B) The business and residence address and telephone numbers of each person and entity named in ~~subdivision~~ SUBSECTION 13-2-4(A), ABOVE;

Section 10. Section 13-2-5, W.M.C., is hereby AMENDED to read as follows:

13-2-5: ACTION ON USE PERMIT APPLICATION:

(A) The Director ~~shall~~ WILL grant or deny such application on or before seven (7) days after the filing of the application unless the time for such granting or denial of the permit has been waived by the applicant in writing. The decision granting or denying said application ~~shall~~ WILL EITHER be delivered in person or mailed to the applicant by ~~certified~~ FIRST CLASS mail.

(B) The Director ~~shall~~ MAY grant the application if the proposed use complies with all applicable ordinances and regulations, and upon granting any permit may impose reasonable requirements and conditions concerning the use of the park, building or recreation facility by applicant.

(C) The Director, upon the advice in writing of the Chief of Police or his designee that the size and activity of the expected crowd will draw from other areas of the City so much police personnel for crowd control that other areas of the City will be left unprotected, shall impose a requirement of one crowd control monitor per one hundred (100) persons expected to attend the proposed activity. The Director shall require a one hour training program to be conducted by the Chief of Police or his designee for the crowd control monitors at a reasonable time and place prior to the proposed activity, which time and place shall be set by the Chief of Police or his designee. The applicant shall, within two (2) days of the receipt of the Director's decision, supply to the Director a list of the proposed crowd control monitors, including their names, addresses and telephone numbers. The applicant may, at his option, provide police reserve personnel or duly licensed private patrolmen instead of crowd control monitors in the numbers approved by the Director and Chief of Police. In the event the applicant provides police reserve personnel or duly authorized patrolmen, no training session will be required.

(D) The Director may grant the application for a park, building or recreation facility ~~or use other than that~~ THE LOCATION applied for, with the consent of the applicant, in the event that a permit has already been issued for ~~said park, building or recreation~~ THE SAME facility FOR THE DATE AND TIME REQUESTED, OR THE REQUESTED FACILITY does not meet the needs of applicant, or THE REQUESTED FACILITY is otherwise unsuitable for the use ~~applied~~ REQUESTED. In the event that more than one application is received for one park, building or recreation facility for use on the same day, the Director shall ~~first act upon the application first received. Provided however that in considering two (2) or more applications for exclusive use of a park, building or recreation facility on the same date,~~ CONSIDER the following priorities IN DETERMINING WHICH APPLICATION TO GRANT ~~shall be followed:~~

First - Uses sponsored or cosponsored by the City of Westminster.

Second - Uses sponsored by the School Districts within the boundaries of the City of Westminster.

Third - Groups composed primarily of Westminster residents.

Fourth - Groups composed primarily of nonresidents.

(E) NOTWITHSTANDING THE FOREGOING, THE DIRECTOR MAY ~~Any previously issued permit may be revoked on seven (7) days notice~~ ANY PREVIOUSLY ISSUED PERMIT if the City requires the facility for a City function, UPON GIVING THE PERMIT HOLDER SEVEN (7) DAYS NOTICE.

~~(F)~~ (F) The Director shall deny the application or revoke a permit if he finds that any of the following conditions exist:

~~1-~~ (1) The City has no park, building or recreation facility which will accommodate the activity of applicant;

- ~~2-~~ (2) The proposed activity is of a size or nature that requires the diversion of so great a number of police officers of the City to properly police the areas, that police protection to the City will be impaired.
- ~~3-~~ (3) The applicant has failed or refused to provide a reasonable means of informing all of the persons participating in the proposed activity of the terms and conditions of such permit.
- ~~4-~~ (4) That the applicant refuses to agree in writing to comply with all conditions in the permit.
- ~~5-~~ (5) That the applicant fails to file a timely application, unless waived by Director and applicant waives all right of appeal.
- ~~6-~~ (6) That the application therefore contains false information.

