



## CITY COUNCIL AGENDA

**NOTICE TO READERS:** City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items is reflective of Council's prior review of each issue with time, thought and analysis given.

Members of the audience are invited to speak at the Council meeting. Citizen Communication (Section 7) and Citizen Presentations (Section 12) are reserved for comments on any issues or items pertaining to City business except those for which a formal public hearing is scheduled under Section 10 when the Mayor will call for public testimony. Please limit comments to no more than 5 minutes duration except when addressing the City Council during Section 12 of the agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
  - A. 12-20-10 Meeting
  - B. 12-27-10 Special Meeting
4. Report of City Officials
  - A. City Manager's Report
5. City Council Comments
6. Presentations
7. Citizen Communication (5 minutes or less)

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to remove an item for separate discussion. Items removed from the consent agenda will be considered immediately following adoption of the amended Consent Agenda.

8. Consent Agenda
  - A. Designation of Official Places to Post Public Notices
  - B. 72<sup>nd</sup> Avenue and Depew Street Traffic Signal Project
  - C. Semper Water Treatment Facility Bleach Tank Repair
  - D. McKay Drainageway Contract – Ratification of Additional Expense
  - E. Armored Car Delivery Services
  - F. Second Reading of Councillor's Bill No. 65 re Licensing & Regulations, Trespassing, Soliciting & Temporary Uses
  - G. Second Reading of Councillor's Bill No. 66 re Clarifying Applicable Penalties for Various Violations of the W.M.C.
  - H. Second Reading of Councillor's Bill No. 67 re Cost Recovery for 144<sup>th</sup> Avenue, Zuni Street to Jason Drive Project
9. Appointments and Resignations
  - A. Resolution No. 1 re Reappoint Members to Boards and Commissions and Fill Vacancies
10. Public Hearings and Other New Business
  - A. Councillor's Bill No. 1 re Fire Code Minor Revisions
  - B. Councillor's Bill No. 2 re Swim and Fitness Supplemental Appropriation and Award of Adams County Grant Funds
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session
  - A. City Council
13. Adjournment

**WESTMINSTER HOUSING AUTHORITY (Separate Agenda)**

**GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS**

- A.** The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.
  
- B.** Any person wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to have Name Entered into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.
  
- C.** The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.
  
- D.** The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.
  
- E.** When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.
  
- F.** City Staff enters a copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;
  
- G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);
  
- H.** Staff presents any additional clarification necessary and states the Planning Commission recommendation;
  
- I.** All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.
  
- J.** Final comments/rebuttal received from property owner;
  
- K.** Final comments from City Staff and Staff recommendation.
  
- L.** Public hearing is closed.
  
- M.** If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, DECEMBER 20, 2010 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Mayor McNally led the Council, staff and audience in the Pledge of Allegiance.

ROLL CALL

Mayor Nancy McNally, Mayor Pro Tem Chris Dittman, and Councillors Bob Briggs, Mark Kaiser, Mary Lindsey, Scott Major, and Faith Winter were present at roll call. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Linda Yeager, City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Major moved, seconded by Councillor Kaiser, to approve the minutes of the regular meeting of December 13, 2010, as written. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall reminded everyone of the approaching holiday schedule. City Hall and City offices would be closed December 23, 24, 30 and 31. Unless the need for a special meeting arose before December 31, this was City Council's last meeting of 2010. The Council's leadership and decisiveness during a difficult year were greatly appreciated by not only the taxpayers, but also the staff; and Mr. McFall wished the Mayor and Councillors happy holidays.

After tonight's meeting, the Board of Directors of the Westminster Economic Development Authority would meet in executive session to discuss strategy and progress on potential acquisition of certain real property by the Authority for the Westminster Urban Reinvestment Project pursuant to Colorado Revised Statutes, §24-6-402(4)(a) and (e).

COUNCIL REPORTS

Councillor Briggs announced that Westminster – the First Hundred Years could be purchased at the College Hill and Irving Street Libraries, the Aar River Gallery, and the Wax Watch. Mayor McNally added that the kick-off event to celebrate the Centennial had been very successful. She thanked Councillor Briggs for his involvement in the Centennial Committee.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: accept the November 2010 Financial Report as presented; award the bid for 11 Police Department patrol vehicles to the low bidder, Sil-Ter Har Motors, in the amount of \$246,246; authorize payment of \$57,527 for the City's 2011 Colorado Municipal League dues; determine that the public interest would be best served by ratifying Fleet Maintenance cumulative purchases in 2010 with Miles Auto Service and with Tire Centers Inc. for purchases not to exceed \$70,000 and \$115,000 respectively for each vendor; determine that the public interest would be best served by ratifying past purchases and approving any additional 2010 police department expenses with Neve's Uniforms and Equipment up to a maximum of \$80,000; authorize the purchase of the approximately 47-acre Lower Church Lake, 9.2-acre Loon Lake, 35 Church Ditch Inches, associated storage rights, and easements and rights-of-way pertaining to the system from the Mandalay Irrigation Company and Parkwood East for open space for a total of \$1,573,750 plus closing costs not to exceed \$10,000, and authorize the City Manager to execute all documents required to close on the purchase of these property interests; approve the Fifth Amendment to the Second Intergovernmental Agreement between the City of Westminster and the Hyland Hills Park and Recreation District that reduces the Ice Centre at the Promenade's Operations and Combined Obligations Reserve Fund (OCOR) and eliminates Section 8.3, the Equipment and Capital Reserve Fund, by combining it with the OCOR; and authorize the City Manager to sign an amendment, in substantially the same form as included in the agenda packet, to the Contract with the Governor's Energy Office to

manage and administer the Energy Efficiency and Conservation Block Grant funded Small Business Efficiency Program on behalf of the City of Westminster.

Hearing no requests to remove any item for individual consideration, Council Major moved, seconded by Mayor Pro Tem Dittman, to approve all items on the consent agenda as presented. The motion carried.

COUNCILLOR’S BILL NO. 68 TO EXTEND THE CITY’S GROWTH MANAGEMENT PROGRAM

Upon a motion by Mayor Pro Tem Dittman, seconded by Councillor Kaiser, the Council voted unanimously on roll call vote to pass Councillor’s Bill No. 68 as an emergency ordinance amending Title XI, Chapter 3 of the Westminster Municipal Code to change the effective dates of the City’s Growth Management Program from the last ten-year period ending December 31, 2010 to the next ten-year period beginning January 2, 2011 and ending December 31, 2020, and making minor housekeeping revisions.

RESOLUTION NO. 44 ALLOCATING 2011 SERVICE COMMITMENTS

Councillor Kaiser moved to adopt Resolution No. 44 allocating Service Commitments for the year 2011 to the various categories of the Growth Management Program, including Service Commitments for residential competitions for new Single-Family Detached, Single-Family Attached, Multi-Family, Senior Housing, and Traditional Mixed Use Neighborhood Developments. The motion, seconded by Councillor Lindsey, passed unanimously on roll call vote.

RESOLUTION NO. 45 EXTENDING AMBERWOOD ESTATES SERVICE COMMITMENT AWARD

Councillor Lindsey moved, seconded by Councillor Major, to adopt Resolution No. 45 extending the existing Category B-1 Service Commitment award for the Amberwood Estates (also known as West 101<sup>st</sup> Court) single-family detached residential project through December 31, 2011, based on the finding that the need for an extension resulted from a combination of factors that included an ownership change on the property, delays, and the extraordinary conditions in the housing market brought on by the economic downturn. At roll call, the motion passed with all Council members voting affirmatively.

RESOLUTION NO. 46 EXTENDING WALNUT GROVE PUD AREA 4A SERVICE COMMITMENT

It was moved by Councillor Briggs and seconded by Councillor Winter to adopt Resolution No. 46 extending the existing Category B-2 Service Commitment award for Planning Area 4A of the Walnut Grove single-family attached residential project through December 31, 2011, based on the finding that the need for an extension was the result of the downturn in the housing market that was beyond the control of the developer. The roll was called, and the motion passed unanimously.

ADJOURNMENT

There being no further business to come before the City Council, it was moved by Kaiser and seconded by Major to adjourn. The motion carried and the meeting adjourned at 7:11 p.m.

ATTEST:

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City Clerk

\_\_\_\_\_  
Mayor

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
HELD ON MONDAY, DECEMBER 27, 2010 AT 10:00 A.M.

PLEDGE OF ALLEGIANCE

Mayor McNally led the Council, staff and audience in the Pledge of Allegiance.

ROLL CALL

Mayor Nancy McNally, Mayor Pro Tem Chris Dittman, and Councillors Bob Briggs, Mark Kaiser, Mary Lindsey, Scott Major, and Faith Winter were present at roll call. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Carla Koeltzow, Deputy City Clerk, also were present.

COUNCILLOR'S BILL NO. 69 SUPPLEMENTAL APPROPRIATION OF FUNDS TO THE 2010 BUDGET

Upon a motion by Mayor Pro Tem Dittman, seconded by Councillor Major, the Council voted unanimously at roll call to pass Councillor's Bill No. 69 as an emergency ordinance in an amount not to exceed \$3,500,000 providing for supplemental appropriation of funds to the 2010 budget of the General Fund Stabilization Reserve Fund and the Sales and Use Tax Fund.

RESOLUTION NO. 47 CONTINGENCY TRANSFER TO WEDA FOR WURP PROPERTY PURCHASE

Mayor Pro Tem Dittman moved to adopt Resolution No. 47 authorizing the transfer of \$500,000 from the 2010 General Fund contingency account into the Transfers to WEDA Account. Councillor Kaiser seconded the motion, and it passed unanimously at roll call.

CAPITAL PROJECTS TRANSFER TO WEDA FOR WURP PROPERTY PURCHASE

It was moved by Mayor Pro Tem Dittman and seconded by Councillor Lindsey to authorize the transfer of \$7,825,000 from miscellaneous projects in the General Capital Improvement Fund into the Transfers to WEDA Account, \$500,000 from the General Fund Stabilization Reserve Fund into the Transfers to WEDA Account and \$3,000,000 from the Sales and Use Tax Fund into the Transfer to WEDA Account. The motion carried with all Council members voting affirmatively.

ADJOURNMENT

It was moved by Councillor Kaiser and seconded by Councillor Winter to adjourn. The motion carried and the meeting adjourned at 10:04 a.m.

ATTEST:

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Deputy City Clerk

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Mayor



## Agenda Item 8 A

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
January 10, 2011



**SUBJECT:** Designation of Official Places to Post Public Notices

**Prepared By:** Linda Yeager, City Clerk

### Recommended City Council Action

Designate the bulletin board in the lobby of City Hall and the City of Westminster website as the locations for posting public notices of official meetings of the City Council, the Westminster Housing Authority, the Westminster Economic Development Authority, Special and General Improvement Districts, and the City's Boards and Commissions pursuant to §24-6-402 (2)(c) C.R.S. of the Colorado Open Meetings Act.

### Summary Statement

- The referenced section of the Colorado Open Meetings Act provides that the places where notices of official public meetings will be posted shall be designated annually by the governing body at its first regular meeting of each calendar year.
- The City Council is the governing body of the City, and is also the governing body of the City's Special and General Improvement Districts (pursuant to CRS section 31-25-609), the Westminster Housing Authority (pursuant to CRS section 29-4-205), and the Westminster Economic Development Authority (pursuant to CRS section 31-25-114).
- City Staff posts all notices of City Council meetings and study sessions, all Special and General Improvement Districts, all WEDA meetings, all WHA meetings, and other official public meetings on the bulletin board across from the cashiers' counter in the lobby of City Hall. Identical notifications are posted on the City's website.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Does City Council concur with the designation of the City Hall lobby bulletin board and City of Westminster website as the locations for posting public notices for official meetings?

**Alternative**

Identify other locations for posting public notices. This is not recommended as the City Hall bulletin board and City website serve the purpose of providing public notice.

**Background Information**

The Open Meetings Act, more commonly called the Colorado Sunshine Act, provides that the public place or places for posting public notice of meetings shall be designated annually at the local governing body's first regular meeting of each calendar year. Historically, notices have been posted in paper format on the City Hall lobby bulletin board and electronically on the City's website. This process appears to work well as a means of providing public notice of upcoming agenda items, and the Staff recommends the continuing designation of these locations. Remaining compliant with State statutes is key to our strategic objective of being a financially sustainable city government providing exceptional service.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
January 10, 2011



**SUBJECT:** 72<sup>nd</sup> Avenue and Depew Street Traffic Signal Project

**Prepared By:** Greg Olson, Transportation Systems Coordinator

**Recommended City Council Action**

Authorize the City Manager to execute a contract with W. L. Contractors, Inc., in the amount of \$91,960, for the construction of a traffic signal at the intersection of 72<sup>nd</sup> Avenue and Depew Street; authorize the expenditure of \$30,444 to Valmont Industries, Inc. for traffic signal poles and mast arms; authorize the expenditure of \$23,600 to Econolite Control Products, Inc. for traffic signal cabinet and control equipment; and authorize a 15% construction contingency of \$13,794.