Such denial shall specify the grounds therefor.

Section 11. Section 13-2-6, W.M.C., is hereby AMENDED to read as follows:

13-2-6: RIGHT OF APPEAL: With respect to use permits, an applicant may appeal the decision of the Director to the City Manager. Applicant must file said appeal with the City Manager within five (5) days of the Director's mailing of such decision. The City Manager shall hold a hearing following the filing of said appeal at the office of the City Manager. Said hearing must be held within two (2) weeks of the date of the filing of said appeal, at which time applicant may present any and all evidence, testimony and information relevant to the application. The City Manager shall within twenty four (24) hours of said appeal hearing issue ~~his~~ A decision either affirming the denial of the application or directing the Director ~~of Parks, Recreation and Libraries~~ to issue a permit as applied for subject to ~~the~~ ANY reasonable terms and conditions ~~as outlined in Section 13-2-5 herein.~~ (A1889)

Section 12. Section 13-2-7, subsection (A), W.M.C., is hereby AMENDED to read as follows:

13-2-7: FEES AND DEPOSITS: (A2431)

(A) Upon the granting of a permit under this Chapter, any fees or deposits required for the use of City personnel, parks, COMMUNITY building, equipment, ~~and OR RECREATIONAL facilities~~ FACILITY shall be contained in said permit and said fees or deposits shall be paid by applicant prior to issuance of the permit. Fees and deposits required shall be set by the Director subject to the approval of the City Council. Fees for special equipment and/or personnel unknown at time of application will be billed after the activity when computation thereof is accomplished.

Section 13. Section 13-2-10, W.M.C., is hereby AMENDED to read as follows:

13-2-10: ENFORCEMENT OF RULES: The Director ~~and his duly authorized employees~~ and any law enforcement officer acting in the line of duty shall diligently enforce the provisions herein and shall have the authority to eject, from any park, COMMUNITY building or recreation facility any person acting in violation of ~~these~~ THE PROVISIONS OF THIS TITLE OR ANY POSTED rules ~~and~~ OR regulations PROMULGATED HEREUNDER. Further, the Director shall have the authority to deny use of parks, COMMUNITY buildings or recreational facilities to individuals or groups who refuse to comply with the provisions of this ~~Chapter~~ TITLE and regulations promulgated hereunder.

Section 14. Section 13-2-11, W.M.C., is hereby AMENDED to read as follows:

13-2-11: ENFORCEMENT OF APPLICABLE LAWS AND ORDINANCES: All persons entering parks, COMMUNITY buildings or recreational facilities shall abide by the rules and regulations of the City of Westminster, as provided herein and in Chapter 1 of Title XIII of the Westminster City Code, and the instructions and directions of duly authorized agents, employees or law enforcement officers of the City of Westminster in their line of duty. (796)

Section 15. The index for Chapter 5, Title XIII, and Chapter 5, Title XIII, W.M.C., are hereby AMENDED to read as follows:

CHAPTER 5

OPEN SPACE PROGRAM

- 13-5-1: ~~OPEN SPACE PROGRAM POLICY STATEMENT~~**
- 13-5-2: CRITERIA FOR ACQUISITION**
- 13-5-3: PRESERVATION OF LAND AND OTHER OPEN SPACE USES**
- 13-5-4: REDESIGNATION, SALE, OR TRADE OF OPEN SPACE PROPERTY**
- 13-5-5: USAGE OF OPEN SPACE FUNDS**
- 13-5-6: ~~RESTRICTIONS ON~~ MANAGEMENT OF OPEN SPACE PROPERTY**
- 13-5-7: MAINTENANCE OF OPEN SPACE PROPERTIES**
- 13-5-8: DONATIONS TO OPEN SPACE PROGRAM**
- 13-5-9: UTILITIES AND RIGHT OF WAYS**
- 13-5-10: STATEMENT ON DEED**
- 13-5-11: ENFORCEMENT OF APPLICABLE RULES AND ORDINANCES**
- 13-5-12: POLICIES FOR NON-OPEN SPACE USE OF OPEN SPACE PROPERTY**

13-5-1: ~~OPEN SPACE PROGRAM POLICY STATEMENT:~~ ~~In the broadest sense the~~ THE objective of the Open Space Program is to promote quality of life for citizens of Westminster through the preservation and protection of the quality of the natural environment which has given Westminster much of its character. This natural environment includes many spectacular views to the foothills and mountains, ~~that~~ WHICH can be enjoyed from the hills and sloping sites ~~which~~ THAT make up the City's predominant land form. The ~~occasional~~ natural streams and man-made canals and ponds ~~with their water~~ and related plant and animal COMMUNITIES ~~life complement~~ COMPLEMENT the scenic vistas and remind us of the area's early history. These natural areas, water bodies, tremendous vistas and panoramas, characteristic terrains and native flora and fauna are intended to be preserved and protected for the enjoyment of this and future generations by the judicious use of ~~Open Space Funds~~ THOSE SALES TAX DOLLARS DESIGNATED FOR THE OPEN SPACE PROGRAM.

As Westminster continues to grow, open spaces should be provided and woven into the fabric of the City. These open spaces may define developed areas within the community, and in certain areas may define the boundary of the City. They are intended to obtain a balance and harmony between physical development and open space for the benefit of Westminster citizens. Preservation of open space in all parts of the City will foster appreciation of the natural environment, provide increased opportunities for passive recreation, and improve the quality of life. ~~The objective of open space is an important part of being "Proud of our past, prepared for our future."~~ (1855)

13-5-2: CRITERIA FOR ACQUISITION: The following six major criteria shall guide the selection of specific sites for possible acquisition and preservation. Prospective open spaces PROPERTY shall satisfy at ~~least~~ LEAST one of these criteria: (1855)

(A)- AESTHETICS: Unique or dramatic visual impact; protectIOns OF scenic view corridorS; visually enhanceMENTs OF primary transportation corridorS; unique view from site; natural features that enhance quality of life (e.g., rock formation, body of water, trees).

(B)- PROTECTION AND PRESERVATION: Protection of environmentally sensitive features (e.g., wetlands, trees, NATIVE grasses, wildlife AND WILDLIFE HABITAT, floodplain encroachment).

(C)- LOCATION: Spatial definition of urban area; protection of sole remaining undeveloped land within large developed area of City; geographical distribution throughout City; provides key link or extension/addition to existing park/open space area; proximity to existing or proposed urban shaping and open space buffers; access; large number of potential beneficiaries.

(D)- USE POTENTIAL: Ability of the land to be used for passive recreational purposes including trail linkages; potential secondary benefit to community (e.g., watershed protection, drainage, or regional detention areas, water wells, erosion control, PUBLIC safety, prevent floodplain encroachment); PRESERVATION, allowing solitude, noise buffers, ANCILLARY HISTORIC PRESERVATION); continued agricultural production.

(E)- NEED FOR IMMEDIATE ACTION: Development pressure; development status; potential to remain as open space; attitude of property owner.

(F)- ACQUISITION CONSIDERATION: Availability of land; ease of acquisition; price of land; significance of economic loss to City; potential for increase in price in the near future; potential for acquiring other sources of funds.

13-5-3: PRESERVATION OF LAND AND OTHER OPEN SPACE USES:

(A) Generally, lands acquired with open space funds shall be preserved and managed in a natural condition. Such lands might include scenic vistas, floodplains, trail corridors, farm lands, highly visible natural areas along arterial streets and open space buffers at the City's perimeter. Open spaces will generally be open for passive public use and enjoyment, and trails will be developed where possible to provide access. Examples of compatible passive recreation include hiking, nature study and photography.