**Summary Statement**

- A new traffic signal for the intersection of 72<sup>nd</sup> Avenue and Depew Street, located immediately west of the Walmart shopping center, was requested by several residents of the area during the public hearings on that commercial project in 2005. At that time, the City Council and Staff indicated that this intersection would receive priority consideration at such time that the City's warrants for signalization were met.
- Recently conducted evaluations of several candidate intersections throughout the City revealed that the intersection of 72<sup>nd</sup> Avenue and Depew Street is the only one that now meets the City's criteria for the installation of a traffic signal.
- Formal construction bids were solicited from four traffic signal contractors, and price quotes were obtained for the direct purchase of the traffic signal equipment. The City's direct purchase of the major equipment components saves thousands of dollars in markups that would be experienced if the equipment was included in the construction bid.
- With Council's approval of the equipment purchases and the construction contract, the new traffic signal should be operational by June of 2011.

**Expenditure Required:** \$159,798

**Source of Funds:** General Capital Improvement Fund – New Traffic Signals/Speed Control Devices Project

**Policy Issue**

Does Council wish to authorize the construction of the proposed traffic signal installation?

**Alternative**

Postpone the installation of the 72<sup>nd</sup> Avenue and Depew Street traffic signal. Staff does not recommend this alternative as this location meets City requirements for signalization, and the low bid is very favorable. Staff receives frequent inquiries from the public about this proposed traffic signal.

**Background Information**

During public hearings in 2005 for the new Walmart shopping center, located at the southwest corner of the intersection of Sheridan Boulevard and 72<sup>nd</sup> Avenue, many citizens raised concerns about the potential for increased traffic in the area and the need for a traffic signal at the intersection of 72<sup>nd</sup> Avenue and Depew Street. Staff assured meeting participants that the City would evaluate this intersection on an annual basis to determine if signalization warrants were met. For the last five years, the data collection process indicated that traffic was steadily increasing along 72<sup>nd</sup> Avenue and for the southbound approach on Depew Street.

As part of the 2011 budget preparation process, Staff evaluated six intersections in the City to determine the need for new signals and to establish priorities for such installations:

- 72<sup>nd</sup> Avenue and Depew Street
- 84<sup>th</sup> Avenue and Decatur Street
- 108<sup>th</sup> Avenue and Simms Street
- Wadsworth Boulevard and 98<sup>th</sup> Avenue
- Wadsworth Boulevard and 99<sup>th</sup> Avenue
- Westminster Boulevard and Westcliff Parkway

Only the intersection of 72<sup>nd</sup> Avenue and Depew Street met the City's installation criteria for signalization.

Bids were received and opened on December 13, 2010 for the construction portion of the project. In addition, quotes for City-furnished equipment to be installed by the contractor were solicited from manufacturers of those components. In prior years, the traffic signal construction bidding process indicated that City-furnished traffic signal poles and control equipment is the most cost effective way of installing traffic signals. Such a process allows the City to avoid the markup on equipment that would normally be charged by the installation contractor. The bids for the installation of the signal are as follows:

<b>Contractor</b>	<b>Bid</b>
W. L. Contractors	\$91,960
DKS Enterprises	\$112,000
Sturgeon Electric	\$114,975
Tetra Tech	\$159,798

The lowest bidder, W. L. Contractors, Inc., is the City’s current traffic signal maintenance contractor and has satisfactorily installed other traffic signal projects throughout the City. The total project costs using the quotes from the lowest bidder and suppliers are as follows:

<b>Item</b>	<b>Details</b>	<b>Amount</b>
Construction	W. L. Contractors	\$91,960
Traffic Signal Poles	Valmont Industries	\$30,444
Control Equipment	Econolite Control Products	\$23,600
Project Contingency	15% of Construction	\$13,794
	<b>Project Total</b>	<b>\$159,798</b>

Staff continues to specify LED (Light Emitting Diode) traffic signal indications for new installations for energy conservation and a reduction in long-term maintenance costs. Traffic signals utilizing LED technology realize an 80% reduction in energy usage over conventional traffic signals.

The following represents Staff’s anticipated schedule for completing the traffic signal project, assuming City Council awards the contract and authorizes the purchase of the necessary traffic signal equipment:

January 10 <sup>th</sup>	City Council awards the contract and authorizes the equipment purchase
January 11 <sup>th</sup>	Order traffic signal equipment and notice of award to contractor
January 31 <sup>st</sup>	Issue Notice to Proceed to the contractor
May 27 <sup>th</sup>	Completion of the traffic signal project

This project helps achieve the City Council’s Strategic Plan Goals of Financially Sustainable City Government and Beautiful and Environmentally Sensitive City by meeting the following objectives:

- Well-maintained City infrastructure and facilities
- Energy efficient, environmentally sensitive City operations

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment – Standard Procedure for Specifying Priorities for Installation of Traffic Signals



**WESTMINSTER**

**DEPARTMENT OF COMMUNITY DEVELOPMENT**

**ENGINEERING DIVISION**

**STANDARD PROCEDURE FOR**

**SPECIFYING PRIORITIES FOR INSTALLATION OF TRAFFIC SIGNALS**

**YEAR 2010**

## **I. INTRODUCTION**

A traffic signal is used to control the assignment of right-of-way at a location where passive devices, such as signs and markings, do not provide the necessary control to properly move traffic in a safe and efficient manner. Traffic signals are most effective when they are provided in moderation, and a proliferation of signals should not be encouraged because:

- o While a traffic signal typically reduces the severity of accidents at an intersection, it generally does not reduce the number of accidents.
- o A traffic signal often increases total intersection delay. Increased delay translates directly to increased air pollution and fuel consumption.
- o A traffic signal installed at an improper location may seriously reduce or eliminate the ability to provide for signal progression along busy streets (a signal system is considered to provide progression when a main street through vehicle is able to traverse subsequent signals without stopping for a red signal indication).
- o A traffic signal is a sizable capital expenditure (\$150,000 to \$250,000) and a continuing operations and maintenance burden. The City's budget is not capable of supporting indiscriminate construction/maintenance of signals.

There are locations where providing a traffic signal is desirable and prudent. The purpose of this document is to articulate the City of Westminster's standard procedure for specifying priorities for installation of traffic signals.

## **II. OVERVIEW OF SIGNALIZATION PROCESS**

There are five principal steps in the City's traffic signal implementation process:

- o Step 1 - Warrant Examination. The determination of whether or not a location meets specific criteria that could justify installation of a signal.
- o Step 2 - Implementation Criteria Examination. An investigation of locations meeting step 1 criteria that determines whether a signal is the best solution to the problems observed.
- o Step 3 - Prioritization. Staff identification of the relative need for implementation of locations meeting step 2 criteria.
- o Step 4 - City Council Authorization for Implementation. City Council consideration of the results of steps 1, 2 and 3, potentially leading to the appropriation of funds and authorization for staff to install signals at the locations specified by Council.
- o Step 5 - Design and Construction. The preparation of design plans and bid documents, and the physical construction of the signal.

The first three steps are initiated on an annual basis. The warrant, implementation criteria examination, and prioritization process are typically conducted in the first half of the calendar year. The results of this process are then taken into consideration as part of the budget process for the subsequent two-year period. City Council authorization for implementation, design, and construction are initiated in the first quarter of the year for which the funding has been allocated and generally takes six to nine months to complete.

The standard procedure for specifying priorities for installation of traffic signals articulated herein covers steps 1 through 3 of the signalization process.

### **III. WARRANT EXAMINATION (STEP 1)**

A warrant is a specific set of conditions that might justify installation of a traffic signal. The Federal Highway Administration of the U.S. Department of Transportation has issued warrants for traffic signals which are published in the document, Manual on Uniform Traffic Control Devices (MUTCD). Colorado state statutes require the State Department of Transportation to adopt "a manual and specifications for a uniform system of traffic control devices" based on the federal MUTCD, and require local governments that install traffic control devices to do so in conformance to the statewide uniform standards. The Colorado DOT has adopted the traffic signal warrants identified in the MUTCD, and the City of Westminster correspondingly recognizes these warrants as well.

The MUTCD lists eight different signal warrants. Three are related to traffic volume conditions on the main street and on the side street. One warrant considers the amount of pedestrian activity, and another is directed towards school crossings. One warrant considers crash experience, while another deals with roadway network (or "systems") needs. A final warrant considers installation of a signal to enhance the ability to provide for progressive movement. A copy of the MUTCD is available for review at the Engineering Division office and at the office of the City Clerk.

Engineering staff will coordinate the compilation of the requisite studies to determine if signal warrants are met for any location so requested or identified by City Council, City police, neighborhood associations, residents, engineering staff or any member of the public. A list of all locations examined will be prepared on an annual basis, indicating which warrants, if any, were met at each location. This list will be available at the Engineering Division office.

It is the City's practice that a location will not be signalized unless two or more of the signal warrants specified in the MUTCD are met, with two exceptions. The exceptions involve the warrants dealing with school crossings (Warrant 5) and accident experience (Warrant 7); if either of these warrants is met, the location will be considered for signalization on that basis alone.

The signal warrant examination summary is attached.

### **IV. IMPLEMENTATION CRITERIA EXAMINATION (STEP 2)**

The MUTCD (Chapter 4C.01) states that "satisfaction of a traffic signal warrant or warrants shall not in itself require installation of a traffic control signal". An engineering study should be conducted to determine whether or not "installation of a traffic signal will improve the overall safety and/or operation of the intersection". If such is not the case, a traffic signal should not be installed. City engineering staff will coordinate the compilation of the requisite engineering study for each location identified in step 1.

If, as a result of the engineering study, any of the following conditions applies, the location will not be considered to have met signal implementation criteria:

1. The engineering study concludes that some other action in lieu of signalization should be pursued to address the problems observed at the intersection. The engineering study must consider what other means are available to enhance safety and improve intersection operations (e.g., signing and striping, obstruction removal, installation of turn lanes) instead of signalization, and consider the cost-effectiveness of alternative approaches. At locations where an action other than signalization is recommended, this recommendation shall be conveyed to the City Engineer for consideration in the preparation of capital budget requests. "Recommended actions" other than signalization will be afforded equal consideration for implementation.
2. The engineering study concludes that providing a signal would impede the City's ability to provide progression. Progression is defined as the ability to provide a window of green time at each traffic signal along a corridor as vehicles transverse the roadway. The most desirable level of progression provides for an uninterrupted green window for traffic traveling in both directions on the corridor. The main factor usually affecting the ability to provide progression is the spacing between the traffic signals. Traffic signals with inappropriate spacing unusually cannot provide two-way

progression. The progression investigation will be conducted for any location identified on a principal arterial (as specified in the City's Comprehensive Roadway Plan) or any street located in or adjacent to a major retail/office area, whether or not progressive movement is currently provided along that roadway.

3. The location is inconsistent with the access management plan for the roadway, if such a plan has been prepared by the City.

Implementation criteria examination worksheet is attached.

## **V. PRIORITIZATION (STEP 3)**

It may not be possible for the City to install signals at all locations meeting the implementation criteria in any specific budget year. Staff will recommend priorities to Council based on the following criteria. The product of step 3 is a list of all locations recommended for signalization by City staff arranged in priority order.

The first step in the prioritization process is to separate the list of locations meeting the implementation criteria into those that meet the crash experience warrant and those that do not. Although signals do not necessarily reduce accidents, the crash experience warrant threshold (five correctable accidents in a one-year period) represents a level wherein signalization is expected to yield overall safety benefits. All locations that meet the crash experience warrant will be assigned a higher priority than those that do not.

Among locations that meet the crash experience warrant, priorities will be assigned based on the number of correctable accidents that have occurred during the past two calendar years. Further ties will be prioritized at the discretion of the City Engineer based on professional judgment considering other relevant factors as discussed below.

Among locations meeting the implementation criteria and that meet warrants other than the crash experience warrant, points will be assigned as follows on the basis of warrants met:

- o School Crossing (Warrant 5) - 12 Points
- o Minimum Vehicular Volume (Warrant 1) - 4 Points
- o Four Hour Volume (Warrant 2) - 3 Points Each
- o Peak Hour Volume (Warrant 3) - 2 points Each
- o Other Warrants - 1 Point Each

Ties in the number of points awarded to the locations will be prioritized on the basis of the City Engineer's professional opinion regarding a number of factors, including but not limited to the following items which are listed in order of general importance:

- o Number of accidents in past two years.
- o Ratio of cross street volume to main street volume.
- o Hazard potential (regardless of actual accident history).
- o Speed limit.
- o Roadway horizontal/vertical alignment.
- o Sight distance available.
- o Compatibility with City trail system.
- o Other unique conditions.

The prioritized list of locations recommended for signalization is attached.





**PRIORITIZED LIST OF LOCATIONS RECOMMENDED FOR SIGNALIZATION (STEP 3) - YEAR 2010**

Priority	Main Street	Cross Street	Total Points	2-Year Correctable Accidents	24-Hour Volume		Cross Street/ Main Street Volume Ratio	List of Warrants Met	Other Considerations Cost
					Main Street	Cross Street			
1	72 <sup>nd</sup> Avenue	Depew Street	5	2	15,043	1370	.09	2,3	Only location to meet warrants

\* All locations that meet the crash experience warrant (Warrant 7) will be assigned a higher priority than those that do not.



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
January 10, 2011



**SUBJECT:** Semper Water Treatment Facility Bleach Tank Repair

**Prepared By:** Richard A. Clark, P.E., Utilities Operations Manager  
Tom Settle, Water Treatment Superintendent

**Recommended City Council Action**

Based on the recommendation of the City Manager, City Council finds that the public interest will best be served by authorizing the City Manager to execute a sole source contract with Plas-Tanks Industries, Inc. for the purchase of bleach tank lining materials and installation in an amount not to exceed \$65,549.