(B) ADDITIONAL ACTIVITIES THAT MAY BE ALLOWED ON CERTAIN OPEN SPACE PROPERTY, OR PORTIONS THEREOF, AFTER THE CITY MANAGER DETERMINES SUCH ACTIVITIES WILL NOT HAVE A DETRIMENTAL EFFECT ON THE NATURAL QUALITIES FOR WHICH THE OPEN SPACE WAS ORIGINALLY ACQUIRED INCLUDE FISHING, BIKING, HORSEBACK RIDING, BOATING, AND THE DEVELOPMENT OF OFF-LEASE DOG EXERCISE AREAS, RESTROOMS, TRAILHEAD PARKING LOTS, AND LIMITED STRUCTURES THAT ENHANCE THE PASSIVE RECREATIONAL EXPERIENCE. "LIMITED STRUCTURES" MAY INCLUDE PONDS OR OTHER WATER BODIES DESIGNED TO ENHANCE WILDLIFE HABITAT, BENCHES, FISHING PIERS, SIGNS, AND EDUCATIONAL DISPLAYS.

(C) Development of traditional, active recreational facilities such as athletic fields, swimming pools, tennis courts and formal picnic areas are precluded. THE USE OF MOTORIZED VEHICLES BY THE PUBLIC FOR ANY RECREATIONAL PURPOSE IS PROHIBITED, EXCEPT AS MAY BE REQUIRED BY THE AMERICANS WITH DISABILITIES ACT.

(D) Certain Open Space properties may be leased for continued agricultural uses, such as farming or grazing, OR FOR SHORT OR LONG TERM RESIDENTIAL USES OF STRUCTURES THAT WERE LOCATED ON THE PROPERTIES AT THE TIME OF ACQUISITION. This approach can provide a

glimpse of Westminster's past, protect the land from development, and/OR ~~can~~ shift some maintenance costs to the lessee. Generally, the leased properties will continue to afford public access for passive enjoyment, TO THE EXTENT SUCH ACCESS IS CONSISTENT WITH THE LEASE.

(E) PROPERTIES ACQUIRED WITH FUNDS DERIVED FROM THE OPEN SPACE PORTION OF THE PARKS, OPEN SPACE AND TRAILS SALES TAX AND PROPERTIES DONATED TO THE OPEN SPACE PROGRAM, PURSUANT TO SECTION 13-5-8, SHALL NOT BE USED FOR TRANSPORTATION CORRIDORS OR THE INSTALLATION OF UNDERGROUND OR ABOVE GROUND UTILITIES EXCEPT IN ACCORDANCE WITH THE POLICIES PROMULGATED UNDER SECTION 13-5-12.

~~In certain cases, it may be necessary to acquire a total property in order to preserve a portion of the property as open space. In such cases, the City may determine to dispose of the remainder, and the open space fund shall be reimbursed the current market value of the disposed land at the time of its sale, or the cost of that land at the time of its original acquisition, whichever is higher. (1855)~~

13-5-4: REDESIGNATION, SALE, OR TRADE OF OPEN SPACE PROPERTY:

(A) In certain cases, it may be determined BY THE CITY COUNCIL that a property originally acquired for open space PURPOSES may be better utilized for another public purpose, INCLUDING BUT NOT LIMITED TO ~~such as~~ an active park. In such cases, the Open Space LAND ACQUISITION ACCOUNT ~~Program~~ shall be reimbursed the current market value of the affected property at the time of its conversion, or the cost of that land at the time of its original acquisition, whichever is higher. (1855)

(B) IN CERTAIN CASES, IT MAY BE NECESSARY TO ACQUIRE A TOTAL PROPERTY IN ORDER TO PRESERVE A PORTION OF THE PROPERTY AS OPEN SPACE. IN SUCH CASES, THE CITY COUNCIL MAY DISPOSE OF THE REMAINDER, AND THE OPEN SPACE LAND ACQUISITION ACCOUNT SHALL BE REIMBURSED THE CURRENT MARKET VALUE OF THE DISPOSED LAND AT THE TIME OF ITS SALE, OR THE COST OF THAT LAND AT THE TIME OF ITS ORIGINAL ACQUISITION, WHICHEVER IS HIGHER.

(C) IN CERTAIN CASES, IT MAY BE DETERMINED BY THE CITY COUNCIL THAT A PROPERTY ORIGINALLY ACQUIRED FOR PARK PURPOSES MAY BE BETTER UTILIZED FOR OPEN SPACE. IN SUCH CASES, THE PARKS AND RECREATION CAPITAL FUND SHALL BE REIMBURSED THE CURRENT MARKET VALUE OF THE AFFECTED PROPERTY AT THE TIME OF ITS CONVERSION OR THE COST OF THAT LAND AT THE TIME OF ITS ORIGINAL ACQUISITION, WHICHEVER IS HIGHER.

(D) THE CITY COUNCIL MAY APPROVE LAND TRADES OF OPEN SPACE PROPERTY FOR OTHER LANDS. IN SUCH CASES, FOR THE PURPOSE OF REIMBURSING THE OPEN SPACE LAND ACQUISITION ACCOUNT, THE RELATIVE CURRENT MARKET VALUES OF THE LANDS TRADED SHALL BE DETERMINED BY THE CITY COUNCIL AS PART OF THE APPROVAL OF THE TRADE, BUT IN NO EVENT SHALL A VALUE BE PLACED ON THE OPEN SPACE PROPERTY THAT IS LOWER THAN ITS COST AT THE TIME OF ITS ORIGINAL ACQUISITION.

(E) IN CERTAIN CASES, IT MAY BE DETERMINED BY THE CITY COUNCIL THAT A PROPERTY ORIGINALLY ACQUIRED FOR UTILITY PURPOSES MAY BE BETTER UTILIZED FOR OPEN SPACE. IN SUCH CASES, THE CURRENT MARKET VALUE OF THE AFFECTED PROPERTY AT THE TIME OF ITS CONVERSION WILL BE DETERMINED AND THE UTILITY ENTERPRISE FUND WILL RECEIVE A CREDIT IN THAT AMOUNT AGAINST FUTURE UTILITY RELATED

USES OF OPEN SPACE PURSUANT TO SUBSECTION (A), ABOVE. PAYMENT IN CASH OR A TRADE WILL ALSO BE ACCEPTED.

(F) ONCE A PROPERTY IS DESIGNATED AS OPEN SPACE, IT SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THIS CHAPTER. PROPERTY THAT IS SUBJECT TO RESTRICTIONS LIMITING ITS USE TO OPEN SPACE PURPOSES MAY NOT BE REDESIGNATED WITHOUT APPROVAL OF THE RESTRICTING GRANTOR.

(G) FOR THE PURPOSES OF DETERMINING THE "CURRENT MARKET VALUE" UNDER SUBSECTIONS (A), (B), AND (C) ABOVE, THE CITY MANAGER MAY RELY ON AN MAI OR AIA APPRAISAL OF THE PROPERTY OR, FOR PARCELS LESS THAN FIVE ACRES IN SIZE, MAY RELY ON PUBLICLY VERIFIABLE INFORMATION CONCERNING RECENT SALES OF SUBSTANTIALLY SIMILAR PROPERTIES.

(H) NOTWITHSTANDING THE FOREGOING, THE REDESIGNATION BY THE CITY COUNCIL OF PARKLANDS, OPEN SPACE PROPERTY, OR OTHER CITY-OWNED LANDS THAT WERE ACQUIRED THROUGH THE PUBLIC LAND DEDICATION REQUIREMENTS OF §11-6-8, W.M.C., WILL NOT REQUIRE REIMBURSEMENT FROM ONE CITY FUND TO ANOTHER.