**Summary Statement**

- Staff requests approval to purchase materials and labor to install new resin liners in the four bleach storage tanks at the Semper Water Treatment Facility (WTF). The new lining will replace failing lining materials in order to prevent structural failure of the tanks. The proposed cost of the lining and installation is \$55,549 if all four tanks are done simultaneously. A \$10,000 contingency is being requested to address unforeseen issues that may arise during the work.
- Staff inspects all WTF chemical storage tanks on an annual basis. Microscopic cracking was found in the bleach tanks in November during annual inspections warranting immediate actions to prevent degradation of the structural elements of the tanks.
- Funding for the purchase of this material and installation is available in the Utility Fund Capital Improvement Fund.
- Staff is requesting to contract for the material and installation from a sole source provider, Plas-Tanks Industries, Inc., since they are the original tank manufacturer.

**Expenditure Required:** Not to exceed \$65,549

**Source of Funds:** Utility Fund - Capital Improvement Projects Budget

**Policy Issue**

Should Council authorize the sole source purchase of the bleach tank lining and installation?

**Alternative**

An alternative would be to delay the purchase and continue to use the bleach tanks in their current condition. This is not recommended as continued use of the equipment as-is could lead to mechanical failure of the tank structures and result in a major chemical spill and potential shut down of the Semper WTF.

**Background Information**

Utilities Staff has determined that the resin lining in the four 5,500 gallon bleach storage tanks at the Semper WTF has unexpectedly reached the end of the useful life and must be replaced immediately to protect the structural integrity of the units. Inspections in 2009 revealed some minor repair areas that were properly dealt with and substantiated by the tank manufacturer, who also provided inspection. At the time, it was expected that there would be another 2-5 years of liner life remaining. However, inspection in November 2010 has revealed significant degradation of the liners, with visible crazing/cracking of the material, leaving a high potential for bleach to penetrate into the structural components of the tanks and cause mechanical failures of the tanks.

Bleach became a reasonable alternative to chlorine gas for water disinfection at large treatment facilities, such as Westminster's, only in the past 10-15 years. As such, the storage of high concentration bleach (10-12%) is still an evolutionary science and proving to be a significant challenge in the industry because of its chemical characteristics. The current best-choice material for storing the highly caustic bleach solution is fiberglass. However, it is now known that even the epoxy vinyl-ester resin reacts with the bleach over time and slowly dissolves away, requiring that the tank lining be replenished to protect the structural elements of the tank.

Staff has done extensive research and confirmed that the best storage system and materials were selected in the original project. Staff is now being told by the tank manufacturers and fiberglass industry representatives that bleach tank re-lining will be required on a 7-8 year cycle. Staff training is on-going in the techniques for detailed assessment of the liner condition to predict re-line needs farther in advance for planning purposes.

Plas-Tanks Inc. is the original manufacturer of the four bleach storage tanks at the Semper WTF. The tanks have been in service for just under eight years, which corresponds to the current industry life expectancy of the liner material. Minor repairs and tank modifications have been performed by Plas-Tanks in the past with good success and quality workmanship. The quoted price for the lining and installation is consistent with previous tank repair costs at both the Semper and Northwest WTFs. Staff recommends that Plas-Tanks, Inc. be employed for applying the new liner to the bleach storage tanks. Options for doing either two or all four tanks at a time were provided by Plas-Tanks Inc. Staff preference is to exercise the 4-tank option to avoid added costs, however coordination with plant operations may not allow all four tanks to be taken out of service at the same time since the Northwest WTF is currently out of service for the membrane expansion project.

This authorization for bleach tank lining replacement meets Council's Strategic Plan goals of Safe and Secure Community and Financially Sustainable City Government by keeping the City's water treatment facility in good operational condition.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
January 10, 2011



**SUBJECT:** McKay Drainageway Contract--Ratification of Additional Expense

**Prepared By:** Stephen Baumann, Assistant City Engineer

**Recommended City Council Action**

Ratify the expenditure of \$3,500 to amend a previously approved contract with WH Pacific, Inc. for construction engineering services for the McKay Drainageway project, bringing the approved contract amount to \$133,000.

**Summary Statement**

- On May 18, 2009, City Council authorized a contract with WH Pacific, Inc. (WHP) for engineering services related to the construction of the McKay Drainageway, Phase 3. The project was designed to channelize and reduce the floodplain downstream of I-25 at about 140<sup>th</sup> Avenue. Fees for the WHP contract were not to exceed \$129,500.
- During construction, it became necessary for WHP to provide additional engineering services related to differing groundwater conditions in the work area, modifications to drainage structures and extra monitoring of contractor activities. The additional time for WHP's services translates to \$3,500 in unanticipated costs and brings the final contract cost to \$133,000, 2.7% over the original contract amount.
- Staff is recommending that City Council ratify the additional expenditure of \$3,500.

**Expenditure Required:** \$ 3,500

**Source of Funds:** General Capital Improvement Fund—McKay Drainageway Project Account

**Policy Issue**

Should City Council ratify the additional expenditures related to the construction engineering services contract with WH Pacific, Inc for the McKay Drainageway, Phase 3 project?

**Alternative**

Council could decide not to ratify this expense since the original approval of the contract with WH Pacific was “not to exceed” \$129,500. However, this alternative is not recommended because the additional services provided by WH Pacific were, in fact, necessary to respond to circumstances encountered during construction. WH Pacific developed solutions to these problems for a relatively modest additional cost. Contingency funds are available in the project account to cover this cost.

**Background Information**

On May 18, 2009, City Council awarded a contract of nearly \$1.8 million for the construction of the McKay Drainageway, Phase 3 improvements to American West Construction, LLC. A contract for construction engineering services was awarded to WH Pacific, Inc. (WHP) in an amount “not to exceed” \$129,500, along with an overall project contingency of \$135,000. The Phase 3 project was designed by WHP to channelize a broad floodplain downstream of I-25 at approximately 140<sup>th</sup> Avenue, including a large diameter culvert crossing of the interstate highway. These improvements create an outfall for an extensive drainage area west of I-25 that also has a wide and shallow floodplain impeding development. The work was completed in the summer of 2010.

During the construction of the project, various problems were encountered, including shallow groundwater in some excavation areas and field conditions that made revisions to drainage structure plans necessary. At the City’s direction, WHP developed solutions that needed to be implemented by the construction contractor in a timely fashion. As a result, \$3,500 in additional engineering fees was realized when the project reached conclusion.

Because the contract with WH Pacific, Inc. was approved with a “not-to-exceed” fee, City Council must ratify this additional expense. At 2.7% over the original contract amount, and considering the size and nature of the construction project, it is a relatively minor adjustment. WHP’s additional work was instrumental in keeping the construction on schedule and avoiding delays which can often have cost consequences. For this reason, approval of the additional expenditure for construction engineering services by City Council supports the strategic plan objective of Financially Sustainable City Government Providing Exceptional Services. The project contingency is adequate to cover the additional cost.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
January 10, 2011



**SUBJECT:** Armored Car Delivery Services

**Prepared By:** Robert Smith, Treasury Manager  
Robert Byerhof, Senior Financial Analyst  
Rachel Price, Financial Analyst

**Recommended City Council Action**

Based on the report of the City Manager, that City Council finds that the public interest would be best served by accepting the bid for armored car delivery services from Dunbar Armored, Inc for one year at an amount not to exceed \$33,000 and subject to renewal for four additional one-year terms at an amount not to exceed \$33,000 in 2012 and a maximum increase for the next three years at 5% per year.

**Summary Statement**

- The City receives cash and checks from various City owned facilities for recreational services, utility bill payments, fees, and fines. To protect collected funds prior to deposit into the City's bank account, the City utilizes an armored car delivery service.
- On October 18, 2010 a Request for Proposal (RFP) was issued for armored car services since the existing contract with the current vendor expires in February 2011. Two proposals were received for analysis. Staff recommends that the contract be award to Dunbar Armored.

**Expenditure Required:** Not to exceed \$33,000 in 2011 and 2012

**Source of Funds:** General Fund – Various Department Operating Budgets

**Policy Issue**

Should the City of Westminster continue armored car delivery services and sign a contract with Dunbar Armored?

**Alternatives**

1. Choose another firm to perform the armored car services. Staff does not recommend this alternative, as Dunbar Armored represents the most qualified armored car service provider based on review of the RFP's submitted.
2. Do not employ the services of an armored car vendor. Staff does not recommend this alternative. To protect the delivery of funds received at various City owned facilities for deposit at the City's bank, the services of an armored car company mitigates the loss of funds collected by providing a safe and consistent mode of delivery to the bank.

**Background Information**

The City currently utilizes armored car services as a safe and efficient means to transport cash and checks from various City owned facilities to the City's bank, which is a prudent cash management practice. Safety concerns arise if an unarmed employee transports funds. It is also not efficient to utilize one of our armed police officers when their primary responsibility is for the safety of citizens. The City entered into an annual contract with four annual renewal options with the Dunbar Armored in February 2006. Each year the level of service was deemed excellent and Staff renewed service without hesitation. Per standard purchasing policy, an RFP was released in November 2010 to analyze the pricing and service environment for armored car services. Only two responses were received by the City for evaluation: Dunbar Armored, Inc. and Garda World Security Corporation.

The estimated total annual cost inclusive of the estimated maximum fuel surcharge fee between the two vendors is as follows:

Dunbar	\$32,883
Garda	<u>\$31,524</u>
Difference	\$ 1,359

Staff analyzed each RFP response relative to depth of the firm's experience, pricing, acceptance of the City's standard contract, and input from references. Although the pricing for Dunbar is slightly higher than Garda, Staff recommends Dunbar be awarded the contract given their outstanding customer service to respond to any delivery issues and timely adjustment of pricing when there are errors, of which there are seldom such occurrences. In addition, Dunbar accepted the City's standard contract with only minor proposed modifications whereas Garda proposed a significant number of changes that could potentially expose the City to liability risk and hindered the flexibility to terminate the contract should the need arise due to service or pricing issues. Overall, each firm offers comparable experience and references were very positive in regards to the quality and timeliness of their service as well as their responsiveness to address any service concerns.

The proposed contract with Dunbar Armored supports the City's goal of being a Financially Sustainable City Government Providing Exceptional Services. The estimated cost for services is below the budgeted amount for 2011 of \$39,523 and will have a positive impact in 2012 as the pricing will be fixed for two years. In 2012, the City budgeted \$40,710 for armored car services. Overall, the City will save approximately \$14,467 over the next two years with Dunbar's proposal. The contract is capped at 5% per year commencing in the third year of the contract; however, the City has the flexibility to go out to bid if necessary. Due to the variability in gasoline prices, Armored Car vendors typically cap their costs above CPI for future years in order to mitigate the volatility of fuel expenses.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
January 10, 2011



**SUBJECT:** Second Reading of Councillor's Bill No. 65 re Amendments to Title V and Related Sections of the Westminster Municipal Code re Licensing and Regulations, Trespassing, Solicitation on or Near a Street or Highway, and Temporary Uses on Private Property

**Prepared By:** Marty McCullough, City Attorney  
Leslie Annand, Assistant City Attorney  
Jane Greenfield, Assistant City Attorney  
Hilary Graham, Assistant City Attorney

**Recommended City Council Action**

Pass Councillor's Bill No. 65 on second reading amending Title V and Sections 6-3-5, 9-4-1 and 11-4-17 of the Westminster Municipal Code concerning licensing and regulations, trespassing, solicitation on or near a street or highway, and temporary uses on private property.

**Summary Statement**

- Title V of the Westminster Municipal Code sets forth the process and criteria for issuing and administering business licenses, sales and use tax licenses, and other licenses involving businesses that have been deemed appropriate for regulation to protect the health, safety and welfare of the City and its citizens, such as home occupations, contractors, pawn brokers, security guards, and dance halls and cabarets.
- Staff considers the proposed amendments to be primarily housekeeping in nature.
- Staff believes that these amendments will improve the overall administration of the Code.
- This Councillor's Bill was passed on first reading on December 13, 2010.

**Expenditure Required:** \$0

**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **65**

SERIES OF 2010

INTRODUCED BY COUNCILLORS  
**Major - Kaiser**

**A BILL**

**FOR AN ORDINANCE AMENDING TITLE V AND SECTIONS 6-3-5, 9-4-1 AND 11-4-17 OF  
THE WESTMINSTER MUNICIPAL CODE CONCERNING LICENSING AND  
REGULATIONS, TRESPASSING, SOLICITATION ON OR NEAR STREET OR HIGHWAY,  
AND TEMPORARY USES ON PRIVATE PROPERTY**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 5-1-2, Section 5-1-3, subsection (B), section 5-1-4, subsections (A) and (C), section 5-1-5, subsection (B), section 5-1-6, section 5-1-7, section 5-1-8, and section 5-1-9, of Chapter 1, Title V, "Procedures," W.M.C., is hereby AMENDED to read as follows:

**5-1-2: DEFINITIONS:** (1956) The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(A) "Adverse action" means the ~~denial, cancellation,~~ suspension, or revocation of an existing license or permit authorized by this Title or the initial denial of an application for a license authorized by this Title.