13-5-5: USAGE OF OPEN SPACE FUNDS: Generally, funds derived from THE OPEN SPACE PORTION OF the PARKS, Open Space AND TRAILS SALES TAX ~~Program~~ shall be expended only for acquisition of lands or interests in lands, FOR IMPROVEMENTS ~~and initial efforts~~ to restore OR ENHANCE the LAND'S natural OR HISTORIC resources, TO afford public access and safety, and ~~or~~ TO remove improvements ~~that are incompatible or hazardous.~~ Fencing ~~and/or signage~~ may be installed to delineate and protect certain properties. EXAMPLES OF IMPROVEMENTS TO OPEN SPACE PROPERTIES INCLUDE NATURAL OR NATIVE ~~"Natural" improvements such as~~ plantings, wetland enhancements, ~~and~~ natural surfaced AND, WHERE APPROPRIATE, PAVED trails, SIGNAGE FOR DIRECTIONAL AND EDUCATIONAL PURPOSES, AND CONSTRUCTION OF ITEMS APPROVED UNDER SUBSECTION 13-5-3(B) HEREIN ~~may be paid for with Open Space Funds.~~ (1855)

Deleted: which

13-5-6: MANAGEMENT OF ~~RESTRICTIONS ON~~ OPEN SPACE PROPERTY:

(A) ALL PROVISIONS OF CHAPTER 13-1 AND 13-2, W.M.C. ARE APPLICABLE TO OPEN SPACE PROPERTY, EXCEPT THAT CERTAIN USES, PERMITTED UNDER SECTION 13-1-3, W.M.C., ARE PROHIBITED ON OPEN SPACE PROPERTY AS PROVIDED BELOW:

(A) HUNTING OR TRAPPING IS PROHIBITED.

(B) OFF-LEASH DOG OR CAT USAGE IS PROHIBITED UNLESS THE LAND IS SPECIFICALLY SIGNED TO ALLOW SUCH USAGE.

(C) THE USE OF MOTORIZED VEHICLES BY THE PUBLIC FOR ANY PURPOSE IS PROHIBITED, EXCEPT AS MAY BE REQUIRED BY THE AMERICANS WITH DISABILITIES ACT.

(D) THE SALE, VENDING, OR DISTRIBUTION OF ANY MERCHANDISE, SERVICES, OR TICKETS IS PROHIBITED UNLESS WRITTEN PERMISSION IS GRANTED BY THE OPEN SPACE COORDINATOR.

(E) THE SOLICITATION OF CONTRIBUTIONS IS PROHIBITED.

(F) THE DISTRIBUTION, POSTING, OR DEPOSITION OF ANY HANDBILLS, CIRCULARS, PAMPHLETS, ADVERTISEMENTS, OR EVENT NOTICES IS PROHIBITED.

(G) AMPLIFIED SOUND IS PROHIBITED UNLESS WRITTEN PERMISSION IS GRANTED BY THE OPEN SPACE COORDINATOR.

(H) THE DRIVING, PUTTING, OR PRACTICE OF GOLF OR USE OF GOLF CLUBS IS PROHIBITED.

(I) THE WASHING, WAXING, REPAIRING OR SERVICING OF AUTOMOBILES OR OTHER VEHICLES IS PROHIBITED.

(J) THE DISCHARGE, FIRING, OR USE OF ANY FIREARM, AIR GUN, SLINGSHOT, BOW AND ARROW, OR OTHER PROJECTILE OR PROJECTILE LAUNCHING DEVICE IS PROHIBITED.

(K) NO FAUNA OR FLORA MAY BE TAKEN, MOLESTED, OR REMOVED WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE OPEN SPACE COORDINATOR, WHICH CONSENT MUST BE IN THE POSSESSION OF THE PERSON OR PERSONS SO PERMITTED DURING THE TIME ANY FAUNA OR FLORA IS TAKEN.

(L) LIGHTING OR MAINTAINING A FIRE OR POSSESSING OR IGNITING ANY FIREWORKS ARE PROHIBITED.

(B) THE PARKS, OPEN SPACE AND TRAILS (POST) COMMITTEE, APPOINTED BY THE CITY MANAGER, WILL NORMALLY REVIEW ALL GRANT APPLICATIONS, MAJOR CONSTRUCTION IMPROVEMENTS, MASTER PLAN DEVELOPMENT, PROPOSED TRAIL PROJECTS AFFECTING OPEN SPACE PROPERTIES AND MAKE RECOMMENDATIONS THEREON TO THE CITY MANAGER OR CITY COUNCIL, AS APPROPRIATE. ALTHOUGH PRIMARY RESPONSIBILITY FOR RECOMMENDATIONS ON PROPOSED ACQUISITIONS LIES WITH THE OPEN SPACE ADVISORY BOARD, THE POST COMMITTEE MAY ALSO REVIEW PROPOSED ACQUISITIONS.

(C) It may be necessary to close an Open Space property temporarily, in order to protect a natural resource, FOR RESTORATION PURPOSES, or to make the property safe for public enjoyment. (1855)

13-5-7: MAINTENANCE OF OPEN SPACE PROPERTIES PROPERTY: The Department of Parks, Recreation and Libraries shall be responsible for the regular maintenance and operation of the Open Space properties, with funds made available in the CITY'S general operating budget AND FUNDS DERIVED FROM THE OPEN SPACE PORTION OF THE PARKS, OPEN SPACE AND TRAILS SALES TAX. (1855 1889)

13-5-8: DONATIONS TO OPEN SPACE PROGRAM: The City of Westminster encourages residents of this community and other concerned persons or parties to donate certain lands or monies for use in the Open Space Program. City Council may by resolution accept SUCH DONATED properties ~~not acquired with Open Space Funds~~ into the Open Space Program. (1855)

13-5-9: UTILITIES AND RIGHT OF WAYS: The City expresses its awareness that extension of major roadways and water and sewer service are frequently the forerunners of new urban development, and intends that every effort should be made to coordinate proposals for extension of these utilities ~~with~~ SO AS NOT TO DEFEAT the objectives of the Open Space Program. (1855)

13-5-10: STATEMENT ON DEED: Any deed conveying to the City Open Space property that was purchased using Open Space Sales Tax Funds shall contain the notation "This land was purchased with Open Space Sales Tax Funds". (1855)

13-5-11: ENFORCEMENT OF APPLICABLE RULES AND ORDINANCES:

(A) THE DIRECTOR, OR THE DIRECTOR'S DULY AUTHORIZED AGENTS AND EMPLOYEES, AND ANY LAW ENFORCEMENT OFFICERS ACTING IN THE LINE OF DUTY SHALL DILIGENTLY ENFORCE THE PROVISIONS HEREIN AND SHALL HAVE THE AUTHORITY TO EJECT, FROM ANY OPEN SPACE PROPERTY, ANY PERSON ACTING IN VIOLATION OF THESE RULES AND REGULATIONS. FURTHER, THE DIRECTOR SHALL HAVE THE AUTHORITY TO DENY USE OF OPEN SPACE PROPERTY TO INDIVIDUALS OR GROUPS WHO REFUSE TO

COMPLY WITH THE PROVISIONS OF THIS CHAPTER AND REGULATIONS PROMULGATED HEREUNDER.

(B) ALL PERSONS ENTERING OPEN SPACE PROPERTY SHALL ABIDE BY THE RULES AND REGULATIONS OF THE CITY OF WESTMINSTER, AS PROVIDED HEREIN, AND THE INSTRUCTIONS AND DIRECTIONS OF DULY AUTHORIZED AGENTS, EMPLOYEES OR LAW ENFORCEMENT OFFICERS OF THE CITY OF WESTMINSTER IN THEIR LINE OF DUTY.