(B) "Cancellation" means the City's administrative action of invalidating an issued license for the limited reasons set forth in this Section, which action is not considered to be an adverse action.

(C) "Interested person" means any person having a legally protected interest under law that is subject to potential injury in fact due to proposed final action pursuant to this Title, or any person defined as "interested" by law, or any person having a right of appeal pursuant to law or this Title. "Interested person" ~~also~~ includes any employee or official charged with the responsibility to issue and enforce the provisions of this Title.

(D) "Revocation" means the City's action to recall, withdraw or rescind an existing license according to the process afforded by this Title, and it excludes the administrative act of cancellation.

**5-1-3: ADVERSE ACTIONS:**

(B) An adverse action shall be initiated by filing with the City Manager or the City Manager's designee a written request that the adverse action be taken, which shall include the facts and grounds of the proposed adverse action.

**5-1-4: NOTICE OF ADVERSE ACTION:** (1956)

(A) An applicant shall be notified of a denial and a licensee shall be notified of a ~~cancellation,~~ suspension or revocation of a license ~~or permit~~ and of the grounds for the proposed adverse action in writing.

(C) The notice of proposed adverse action may be served on the applicant or licensee, as applicable by:

(1) Personal service by hand delivery, in which case service shall be deemed complete on the date such service occurs, or

(2) By mailing a copy of the notice of proposed adverse action by first class mail to the last known address of the applicant or licensee, as applicable, or to the street address of the licensed premises, in which case service shall be deemed complete on the date of mailing. The holder of any license issued pursuant to this Title shall notify the City Clerk of any change of the holder's address for purposes of notification and service pursuant to this Chapter.

**5-1-5: APPEALS:**

(B) For any applicant or licensee who fails to appeal a proposed adverse action by failing to timely file a request for a hearing in the manner provided for in this Section, the proposed adverse action shall immediately take effect, and the applicant or licensee shall thereafter be barred from appealing the adverse decision-action before the Special Permit and License Board. Further, the failure to file a timely appeal of a proposed adverse action pursuant to this Section shall be deemed a failure to exhaust administrative remedies and a bar to judicial review.

**5-1-6: LICENSE DENIAL: (1959)**

Unless otherwise limited by state law, a license application may be denied by the City Manager or the City Manager's designee based on the following grounds:

(1) All applicable provisions of the City Code and state law have not been met;

(2) The required fees have not been paid;

(3) The application is incomplete or contains false, misleading or fraudulent statements;

(4) Character of the applicant, based on his/her criminal history, to the extent such character and criminal history is within five (5) years of the date of application and is relevant to the license or permit requested by the applicant;

(5) Nonconformance of the business, premises, building or land use with this Code;

(6) Demand of the business for excessive City services;

(7) Discharge, intent or proposal to discharge wastes to the sanitary sewerage system which will exceed any of the limits set forth in Title VIII, Chapter 10 of this Code;

(8) Prior or ongoing violations of law in connection with the business;

(9) Previous revocation or suspension of a similar license held by the applicant;

(10) Any reason that would justify cancellation, suspension or revocation of a license; or

(11) Any ground provided by ordinance or state statute.

**5-1-7: LICENSE CANCELLATION: (1959)**

(A) Unless otherwise limited by state law, a license may be administratively cancelled by the City Manager or the City Manager's designee on the following limited grounds:

(1) The license was issued in error;

~~\_\_\_\_\_ (2) The license was mistakenly issued to the wrong person or premises or the wrong license was issued;~~

~~(3) Any fee or penalty is unpaid; or Upon written request of the licensee;~~

~~\_\_\_\_\_ (3) Upon a determination by the City, confirmed by a site visit to the business address, that the licensee has permanently ceased operating;~~

(4) Upon grounds provided by ordinance or statute.

(B) Any administratively cancelled license may be administratively reinstated when the facts or circumstances demonstrate that the cancellation was done in error.

#### **5-1-8: LICENSE SUSPENSION: (1959)**

Unless otherwise limited by state law, a license may be suspended ~~by the City Manager~~ on the following grounds:

(1) Upon any grounds which would authorize revocation of a license except grounds which make revocation mandatory;

(2) When any activity conducted pursuant to such license violates an ordinance or statute;

(3) Upon grounds of repeated violations of this Code by the licensee; or

(4) Upon grounds provided by ordinance or statute.

#### **5-1-9: LICENSE REVOCATION: (1959)**

Unless otherwise limited by state law, a license may be revoked ~~by the City Manager~~ on the following grounds:

(1) Fraud or misrepresentation or false statements in the application for the license;

~~\_\_\_\_\_ (2) Failure to make timely payment of any fees, charges or penalties imposed pursuant to this Title;~~

~~\_\_\_\_\_ (3) Fraud or misrepresentation in the course of conducting the business;~~

(4) Conducting the business contrary to the conditions of the license;

(5) Conducting the business in such a manner as to create a public nuisance as defined by ordinance or by statute or in a manner as to constitute a danger to the public health, safety or welfare;

(6) Conviction of any violation of federal, state or municipal law related to the operation of the licensed business;

(7) Repeated violations of one or more City ordinances at the licensee's place of business, by the licensee or patrons of the business;

(8) Commission of an act or grounds that would have justified denial of the original application for a license;

(9) The conduct of the licensee's business consistently creates excessive need for City services and causes the City to expend public funds beyond normal requirements to protect the public health, welfare and safety;

(10) The business is of such a nature, or is operated in such a manner, that it is frequented by individuals (a) who consistently disrupt the normal and reasonable peace and tranquility of the neighborhood, or (b) who by intimidation, threat, harassment or other hostile conduct seriously disrupt any other business in the immediate neighborhood of the licensee, thereby causing such business unreasonable economic loss;

(11) The licensee fails to keep and maintain permanent records which, in accordance with accepted accounting practices as determined by the City Finance Director, are necessary for establishing the licensee's tax liability;

(12) Any violation of Title IV concerning taxes;

~~(12) Failure to make timely payment of any fees or charges required by this Title;~~

~~(13) Upon any grounds provided by ordinance or state statute.~~

Section 2. Chapter 2, Title V, W.M.C., is hereby AMENDED to read as follows:

## CHAPTER 2 BUSINESS LICENSES

### 5-2-1: DEFINITIONS

### 5-2-2: LICENSE REQUIRED

### 5-2-3: LICENSE APPLICATION AND ADMINISTRATION

### 5-2-4: TRANSFER

### 5-2-5: LICENSE DENIAL, CANCELLATION, ~~NON-RENEWAL~~, SUSPENSION, REVOCATION

### ~~5-2-6: PENALTY~~

~~5-2-1: DEFINITIONS: "Business" includes all kinds of trades, vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, for profit or nonprofit, together with all devices, machines, vehicles and appurtenances on any premises in this City or anywhere else within its jurisdiction. (1959)~~

5-2-1: DEFINITIONS: The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise: "Business" means any trade, vocation, occupation, profession, enterprise, service, or commercial activity conducted within the City for profit or not-for-profit, except a home occupation licensed as such pursuant to Chapter 3 of this Title. The term "business" shall not include any hobby or leisure activity not engaged in for profit.

**5-2-2: LICENSE REQUIRED:** (1959)

(A) It shall be unlawful for any person to establish ~~conduct~~ any ~~place of~~ business in the City without first obtaining a license ~~to conduct such business~~ pursuant to this Chapter, ~~unless otherwise provided by this Code~~. A separate ~~general~~ business ~~licenses~~ license shall be required for each location of a business operating within the City limits. ~~Specialty licenses shall be required in addition to general business licenses when applicable.~~ A business shall obtain such additional licenses, including a sales tax license, as may be required by federal or state law or this Code and the failure to do so shall be considered a violation of this Chapter.

(B) In the event that any business is being conducted in an unincorporated area at the time of the annexation of such area to the City ~~and the person carrying on or engaging in the business is doing so lawfully and in conformance with all laws applicable to the territory, the conduct of such business may be continued upon and subsequent to the annexation of the area to the City, providing any applicable license fee is paid within ten (10) days of annexation.~~ In subsequent calendar years, the business must conform to all licensing requirements contained in this Chapter and all other applicable licensing requirements contained in this Code.

**5-2-3: LICENSE APPLICATION AND ADMINISTRATION:** (1959)

(A) ~~The An~~ applicant for a business license shall submit an application to the City Clerk on forms provided by the City Clerk. ~~All original applications~~ The application shall be investigated by the City Manager in order to determine whether grounds exist for denial. If approval of the application is recommended as a result of the investigation, the City Clerk shall issue the license for a period of one (1) year. The City Manager may approve the application with ~~reasonable~~ conditions reasonably deemed by the City Manager as necessary to protect the public health, welfare and safety.

(B) An application for renewal of the business license shall be filed with the City Clerk. The City Clerk, in his or her reasonable discretion, may request the City Manager to investigate the application in order to determine whether grounds exist for denial. In the event a cancellation, suspension, or revocation proceeding is pending when a license renewal is filed, the application for a license renewal shall not be acted upon until the suspension or revocation proceeding has been completed.

(C) All licenses shall specify the name of the licensee, the business address, the nature of the business, and the term of the license, and the date upon which it expires. Every license granted under the provisions of this Chapter shall be posted in a conspicuous place at the place of business for the full term of the license. Licenses shall be removed upon expiration, cancellation, suspension, or revocation. It shall be the duty of each licensee to show the license at any reasonable time when requested to do so by any City official.

**5-2-4: TRANSFER:** Any transfer of a business to a new owner, whether by sale, gift or operation of law, shall cause a cancellation of the prior business license. The new owner shall not conduct business until a new business license has been obtained pursuant to this Chapter. (1959)

**5-2-5: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION:** (1959 2574)

~~(A)~~ A business license may be denied, cancelled, ~~denied renewal,~~ suspended, or revoked for any violation of the provisions of this Chapter, or for any reason set forth in Chapter 1 of this Title.

~~(B) A license shall be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall be given by personal delivery to the licensee or mailed to the address contained on the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(C) Any of the following circumstances may be considered cause for denial of a license:~~

~~—(1) The required fees have not been paid.~~

~~—(2) The application is incomplete or contains false, misleading or fraudulent statements.~~

~~—(3) Nonconformance of the business, premises, building or land use with this Code.~~

~~—(4) Any reason stated in Section 5-1-5 of this Code.~~

~~(D) An application for a new license may be denied by the City Manager for the reasons listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(E) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(F) The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(G) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

~~**5-2-6: PENALTY:** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1959)~~

Section 3. Chapter 3, Title V, W.M.C., is hereby AMENDED to read as follows:

**CHAPTER 3  
HOME OCCUPATION LICENSE**

~~5-3-1: —~~ **DEFINITIONS**

~~5-3-2: —~~ **LICENSE REQUIRED**

~~5-3-3: —~~ **LICENSE APPLICATION AND ADMINISTRATION**

~~5-3-4: —~~ **TRANSFER**

~~5-3-5: —~~ **LICENSE DENIAL, CANCELLATION, SUSPENSION ~~OR,~~ REVOCATION**

~~5-3-6: —~~ **PENALTY**

~~**5-3-1: DEFINITIONS:** For purposes of this Chapter, "home occupation" shall be as defined in section 11-4-10 of this Code and shall also include any business located or based within the City that does not~~

~~have a general business license, and is operated from a residential address or post office box address. (1959)~~

**5-3-1: DEFINITIONS:** The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise: "Home occupation" means any trade, vocation, occupation, profession, enterprise, service, or any commercial activity, for profit or not-for-profit, which is conducted in connection with the occupation of a dwelling unit meeting all of the zoning regulations set forth in Section 11-4-10, W.M.C, and which does not have a business license pursuant to Chapter 2 of this Title. The term "home occupation" shall not include any hobby or leisure activity not engaged in for profit.

**5-3-2: LICENSE REQUIRED:** It shall be unlawful for any person to operate a home occupation without first obtaining a home occupation license. (1959)

**5-3-3: LICENSE APPLICATION AND ADMINISTRATION:** (1959 2574 3443)

~~(A)–~~ The applicant for a home occupation license shall submit an application to the City Clerk on forms provided by the City Clerk. The application shall be investigated by the City Manager in order to determine whether grounds exist for denial. If approval of the application is recommended as a result of the investigation, the City Clerk shall issue the license. The City Manager may approve the application with ~~reasonable~~ conditions reasonably deemed by the City Manager as necessary to protect the public health, welfare and safety.

~~(B) All licenses shall specify the name of the licensee, the business address, and the nature of the business. Every license granted under the provisions of this Chapter shall be posted in a conspicuous place at the place of business. It shall be the duty of each licensee to show the license at any reasonable time when requested to do so by any City official.~~

**5-3-4: TRANSFER:** Home occupation licenses are not transferrable. Any transfer of a ~~home occupation dwelling unit~~ to a new owner, whether by sale, gift or operation of law, shall cause a cancellation of ~~the prior~~ any underlying home occupation license. The new owner shall not conduct business a home occupation until a new license has been obtained pursuant to this Chapter. (1959)

**5-3-5: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION:** (1959 2574 3443)

~~(A)–~~ A home occupation license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, or for any reason set forth in Chapter 1 of this Title. ~~Grounds for such action may also include:~~

- ~~(1)– Nonconformance of the premises to the requirements of this Code;~~
- ~~(2)– Nonconformance of the occupation or of the applicant or licensee with the limitations specified in Section 11-4-10 of this Code.~~

~~(B)– Any of the following circumstances may be considered cause for denial of a license:~~

- ~~(1)– The application is incomplete or contains false, misleading or fraudulent statements.~~
- ~~(2)– Nonconformance of the business, premises, building or land use with this Code.~~

~~The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this Code such as zoning or the building code. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(C) A license may be denied, cancelled, suspended or revoked for any violation of the provisions of this Chapter for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(D) A license may be cancelled, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(E) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(F) The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(G) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

~~**5-3-6: PENALTY:** (3443) It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title VIII of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.~~

Section 4. Chapter 4, Title V, W.M.C., is hereby AMENDED to read as follows:

#### **CHAPTER 4 SALES AND USE TAX LICENSE**

~~5-4-1: DEFINITIONS:~~

~~5-4-2: LICENSE REQUIRED~~

~~5-4-3: EXEMPTIONS~~

~~5-4-4: LICENSE APPLICATION, TERM OF LICENSE AND ADMINISTRATION RENEWAL~~

~~5-4-5: LICENSE DENIAL, CANCELLATION OR REVOCATION~~

~~5-4-6: PENALTY~~

~~**5-4-1: DEFINITIONS:** The following words, terms and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:~~

~~(A) "License" shall mean" means a Westminster sales and use tax license. (1959)~~

~~(B) "Engaged in Business in the City" means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the City. Engaged in business in the City includes, but is not limited to, any one of the following activities by a person:~~

1. Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;
2. Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;
3. Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;
4. Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or
5. Makes more than one delivery into the taxing jurisdiction within a twelve-month period.

**5-4-2: LICENSE REQUIRED:** (1959)

(A) It shall be unlawful for any person to ~~engage~~be Engaged in ~~business~~Business in the City without first obtaining a license pursuant to this Chapter.

(B) Any person reporting use tax on an actual cost basis for one or more construction projects inside the City shall obtain a separate license for each project; except that persons who sell tangible personal property, together with the installation of such property, which installation requires a building permit, including but not limited to satellite dishes, hot tubs, decks, patios, and signs, may report tax on an actual cost basis for all projects inside the City under one license.

(C) A temporary license may be issued for temporary locations and/or special events for periods of seven (7) consecutive days or less, not to exceed a total of twenty-one (21) days per calendar year. ~~The reporting period for temporary licenses shall end on the day the temporary location closes or special event concludes.~~

(D) Nothing in this Chapter shall be deemed or construed to relieve any person who is engaged in business in the City from the obligation to collect and pay tax under Title IV of this Code.

**5-4-3: EXEMPTIONS:** No license shall be required for any governmental agency or exempt organization which is exempt from the taxes imposed by Title IV of this Code. (1959)

**5-4-4: LICENSE APPLICATION AND ADMINISTRATION:** (1959 2574 3371)

(A) An applicant for a license shall submit an application to the City Clerk on forms provided by the City, stating the ~~business name and address, mailing address, type of business, and such other~~ information as may be required by the Finance Director. ~~A separate application need not be filed if the applicant has applied for a business or home occupation license.~~

(B) Each license shall be ~~numbered and shall show the name, location, mailing address and character of business of the licensee and shall be~~ posted in a conspicuous place at the business location for which it is issued. It shall be the duty of every person to whom a license has been issued, or any agent, servant, or employee utilized in the conduct of the business of the person licensed, to exhibit the license upon the request of a City official.

(C) No license shall be transferable. ~~After any sale of a business, the new owner shall apply for a new license.~~

**5-4-5: LICENSE DENIAL, CANCELLATION OR REVOCATION:** (1959 2574)

~~(A) — A license may be denied, cancelled, suspended, or revoked for any reason stated in Chapter 1 of this Title, or for any violation of the provisions of this Chapter, or as listed below. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~1. The required fees have not been paid~~

~~2. The application is incomplete or contains false, misleading or fraudulent statements.~~

~~3. Nonconformance of the business, premises, building or land use with this Code.~~

~~(B) — The Finance Director may cancel any, . In addition, [A1] a license:~~

~~1. Upon receipt of a written notice that the taxpayer is no longer engaged in business in the City;~~

~~2. Upon the taxpayer's may be administratively cancelled upon the licensee's failure to respond to three consecutive notices of delinquency. The Finance Director shall give notice to the taxpayer that the license has been cancelled.~~

~~(C) — A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(D) — A license may be denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(E) — An application for a new license may be denied by the Finance Director, upon the grounds listed in Chapter 1 of this Title or as stated above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this Code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(F) — A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(G) — The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(H) — No taxpayer shall continue engaging in business in the City after their license has been cancelled or revoked.~~

~~**5-4-6: PENALTY:** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1959)~~

Section 5. Chapter 5, Title V, W.M.C., is hereby AMENDED to read as follows:

**CHAPTER 5**  
**CONTRACTOR'S REGISTRATION LICENSE**

**5-5-1: DEFINITIONS**

~~5-5-2: REGISTRATION~~

~~5-5-2: LICENSE REQUIRED~~

~~5-5-3: EXEMPTIONS~~

~~5-5-4: LICENSE APPLICATION FOR REGISTRATION; RENEWAL~~

~~5-5-5: CLASSIFICATION AND FEES~~

~~5-5-6: RENEWAL LICENSE DENIAL, NON-RENEWAL, CANCELLATION, SUSPENSION  
AND OR REVOCATION~~

~~5-5-7: REGISTRATION~~

~~5-5-8: 7: BONDS AND INSURANCE REQUIRED~~

~~5-5-9: PENALTY~~

**5-5-1: DEFINITIONS:**

(A) The following words, terms and phrases, when used in this Chapter; shall have the following meanings, unless the content clearly indicates otherwise: (1959)

(1) "Contractor" means any person who:

(A) (a) Undertakes work with or for another person within the City to build, construct, alter, remodel, repair, equip, move or wreck any building or structure, or any portion thereof, or any public utility system, or public street, for which a permit from the City of Westminster is required and which work is to be accomplished for a fixed sum price, fee percentage or other compensation;

~~(B) (b) Builds, constructs, alters or adds to any building or structure either upon his own or another's property;~~

~~(C) (c) Holds himself out to perform house moving or the moving of buildings or structures from one location to another;~~

~~(D) (d) Holds himself out to perform the service of wrecking a building or other structure;~~

~~(E) (e) Holds himself out to perform the service of plumber (which also requires a State Master's License);~~

~~(F) (f) Holds himself out to perform the service of electrician (which also requires a State Master's License);~~

**5-5-2: REGISTRATION LICENSE REQUIRED:** It shall be unlawful for any person to perform any work as a contractor within the City without first obtaining a registration license pursuant to this Chapter. No permits shall be issued for work to be done by an unregistered unlicensed contractor. (1959)

**5-5-3: EXEMPTIONS:** (1959)

(A) The registration license requirement shall not apply to:

(1) An owner of a single family or ~~occupant making ordinary duplex residential property who alters, repairs to, remodels, equips, moves, or wrecks~~ the building he owns ~~or occupies, which repairs do not involve the structure of the building,~~ when the owner ~~or occupant~~ furnishes all the material and labor.

(2) ~~A home~~An owner who builds or constructs his own residence, or a building or structure accessory thereto which is intended for his own personal use. This exemption shall be permitted only once within a period of one (1) year; otherwise, a registration license as a contractor shall be required.

(3) A property owner who is doing work which would normally require a Class D public way contractor's registration license, but for whom the City engineer or his designee has waived the registration license requirement when:

      (a-) The proposed work affects an area of two hundred (200) square feet or less, or one (1) single-family dwelling; and

      (b-) The owner is performing the work in the public way immediately adjacent to his own property, and

      (c-) The owner provides a copy of his homeowner's insurance policy, which is sufficient in the opinion of the City engineer or his designee to provide liability coverage of claims by third parties resulting from the owner's work in the public right of way. This exemption shall be permitted only once within a period of one (1) year, otherwise registration license as a contractor shall be required.

(-B) The exemption from registration license requirements does not waive permit requirements.

#### **5-5-4: APPLICATION FOR REGISTRATION LICENSE: (1959)**

(A) Application for registration license shall be made at the City Building Division. The application for every registration license required by this Chapter shall contain:

(1) The name of the person desiring the registration license, and the names of the individual members of such firm or of each of the directing officers of such corporation.

(2) The residential address of each applicant or each of the individual members of such firm or of each of the directing officers of such corporation,

(3) The address of the principal place of business,

(4) The street address, if any, where such business is to be carried on, if different from the other addresses previously stated,

(5) The class of registration license desired,

(6) Any other relevant information required by the terms of the provisions pertaining to the class of registration license sought,

(7) State Master's License number for electricians and plumbers (no single master plumber or electrician may request a license for more than one company), and

(8) The fee required by this Chapter.

(B) All licenses shall expire twelve (12) months from date of issuance, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees. Renewal may be denied pursuant to the provisions below. (1959 2574)

**5-5-5: CLASSIFICATION AND FEES: (1959 2305)**

(A) The following classes of registrationlicense and fees are hereby established:

(1) Class A Contractor. This registrationlicense shall entitle the holder to contract for the construction, alteration, or repair of any type or size of structure permitted by this Code. The annual fee shall be one hundred ten dollars (\$110).

(2) Class B Plumber. The annual fee for plumbers holding a State of Colorado Master's License shall be one hundred ten dollars (\$110)

(3) Class C Electrician. No fee shall be charged for a registrationlicense of a person holding a state license.

(4) Class D Public Way Contractor. This class registrationlicense shall entitle the holder to contract for work affecting public property or grounds, utility systems (either City-owned or contracting with the City for service of any type) or work within any street right-of-way, utility easement, or other public property. The annual fee for this class registrationlicense shall be one hundred ten dollars (\$110)

(B) It shall be the duty of every contractor to exhibit its registrationlicense upon request of the chief building official, his authorized representative or any law enforcement officer of the City.

~~**5-5-6: RENEWAL:** All registrations shall expire twelve (12) months from date of issuance, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees. Renewal may be denied pursuant to the provisions below. (1959 2574)~~

~~**5-5-7: REGISTRATION;** **5-5-6: LICENSE DENIAL, CANCELLATION, DENIAL OF RENEWAL, SUSPENSION, AND REVOCATION:** (1959 2574)~~

~~(A) The City Manager may suspend or revoke any registration for unskillfulness, carelessness or willful violation of the City Manager's directions by a registered contractor, after notice and hearing as provided below.~~

~~(B) A registrationlicense may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the registered contractor, or as listed below.~~

~~(C) A registration may be cancelled, denied renewal, suspended or revoked after the contractor has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the contractor or mailed to the address contained in the registration, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(1) The City Manager may suspend or revoke any license for unskillfulness, carelessness, or willful violation of any order for corrective action issued by the Chief Building Official.~~

~~(D) An application for a new registration may be denied by~~

~~(2) Any violation of the City Manager, upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(E) A registration may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(F) The Special Permit and License Board shall conduct an appeal of the denial of a new registration or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(G) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

**5-5-7: BONDS AND INSURANCE REQUIRED: (1959)**

(A) It shall be unlawful for any Class D contractor to engage in any work without first obtaining a right of way excavation/construction permit from the City.

(B) Before the issuance of a right of way excavation/construction permit to a Class D contractor, the contractor shall provide a surety bond ~~bond~~ payable to the City in the amount of five thousand dollars (\$5,000), which bond shall be conditioned upon faithful compliance with all applicable laws and all terms and conditions of the right of way excavation/construction permit and shall also indemnify and hold the City harmless from any liability resulting from the Class D contractor's work. If the Class D contractor's work is done on behalf of the City as principal, and a performance bond is required by the contractor's agreement with the City, then no additional bond shall be required pursuant to this section. Franchised entities are exempt from this requirement unless otherwise required by the individual franchise or by state or federal law. Independent contractors of franchised entities are not exempt unless so provided by the applicable franchise.

(C) Before the issuance of a right of way excavation/construction permit, the contractor shall submit satisfactory certificates of either the insurance coverage required under his contract or insurance in accordance with the following schedule, whichever is greater:

TYPE OF INSURANCE	AMOUNT
(1) Workmen's Compensation	Statutory - In conformance with the Workmen's Compensation Act of Colorado
(2) Employer's Liability	<del>\$100,000 (each person)</del> \$500,000 (Aggregate)

This insurance shall protect the contractor against all claims under the workman's compensation laws and employer's liability laws of the State of Colorado.

(23) Comprehensive Automobile Liability:	
(a) Bodily Injury	<del>\$150</del> 500,000 (each person)

	<del>\$400,000 (each occurrence)</del>	
(b) Property Damage	<del>\$150,000 (each person)</del>	\$400 <u>500</u> ,000 (each occurrence)

This insurance shall be written in comprehensive form and shall include all motor vehicles licensed for highway use whether they are owned, non-owned, or hired.

~~(3)-4~~ Comprehensive General Liability:

(a) Bodily Injury	<del>\$150</del> <u>500</u> ,000 (each person)
<del>\$400</del> <u>(b) Property Damage</u>	<del>\$500,000 (each occurrence)</del>
<del>(b) Property Damage</del>	<del>\$150,000 (each person)</del>
	<del>\$400,000 (each occurrence)</del>

This insurance shall be written in comprehensive general liability form and shall include coverage for subcontractors. If work undertaken may require blasting, explosive conditions, or underground operations, the comprehensive general liability coverage shall include coverage of blasting, explosion, collapse of buildings, or damage to underground property. The insurance required in this section shall be continued throughout the period of the contract work and maintenance period.

~~**5-5-9: PENALTY:** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.~~

Section 6. Chapter 6, Title V, W.M.C., "Peddlers and Solicitors," is hereby REPEALED IN ITS ENTIRETY.

Section 7. Chapter 8, Title V, W.M.C., is hereby AMENDED to read as follows:

**CHAPTER 8  
PAWNBROKERS**

~~5-8-1:-~~ LEGISLATIVE INTENT

~~5-8-2:~~ DEFINITIONS

~~5-8-2:-~~ 3:LICENSE REQUIRED

~~5-8-3:-~~ 4:LICENSE APPLICATION

~~5-8-4:~~ FEES

~~5-8-5:-~~ RENEWAL APPLICATION REVIEW

~~5-8-6:-~~ LICENSE DENIAL, NON-RENEWAL, SUSPENSION, CANCELLATION, OR REVOCATION

~~5-8-7:-~~ BOND REQUIRED

~~5-8-8:~~ TRANSFER OF OWNERSHIP

~~5-8-8:~~ LICENSE ADMINISTRATION

~~5-8-9:-~~ CONDITION CONDITIONS OF OPERATION

~~5-8-10:-~~ PROHIBITED ACTS

~~5-8-11:~~ PENALTY

~~5-8-1:~~ LEGISLATIVE INTENT: In addition to the findings expressed in Section 5-1-1, the City Council finds that the local regulation of the pawn shop industry is necessary to protect the citizens of Westminster from potentially fraudulent criminal conduct in connection with the receipt, purchase, and sale of pawned property.

**5-8-2: DEFINITIONS:** (1965)

(A) The following words, terms and phrases, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise:

(1) "Applicant" shall mean:

~~1-(a)~~ An individual, or

~~2-(b)~~ All general or limited partners of a partnership, or

~~3-(c)~~ All members of the board of directors or shareholders of a corporation,

that applies for a license pursuant to this Chapter.

(B2) "Contract for purchasepawn" means a contract entered into between a pawnbroker and a customer pursuant to which money is advanced to the customer by the pawnbroker on the delivery of tangible personal property by the customer on the condition that the customer, for a fixed price and within a fixed period of time, not to exceed ninety days, has the option to cancel said contract.

(C3) "Fixed price" means the amount agreed upon to cancel a contract for purchasepawn during the option period. Said fixed price shall not exceed:

~~1. One-tenth of the original purchase price for each month, plus the original purchase price, on amounts of fifty dollars or over; or~~

~~2. One one-fifth of the original purchase price for each month, plus the original purchase price, on amounts under fifty dollars.~~

(D4) "Fixed time" means that period of time, ~~not to exceed ninety~~be no less than thirty (30) days, as set forth in a contract for purchasepawn, for an option to cancel said contract.

(E5) "Option" means the fixed time and the fixed price agreed upon by the customer and the pawnbroker in which a contract for purchasepawn may be but does not have to be rescinded by the customer.

(F6) "Pawnbroker" means a person regularly engaged in the business of making contracts for purchase pawn and/or purchase transactions in the course of his business.

(G7) "Purchase transaction" means the purchase by a pawnbroker in the course of his business of tangible personal property for resale, other than newly manufactured tangible personal property ~~which~~that has not previously been sold at retail, when such purchase does not constitute a contract for purchasepawn.

(H8) "Tangible personal property" means all personal property other than choses in action, securities, or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his business in connection with a contract for purchasepawn or purchase transaction.

**~~5-8-2: 5-8-3: LICENSE REQUIRED:~~** (1965)

(A) It shall be unlawful for any person to act as a pawnbroker within the City of Westminster without first obtaining a license to conduct such business pursuant to this Chapter.

(B) All requirements specified in Article 56 of Title 12, Colorado Revised Statutes, ~~shall control and~~ are hereby incorporated by reference in this Chapter. In the event that inconsistent of a conflict between those requirements are and the requirements set forth in this chapter herein, the more restrictive requirement shall apply.

**5-8-34: LICENSE APPLICATION: (1965)**

(A) The applicant for a license shall submit a verified application to the City Clerk on forms provided by the City Clerk, which shall include the following information:

~~(1-)~~ Name, address, telephone number, and description of the applicant, including date of birth;

~~—2-~~ In the case of a corporation, the name, ~~address,~~ addresses and telephone ~~number~~ numbers of the corporation and the agent for service of process;

(2) The names and addresses of any other pawn shops owned or operated by the applicant in the state of Colorado;

~~(3-)~~ A statement of whether the applicant has been convicted of any crime, misdemeanor or violation of any federal, state or municipal law, the nature of the offense and the punishment or penalty assessed therefor;

~~(4-)~~ A brief statement or drawing of the nature and character of the signage or advertising to be used;

~~(5-)~~ The location of the proposed business;

~~(6-)~~ A copy of the applicant's lease or other evidence of the applicant's right to possession of the premises;

~~(7-)~~ Information regarding the zoning of the location of the premises; and

~~(8-)~~ Such other reasonable information as to the identity or character of the applicant as may be determined by the Chief of Police to be necessary for the protection of the public welfare.

~~(B) Upon receipt of an application, the City Clerk shall forward it to those persons designated by the City Manager, including the Chief of Police, who shall cause such investigation of the applicant to be made as he deems necessary for the protection of the public and return his recommendation to the City Clerk. If the investigation discloses that the applicant has been convicted of misdemeanors or felonies that were not disclosed on the application, the Chief of Police shall recommend denial of the application. If the applicant has disclosed convictions on the application, the Chief of Police shall make his recommendation based on the nature of the offenses, the length of time since the convictions and any other information relevant to the protection of the public. The Chief of Police may also base his recommendation upon other identifiable threats to public safety.~~ (B) The applicant for a license renewal shall submit a verified application to the City Clerk on forms provided by the City Clerk, which shall include any information listed in subSection (A) above that has changed since the original application or the last renewal application.

(C) If the application is approved by the City Manager, upon posting the bond required by this Chapter and payment of the prescribed annual license fee by the applicant, the license shall be issued.

**~~5-8-4: FEES:~~ (1965)**

~~(A)~~

~~(D)~~ All original applications shall be accompanied by a ~~four hundred and fiftyone thousand~~ dollar (\$~~4501,000~~) non-refundable application fee to defray the cost of reviewing and evaluating the application.

~~(B)~~ For pawn shops existing prior to 1991, the annual license fee shall be three hundred dollars (\$300) for 1991, seven hundred dollars (\$700) for 1992, and one thousand dollars (\$1,000) for 1993. The annual license fee for pawn shops commencing business in 1991 and thereafter shall be one thousand dollars (\$1,000).

~~(C)~~ No application fee is refundable in the event of revocation or suspension of a license. The application fee may be refunded at the discretion of the City Manager if an application for a license is denied.

~~(D)~~ The Police Department shall issue a quarterly invoice to each licensee listing the charges for all forms used by the Police Department pursuant to the state statute regulating pawn shops. Invoices shall be payable within thirty days.

**5-8-5: RENEWAL APPLICATION REVIEW: (1965)**

(A) Upon receipt of an application, the City Clerk shall forward it to the City Manager and the Chief of Police. The Chief of Police shall cause such investigation of the applicant to be made as the Chief may deem necessary for the protection of the public and return his recommendations to the City Manager. The City Manager shall consider the following factors prior to approving or denying an application:

(1) Whether the investigation discloses that the applicant has been convicted of misdemeanors or felonies that were not disclosed on the application;

(2) If the applicant has disclosed convictions on the application, whether the nature of the offenses are relevant to the operation of a pawn shop. If such convictions exist, the Manager may also consider that number of convictions and the length of time since the last conviction;

(3) Whether investigation of other pawn shops operated by the applicant indicate a failure to comply with the requirements of state law;

(4) Whether the investigation discloses other identifiable threats to public safety.

(B) If the application or license renewal is approved by the City Manager, upon posting the bond required by this Chapter and payment of the annual license fee by the applicant, the license will be issued.

(C) The initial application and annual license fee for pawn shops shall be one thousand dollars (\$1,000).

(D) All licenses issued pursuant to this Chapter shall expire annually on December ~~thirty-first~~31, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the annual license fee.

~~(B)~~ The renewal application shall be reviewed by the City Manager who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. The City Manager shall evaluate the application under the criteria set forth for original applications.

**5-8-6: LICENSE DENIAL, NON-RENEWAL, SUSPENSION, CANCELLATION OR REVOCATION: (1965 2574)**

~~(A) A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, or for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(B) A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(C) An application for a new license may be denied by the City Manager, upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(D) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(E) The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(F) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

**5-8-7: BOND REQUIRED:** Before any license shall be issued to an applicant pursuant to this Chapter, each applicant shall file with the City Clerk a cash bond, certified funds payable to the City, or a surety bond running to the City in the sum of Ten Thousand Dollars (\$10,000). If a surety bond is provided it shall be executed by the applicant as principal and at least one surety upon which service of process may be made in the State of Colorado. The bond shall be conditioned that the applicant shall comply fully with all the provisions of the laws of the City and the statutes of the State of Colorado regulating and concerning the applicant's business, and will pay all judgments rendered against the applicant for any violation of said laws or statutes together with all judgments and costs that may be recovered against him by any person for damage growing out of any such business with the applicant. Action on the bond may be brought in the name of the City to the use of the aggrieved person. Such bond must be approved by the City Attorney, both as to form and as to the responsibility of the surety. (1965)

**5-8-8: ~~TRANSFER OF OWNERSHIP:~~LICENSE ADMINISTRATION:** (1965)

(A) Every pawnbroker shall provide the Westminster Police Department, on a weekly basis, with two records, on a form to be provided or approved by the Police Department, of all tangible personal property accepted during the preceding week and one copy of the customer's declaration of ownership. The form shall contain the same information required to be recorded in the pawnbroker's register pursuant to Section 5-8-9 (A) and (B) of this Chapter. The Police Department shall designate the day of the week on which the records and declarations shall be submitted.

(B) The Police Department will issue a quarterly invoice to each licensee listing the charges for all forms used by the Police Department pursuant to the state statute regulating pawn shops. The pawnbroker shall pay the invoices within thirty days

(C) In the event of a transfer of a pawn shop ownership:

(1) Prior to or within thirty (30) days after the transfer of ownership of a ~~pawn~~pawn shop, or of the transfer of ownership of any of the capital stock of the corporation, the new owner of the stock or business shall file with the City Clerk a written report of the transfer on forms provided by the City Clerk. The report shall be accompanied by an investigation fee of two hundred and fifty dollars (\$250).

~~(B)~~ (2) Upon receipt of the report of transfer, the City Clerk shall report the transfer to the City Manager, ~~after.~~ After sufficient investigation by the Police Department, ~~and~~ the City Manager may approve or deny the transfer. Criteria for approval shall be the same as for an original application. The City Manager shall consider ~~only~~ the character of the proposed new owner or owners and whether the new owner or owners comply with all requirements of the Code and rules and regulations adopted pursuant to the Code. If the new owner or owners are not approved, the license may be revoked.

**5-8-9: CONDITIONS OF OPERATION: (1965)**

(A) A pawnbroker shall keep a numerical register in which he shall record the following information:

(1) The name, address, and date of birth of the customer, and ~~his~~the driver's license number or other identification number from any other form of identification ~~which~~that is allowed for the sale of valuable articles pursuant to ~~section~~Section 18-16-103, CRS., or for the sale of secondhand property pursuant to ~~section~~Section 18-13-114, CRS;

(2) The date, time, and place of the contract for ~~purchase~~pawn or purchase transaction; and

(3) An accurate and detailed account and description of each item of tangible personal property, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying marks on such property.

(B) The pawnbroker shall also obtain a written declaration of the customer's ownership which shall state that the tangible personal property is totally owned by the customer, or shall have attached to such declaration a power of sale from the partial owner to the customer, how long the customer has owned the property, whether the customer or someone else found the property, and, if the property was found, the details of the finding.

(C) The ~~pawnbroker shall require the~~ customer ~~shall to~~ sign his name in the numerical register ~~or other tangible or electronic record~~ and on the declaration of ownership and the pawnbroker shall give the customer a copy of the contract for ~~purchase~~pawn or a receipt of the purchase transaction.

(D) The ~~pawnbroker shall require the customer to place an indelible print of the customer's index finger on the~~ numerical register ~~or other tangible record of the transaction.~~

~~(E)~~ The pawnbroker shall be made ~~make the numerical register or other tangible or electronic record~~ available to the Westminster Police Department for inspection at any reasonable time.

~~(F)~~ The pawnbroker shall keep each register ~~or other tangible or electronic record~~ for at least three years after the date of the last transaction entered in the register.

~~(F)~~(G) A pawnbroker shall hold all contracted goods within his jurisdiction for a period of ten days following the maturity date of the contract for ~~purchase~~pawn, during which time such goods shall be held

separate and apart from any other tangible personal property and shall not be changed in form or altered in any way.

(GH) A pawnbroker shall hold all property purchased by him through a purchase transaction for thirty days following the date of purchase, during which time such property shall be held separate and apart from any other tangible personal property and shall not be changed in form or altered in any way.

~~(H) Every pawnbroker shall provide the Westminster Police Department, on a weekly basis, with two records, on a form to be provided or approved by the Police Department, of all tangible personal property accepted during the preceding week and one copy of the customer's declaration of ownership. The form shall contain the same information required to be recorded in the pawnbroker's register pursuant to subsection (B) of this section. The Police Department shall designate the day of the week on which the records and declarations shall be submitted.~~

**5-8-10: PROHIBITED ACTS: (1965)**

(A) It shall be unlawful for any ~~person~~pawnbroker:

~~(1. To operate a pawnshop without holding a validly issued license;~~

~~—2.)~~ To enter into a contract for purchasepawn or purchase transaction with any individual under the age of eighteen years;

~~3.(2)~~ To permit any customer to become obligated on the same day in any way under more than one contract for purchasepawn agreement with the pawnbroker ~~which~~that would result in the pawnbroker obtaining a greater amount of money than would be permitted if the pawnbroker and customer had entered into only one contract for purchasepawn covering the same tangible personal property;

~~4.(3)~~ To violate the terms of the contract for purchase;pawn.

~~—5. For (B) It shall be unlawful for~~ a customer to knowingly give false information with respect to the information required by ~~section~~Section 5-8-9-

~~**5-8-11: PENALTY:** It shall be unlawful for any person to violate a provision(A), (B), or (C) of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1965)~~

Section 8. Chapter 9, Title V, W.M.C., is hereby AMENDED to read as follows:

**CHAPTER 9  
AMUSEMENT CENTERS**

**5-9-1: LICENSE REQUIRED**

**5-9-2: EXEMPTIONS**

**5-9-3: LICENSE APPLICATION FEES AND TAXES REVIEW**

~~5-9-3:~~

**5-9-4: RENEWAL FEES AND TAXES**

**5-9-5: RENEWAL**

**5-9-6: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION**

~~5-9-6:-7:~~ **HOURS OF OPERATION, AGE LIMITATION**

~~5-9-7: 8:~~ **SECURITY GUARDS**

~~5-9-8: 9:~~ **PROHIBITED ACTS**

~~5-9-9:~~ **PENALTY**

**5-9-1: LICENSE REQUIRED:** It shall be unlawful for any person to operate or conduct any place of amusement or recreation offering to the public for a fee the use of any pool or billiard table or any other amusement game or device, without first obtaining a license therefor pursuant to this Chapter. Licenses shall not be transferable, and upon a change of owner or change of location, a new license must be obtained. (1959 3016)

**5-9-2: EXEMPTIONS:** When operating a total of twelve (12) or fewer amusement tables, games or devices referred to in this Chapter, any premise used principally for the conduct of another business, including, but not limited to a grocery store, convenience store, drugstore, bowling alley or tavern, shall not be required to obtain an amusement center license in addition to a business license, but shall continue to be subject to the remaining provisions of this Chapter, unless otherwise noted herein.

**5-9-3: LICENSE APPLICATION AND REVIEW:** (1959 2229 2707 3016) Conditions for applications for an original license or a renewal; are:

(A) The applicant shall submit a verified application to the City Clerk, on forms provided by the City Clerk, and accompanied by the ~~fee and~~ tax required by this Chapter.

(B) The application shall be reviewed by the City Manager who shall have the power to grant or deny such license, to request an investigation by the Police Department, and to impose reasonable limitations and restrictions on any license so granted. The City Manager shall evaluate the application under the criteria set forth below and based upon the results of an investigation by the Police Department, if any.

- ~~(1-)~~ The character of the applicant;
- ~~(2-)~~ The applicant's prior experience and qualifications to operate such a business;
- ~~(3- The needs of the community for such a facility and the desires of its citizens regarding such a facility, including any petitions or remonstrances evidencing such desires;~~
- ~~4- Pedestrian safety;~~
- ~~5-)~~ Traffic volume and adequacy of parking and access;
- ~~6- Essential character of the neighborhood and the applicant's effect on the peace of the neighborhood;~~
- ~~7-)~~ (4) Compliance of the facility with all applicable zoning and building regulations;
- ~~8-)~~ (5) Police activity in comparable businesses; ~~;~~
- ~~9- Architectural compatibility with the character of the neighborhood.~~

**5-9-34: FEES AND TAXES:** (1959 2707 3016)

(A) There shall be no application fee for a new or renewal license.

(B) The licensee shall annually remit ~~a tax or an~~ excise tax of ~~Forty Dollars~~ forty dollars (\$40) per pool or billiard table or coin-operated amusement game or device, payable at the time of filing an application for an original or renewal license or when a new table or game or device is added to the premises. If a license is obtained or a pool or billiard table or coin-operated amusement game or device is added by the licensee after June 30 of a particular year, the tax or excise shall be ~~Twenty Dollars~~ twenty dollars (\$20) each.

**5-9-45: RENEWAL:** (1959 2707 3016)

(A) All licenses issued pursuant to this Chapter shall expire December thirty first of the year for which issued, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required taxes.

(B) The renewal application shall be reviewed by the City Manager who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. The City Manager shall evaluate the application under the criteria set forth for original applications.

(C) Failure to pay required ~~fees or~~ taxes shall be grounds to deny renewal, and no renewal license shall be issued until such ~~fees and~~ taxes are paid.

**5-9-56: LICENSE DENIAL, CANCELLATION, NON-RENEWAL, SUSPENSION OR REVOCATION:** (1959 2229 2574 3016)

(A) Upon his own motion, or upon complaint by the Police Chief, the City Manager may cancel, suspend or revoke any license at any time ~~on the grounds that it is:~~

- ~~1. Detrimental to the public health, safety or welfare due to the location of the amusement center,~~
- ~~2. Because of the proximity of said location to schools, churches, or other places where the public may congregate,~~
- ~~3. Based on the criteria set forth in section 5-9-2(A)(8), or~~
- ~~4. Based on for any violation of the provisions of this Code or any other law.~~
- ~~5. Based on the provisions of Chapter, or for any reason set forth in Chapter 1 of this Title.~~

(B) A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title and shall inform the licensee that he may request, in writing to the City Clerk, a hearing before the Special Permit and license Board pursuant to subsection (E) below. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.

(C) An application for a new license may be denied by the City Manager, upon the grounds listed in Section 5-9-3(B), above, or Section 5-1-6, W.M.C. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with the zoning or building code, or failure to pay any required fees or taxes. The reason for the denial of the application shall be provided to the applicant in writing.

(D) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

(E) The Special Permit and License Board shall conduct a hearing on an appeal of the denial of a new license, the cancellation, denial of renewal, suspension or revocation of a license pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

(F) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.

(G) Any premises licensed pursuant to this Chapter, including the parking lots and streets and sidewalks adjacent to the premises, which become the location of frequent or repeated violations of the City's ordinances, including but not limited to disturbances, assaults, thefts, malicious mischief and disorderly conduct, is hereby declared to be a nuisance, which shall be abated pursuant to the provisions specified in Chapter 4 of Title VIII ~~of this code and the license of said premises shall be revoked.~~

**5-9-6: 5-9-7: HOURS OF OPERATION; AGE LIMITATION: (1959 3016)**

(A) The licensee shall observe the following hours of operation:

~~(1-)~~ Except for premises licensed for the sale of fermented malt beverages, malt, vinous or spirituous liquor for consumption on the premises, premises licensed pursuant to this Chapter shall be open to the public not earlier than ten o'clock (10:00) A.M. and not later than eleven o'clock (11:00) P.M. on Sundays through Thursdays and on Fridays and Saturdays shall be open to the public no earlier than ten o'clock (10:00) AM. and not later than midnight (12:00 AM). An adult twenty one (21) years of age or older shall be present on and responsible for management of the premises during all hours of operation.

~~(2-)~~ Private events: licensed amusement centers may conduct private events outside the hours of operation stated ~~in 5-9-6~~ herein subject to the following requirements:

(a) ~~in compliance with the following:~~

~~a-~~ The center may not be licensed for the sale of ferment malt beverages, malt, vinous or spirituous liquor, nor may any of the same be sold, served, or consumed on the premises.

~~(b-)~~ If minors are in attendance, there must be one (1) adult supervisor for every eight (8) minors.

~~(c-)~~ Minors must remain in the building and must not be allowed to leave and re-enter during the event.

~~(d-)~~ Participants must not be allowed to congregate or loiter in the parking lot or nearby areas and must comply with the regulation of nighttime juvenile loitering ~~- contained in~~ Section 6-3-11.

~~(e-)~~ The center must not allow any form of entertainment other than those amusement devices for which it is licensed.

~~(f-)~~ The center must report the event to the city clerk in writing, with a copy to the police department, at least seventy-two (72) hours in advance.

“Private Event” means an event for which the center has closed the premises to the general public.

(B) Unless the licensee of the premises maintains a full-time security guard, or has twelve or ~~less fewer~~ amusement tables, games or devices, it shall be unlawful for a licensee or any other person in charge of the licensed premises to permit any pool or billiard table or coin-operated amusement games or devices to be used by any person under the age of sixteen (16) years or to allow any such persons to congregate or remain upon the licensed premises unless accompanied by a parent or legal guardian. Such security guard shall be in addition to the adult manager of the premises. This subsection shall not apply to premises licensed for the sale of fermented malt beverages, malt, vinous or spirituous liquor for consumption on the premises.

(C) When operating a total of twelve (12) or ~~less of the fewer~~ amusement tables, games, or devices referred to in this Chapter, premises used principally for the conduct of another business, including, but not limited to grocery store, convenience store, drugstore, bowling alley or tavern shall not be subject to the provisions of this ~~section~~ Section.

**5-9-78: SECURITY GUARDS:** (1959 3016)

(A) The owner of any premises licensed pursuant to this Chapter shall maintain security guards. The number of security guards required shall be calculated as follows:

~~(1-)~~ Premises licensed for the sale of fermented malt beverages, or malt, vinous or spirituous liquor for consumption on the premises: For thirteen (13) to fifty (50) tables or machines, one (1) guard on duty during all hours of operation; for more than fifty (50) tables or machines, one (1) or more additional guards may be required for such hours as the City Manager may decide based on, but not limited to, the number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels.

~~(2-)~~ All other premises: For thirteen (13) to fifty (50) tables or machines, one (1) guard on duty during all hours of operation; for more than fifty (50) tables or machines, one (1) or more additional guards may be required for such hours as the City Manager may decide based on, but not limited to, the number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels.

(B) For premises licensed for more than fifty (50) machines or tables, any requirements for security guards in excess of one (1) security guard, imposed pursuant to subsection (A) of this ~~section~~Section, shall be stated on the license. These conditions shall be reviewed annually by the City Manager upon application for renewal of the license or at any time at the request of the City Council, or the Chief of Police based on a finding that security measures are insufficient to protect the public health, safety and welfare. The City Manager may adjust these conditions based on, but not limited to, the following factors: The number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels. The City Manager's decision regarding additional security shall be mailed to the licensee. Unless the licensee requests a hearing on the matter before the Special Permit and License Board within ten (10) days after the letter is mailed to the licensee. Failure to timely request a hearing shall be deemed a waiver of a hearing.

**5-9-89: PROHIBITED ACTS:** (1959 2001 3016)

(A) It shall be unlawful for any licensee or his agent knowingly to do, to encourage, to participate or to permit any of the following acts on the premises of any place licensed pursuant to this Chapter or on any parking lot, street or sidewalk adjacent to the premises:

~~(1-)~~ Gamble or to permit gambling upon any pool or billiard table or coin-operated amusement game or device. The licensee is hereby specifically charged with knowledge of and made liable for the use of all tables, games and devices on the premises in any manner constituting a violation of this ~~section~~Section.

~~(2- To permit any person to use)~~ Use, sell, or distribute any illegal or dangerous drug, chemical substance, or narcotic. Any premise licensed under the Colorado Beer Code or Colorado Liquor Code shall conform to said code and shall not allow the use, sale or distribution of beer or alcohol to any minor.

~~(3- Any-)~~ Create any disturbance, unlawful or disorderly act, or activity offensive to the senses of the average citizen, or to the residents of the neighborhood to be committed by any person or group of persons upon the premises.

(B) It shall be unlawful for any licensee to fail to comply with the following requirements:

(1-) Any licensee and its employees shall immediately report to the Police Department any unlawful or disorderly act, conduct or disturbance committed on the premises. Failure to comply with the requirements of this Section may be considered by the City Manager in any action relating to revocation, suspension or nonrenewal of a license. Repeated failure to comply with the requirements of this ~~section~~Section shall constitute prima facie grounds for the suspension, revocation or nonrenewal of a license.

(2-) Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign to be provided by the City Clerk's Office which shall be in the following form:

"WARNING: CITY OF WESTMINSTER POLICE MUST BE NOTIFIED OF ALL DISTURBANCES IN THIS ESTABLISHMENT AND ON THE GROUNDS AND PARKING LOT WHICH ARE A PART OF THIS ESTABLISHMENT."

(C) It shall not be a defense to a prosecution under this Section that the licensee was not personally present on the premises at the time such unlawful or disorderly act, conduct or disturbance was permitted, encouraged or participated in; provided, however, that an agent, servant or employee of the licensee shall not be personally responsible hereunder when absent from the premises and not on duty.

~~5-9-9: PENALTY: (1959-3016) It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title VIII of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.~~

Section 9. Chapter 13, Title V, W.M.C., is hereby AMENDED to read as follows:

### CHAPTER 13 SECURITY ~~GUARDS~~GUARD BUSINESSES

5-13-1: DEFINITIONS

5-13-2: LICENSE REQUIRED

5-13-3: EXEMPTIONS

5-13-4: LICENSE APPLICATION ~~INVESTIGATION~~, TERM OF LICENSE AND ISSUANCERENEWAL

~~5-13-5:~~ 5-13-5: APPLICATION REVIEW

5-13-6: ~~FEES~~

~~5-13-7: RENEWAL~~

~~5-13-8:~~ LICENSE DENIAL, SUSPENSION, CANCELLATION OR REVOCATION

5-13-9: ~~7:~~ INSURANCE REQUIRED

5-13-10: ~~8:~~ BADGES UNIFORMS AND EQUIPMENT

5-13-11: ~~9:~~ CHANGE OF LOCATION OR PERSONNEL

5-13-12: ~~10:~~ RULES AND REGULATIONS

5-13-13: ~~11:~~ PROHIBITED ACTS

~~5-13-14: PENALTY~~

5-13-1: DEFINITIONS: As

(A) The following words, terms, and phrases, when used in this Chapter, shall have the following ~~shall~~ meanings unless the content clearly indicates otherwise: (1959)

(A) "Security Guard" means any person employed by a security guard business, as defined in this Section, who is directly engaged in providing protection for the clients of such business, or any person employed by another type of business for the purpose of providing protection to persons or property or to preserve the peace in the conduct of such business, which protection or preservation of the peace is incidental to the primary purpose of such business.

(B) "Security Guard Business" means any business whose primary purpose is to provide protection to persons or property or to preserve the peace in the conduct of a business. The term "security guard business" shall not include a business or operation where security is merely incidental to the primary purpose of the business.

**5-13-2: LICENSE REQUIRED:** It shall be unlawful for any person to engage in or conduct a security guard business without first obtaining a license ~~therefor~~ pursuant to this Chapter. (1959 2041)

**5-13-3: EXEMPTIONS:** (1959 2041)

(A) Security guards employed by any common carrier engaged in interstate commerce, maintenance workers, custodians, janitors, and repair persons are exempted from the provisions of this Chapter.

(B) A business may hire a security guard without being licensed as a security guard business if:

- (1) The need for a security guard is incidental to the primary purpose of the business,
- (2) The security guard wears a uniform that plainly identifies the business as the employer of the security guard, and
- (3) The security guard complies with all provisions of this Chapter except the requirement of obtaining a license as a security guard business.

**5-13-4: LICENSE APPLICATION:** (1959 2041)

(A) Applicants for a security guard business license shall file a verified application with the City Clerk on forms to be provided by the City Clerk for that purpose which shall contain at least the information specified in this Section.

(B) An applicant for a security guard business license shall provide:

- (1) The name of the licensee,
- (2) The business address,
- (3) A description of the nature and type of business to be conducted, and the services to be offered, by the ~~Security Guard~~ security guard business,
- (4) A color photograph depicting the uniform and badge to be worn by ~~Security Guards~~ security guards employed by the ~~Security Guard~~ security guard business,
- (5) Any other pertinent information requested by the City Clerk.

(C) If the applicant for a security guard business license is other than a sole proprietor, the information required under ~~subsections~~ subSection (B) of ~~subSection 5-13-6(B) of this section~~ Section must be supplied by each owner, officer or director of the ~~organization-business~~ applying for the license.

(D) A license for a security guard business is not transferable. ~~Upon a change in ownership, the new owner shall apply for a new license pursuant to this Chapter.~~

**~~5-13-5: INVESTIGATION AND ISSUANCE~~ 13-5: APPLICATION REVIEW:** (1959 2041 2574)

(A) Upon receipt of an application filed pursuant to this Chapter, the City Manager or his designee shall review the application, refer the application to the Chief of Police for review, and within thirty (30) days shall either issue or deny the license. The thirty (30) day period shall not begin to run until all information required under this Chapter has been submitted.

(B) Any of the following circumstances may be considered cause for denial of a license:

- (1) The applicant is under twenty one (21) years of age;
- (2) The applicant was convicted of a felony within ten (10) years immediately preceding the date of application;
- (3) The applicant was convicted of a misdemeanor or ordinance violation involving moral turpitude or violence within five (5) years immediately preceding the date of application;
- (4) The applicant has failed to comply with any of the provisions of this Chapter;
- (5) The applicant's character and reputation is not satisfactory to the City Manager.
- (6) The applicant does not have the basic skills to speak and to comprehend the spoken English language as determined by the City Manager or his designee.
- (7) The required fees have not been paid.
- (8) The application is incomplete or contains false, misleading or fraudulent statements.
- (9) Nonconformance of the business, premises, building or land use with this Code.
- (10) Any reason stated in Chapter 1 of this Title.

(C) Upon review and approval by the City Manager or his designee, and payment of the required fee, the Security Guard business license shall be issued. The application fee paid for any license shall be nonrefundable.

(D) The grounds specified for denial in this Section shall apply to individual applicants, as well as directors, officers or general partners of any applicant.

**~~5-13-6: FEES: (1959-2041)~~**

~~(A)(E)~~ An application for a security guard business license shall be accompanied by an investigation fee of thirty dollars (\$30).

~~(B)(F)~~ The annual fee for a ~~Security Guard~~security guard business license shall be sixty dollars (\$60).

**~~5-13-7: RENEWAL:(G)~~** All security guard business licenses issued pursuant to this chapter, shall expire on December 31st of the year in which the license was issued, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees. Renewal may be denied as provided below. (1959 2574)

**~~5-13-8 5-13-6: LICENSE DENIAL, SUSPENSION, CANCELLATION, NON-RENEWAL OR REVOCATION: (1959 2041 2574)~~**

~~(A)~~ A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, or for any reason set forth in Chapter 1 of this Title ~~or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(B)~~ ~~A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing. The notice shall be given by personal delivery to the licensee or mailed to the address contained in the license,~~

~~postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(C) An application for a new license may be denied by the City Manager or designee, upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(D) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(E) The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(F) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

**5-13-97: INSURANCE REQUIRED:** (1959 2041)

(A) Before any license shall be issued an applicant for a license for a security guard business, the applicant shall file with the City Clerk a certificate of ~~Insurance~~insurance indicating current insurance coverage as follows:

~~+~~

Comprehensive General Liability:

( <del>A</del> <u>1</u> ) Bodily Injury	\$ 500,000 (Each Person) \$1,000,000 (Each Occurrence)
( <del>B</del> <u>2</u> ) Property Damage	\$ 500,000 (Each Person) \$1,000,000 (Each Occurrence)

(B) Such ~~Certificate~~certificate of ~~Insurance~~insurance must name the City of Westminster as an additional insured for activities conducted by the Licensee within the City, and must be approved by the Risk Manager, both as to form and as to the responsibility of the surety.

The ~~Certificate~~certificate of ~~Insurance~~insurance shall also provide that coverage shall not be cancelled without at least thirty days notice to the City. Cancellation shall result in automatic suspension of the ~~Security Guard~~security guard business license.

**5-13-108: BADGES, UNIFORMS AND EQUIPMENT:** (1959 2041)

(A) The City Manager or his designee may, in his discretion, require that any licensee or employee of a security guard business wear an identification badge or uniform, but no badge or uniform shall be worn by any licensee or employee which is a colorable imitation of badges or uniforms or could be confused with those worn by officers of the Westminster Police Department, Adams County Sheriff's ~~office~~Office, Jefferson County Sheriff's ~~office~~Office or the Colorado State Patrol.

(B) No vehicle used in a security guard business or by a security guard while on duty shall be used or identified in any way which may be confused with those used by the Westminster Police Department,

Adams County Sheriff's ~~office~~Office, Jefferson County Sheriff's ~~office~~Office or the Colorado State Patrol, nor shall any vehicle be equipped with a siren or emergency lights in violation of local or state law.

(C) The words "police" or "officer" or other similar words which might be confused with or represent a municipal, county, state or federal law enforcement agency shall not be used in any advertisement upon any premises within the limits of the City, nor on any clothing, vehicles or equipment used by the licensee.

(D) The City Manager or his designee may issue an order denying use of any item which is in violation of the provisions of this ~~section~~Section.

**5-13-~~449~~: CHANGE OF LOCATION OR PERSONNEL:** (1959 2041)

(A) Any licensee changing its place of business shall immediately notify the City Clerk of such fact, together with the new place of business, but a change of location shall not be deemed a transfer of a license or require payment of a new fee.

(B) Each security guard business required to be licensed pursuant to this Chapter shall maintain a current record of all employees and of their assignments. These records shall be open to the City Manager or his designee for inspection at any time during regular business hours.

**5-13-~~4210~~: RULES AND REGULATIONS:** The City Manager or his designee may issue and promulgate from time to time rules and regulations to provide for the health, safety and welfare of the City in relation to security guard businesses. Such rules may include duties of the licensees, manner of conduct, reports to be furnished and any other regulations deemed necessary by the Police Chief. (1959 2041)

**5-13-~~4311~~: PROHIBITED ACTS:** (1959 2041)

(A) It shall be unlawful for any licensee or an employee of a licensee:

(1) To arrest any person except when that person commits a criminal offense in the presence of the person making the arrest;

(2) To fail to release an arrestee immediately to the Westminster Police Department;

(3) To ~~draw or~~ fire a firearm in the performance of his duties except when necessary to protect himself or another from great bodily harm;

(4) To hinder or interfere with any action or investigation under the jurisdiction of the Westminster Police Department;

(5) To fail to report to the Westminster Police Department any violations of city, state or federal laws of which he has knowledge;

(6) To represent himself to be an officer of the Westminster Police Department or any municipal, county, state or federal law enforcement agency;

(7) To fail to identify himself or take any action which would obscure his presence from a police officer inspecting an area where the licensee is assigned;

(8) To wear a badge or uniform or use any vehicle or equipment not authorized for use under ~~section~~Section 5-13-10;

(9) To interfere with the performance of any police officer or City official in the performance of their official duties;

(10) To advertise, represent or identify himself as a police officer or use any acronym or initials that could cause him to be mistaken to be a member of a federal, state or municipal law enforcement agency;.

(B) No licensee or an employee of a licensee shall have any greater authority to arrest than would another private citizen. Nothing in this Chapter shall be construed to mean that a licensee may conduct criminal investigations, make arrests or reports of criminal activity, use deadly force, or take any other action on behalf of, under color of laws of, or under the authority of the City of Westminster.

~~5-13-14: PENALTY: It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1959)~~

Section 10. Section 5-15-2 of Chapter 15 of Title V, "Massage Parlors," W.M.C., is hereby AMENDED to read as follows:

**5-15-2: DEFINITIONS:** As The following words, terms, and phrases, when used in this Chapter, shall have the following shall mean meanings, unless the content clearly indicates otherwise: (1938 1959 2189)

(A) "License" means a grant of a licensee to operate a massage parlor.

(B) "Licensed premises" means the premises specified in an approved application for a license under this article which are owned or in the possession of the licensee and within which such licensee is authorized to carry on the practice of massage.

(C) "Location" means a particular specific parcel of land that may be identified by an address or by other descriptive means.

(D) "Massage Therapy" means a method of treating the body for remedial or hygienic purposes by a massage therapist licensed pursuant to this Chapter, including but not limited to rubbing, stroking, kneading, or tapping with the hand or an instrument or both.

~~(1) "Other Massage Services" shall include any services which are  
a) Offered or performed for compensation, and which are b) advertised or represented as massage or which involve the touching of the body with the purpose of inducing any type of pleasurable or erotic experience, by a person who is not licensed pursuant to this chapter as a massage therapist.~~

(E) "Massage parlor" means a parlor providing massage, but it does not include training rooms of public and private schools accredited by the state board of education or approved by the division charged with the responsibility of approving private occupational schools, training rooms of recognized professional or amateur athletic teams, and licensed health care facilities. A facility which is operated for the purpose of massage therapy performed by a massage therapist is not a massage parlor.

(F) "Massage therapist" means an individual registered by the State of Colorado to engage in the practice of massage therapy pursuant to Title 12, Article 35.5, Colorado Revised Statutes.

(G) "Other Massage Services" means any services which are offered or performed for compensation, and which are advertised or represented as massage or which involve the touching of the body with the purpose of inducing any type of pleasurable or erotic experience, by a person who is not licensed pursuant to this chapter as a massage therapist.

(H) "Party in interest" means the applicant, a resident of the neighborhood under consideration, or the owner or manager of a business located in the neighborhood under consideration.

(H) "Person" means a natural person, partnership, association, company, corporation, organization, or managing agent, servant, officer, or employee of any of them.

(I) "Premises" means a distinct and definite location which may include a building, a part of a building, a room, or any other definite area contiguous to the building, part of a building or room.

Section 11. Chapter 16, Title V, W.M.C., is hereby AMENDED to read as follows:

## CHAPTER 16 DANCE HALLS AND CABARETS

5-16-1: ~~LEGISLATIVE DECLARATION~~