(C) IT SHALL BE UNLAWFUL TO VIOLATE ANY PROVISION OF THIS CHAPTER OR ANY REGULATION PROMULGATED BY THE CITY MANAGER, PURSUANT TO SUBSECTION 13-5-6(A), ABOVE. A PERSON CONVICTED OF A VIOLATION OF A PROVISION OF THIS CHAPTER OR OF A REGULATION PROMULGATED BY THE DIRECTOR SHALL BE FINED AS PROVIDED IN SECTION 1-8-1 OF THIS CODE.

(D) IN ADDITION TO ANY OTHER FINES OR PENALTIES PROVIDED FOR BY THIS CODE, ANY PERSON CAUSING DAMAGE TO OPEN SPACE PROPERTIES OR IMPROVEMENTS THEREON SHALL BE REQUIRED TO, AT THE OPTION OF THE CITY, EITHER RESTORE THE PROPERTY OR PAY ALL COSTS THAT THE CITY INCURS IN RESTORING THE PROPERTY TO ITS PRE-DAMAGED CONDITION.

13-5-12: POLICIES FOR NON-OPEN SPACE USE OF OPEN SPACE PROPERTY: FROM TIME TO TIME, THE CITY MAY FIND IT DESIRABLE AND IN THE PUBLIC INTEREST TO PERMIT CERTAIN NON-OPEN SPACE MUNICIPAL USES, AND, IN LIMITED CIRCUMSTANCES, CERTAIN PRIVATE USES ON, IN, OR UNDER OPEN SPACE PROPERTIES. THE CITY COUNCIL WILL ADOPT, BY RESOLUTION, SUCH POLICIES TO ADDRESS WHEN AND UNDER WHAT CIRCUMSTANCES SUCH ADDITIONAL USES OF OPEN SPACE PROPERTIES MAY OCCUR.

Section 16. This ordinance shall take effect upon its passage after second reading.

Section 17. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this ____ day of _____, 2009.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this ____ day of _____, 2009.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office



WESTMINSTER

Staff Report

Information Only Staff Report
February 2, 2009



SUBJECT: Recreational Vehicle Dump Station Re-Opened

PREPARED BY: Mike Happe, Water Resources and Treatment Manager
Christine Anderson Gray, Management Analyst

Summary Statement

This report is for City Council information only and requires no action by City Council.

Background Information

In July 2005, Council identified the City's Recreational Vehicle (RV) Dump Station as an important community and environmental service, and directed Staff to include the Recreational Vehicle (RV) Dump Station as part of the Big Dry Creek Wastewater Facility expansion and upgrade construction project. The RV Dump Station improvements have been completed, and the facility re-opened on January 1, 2009.

This facility helps to promote the City's goals of a Safe and Secure Community and a Beautiful and Environmentally Sensitive City. The City is making the dump station available to residential and non-residential RV owners as a convenient place to safely dispose of their waste. Waste from the site goes directly into the wastewater facility for treatment. Without this facility, RV owners might not easily find a disposal facility and could empty the contents of their RV in an unauthorized location, potentially causing damage to the environment. The City's dump station promotes the proper disposal of RV waste by offering two self-service dump stations with automated card access systems and a closed-circuit video monitoring system.

Additionally, the facility promotes the goal of a Financially Sustainable City Government Providing Exceptional Services by offering residents and non-residents the opportunity to purchase an annual access card to the site. Revenues from the sales of these access cards support the operations and maintenance of the facility.

In late December, Staff mailed letters to approximately 90 residents who had received notice of the dump station closure and to interested parties who contacted the Public Works and Utilities Department during construction. In addition to the letters, the City's website has been updated with the access card application, guidelines for use of the facility, and a list of Frequently Asked Questions. Notification of the dump station re-opening appeared in Weekly Edition and Tuesday Tidbits, and will also appear in the February/March issue of City Edition. Channel 8 has also shown news of the re-opening. Staff has informed the Metro Wastewater Reclamation District of the updated information, as well as the City of Broomfield, which was accepting RV waste while the facility was under construction. Access cards have been made available for sale at the City's Cashier's Desk.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager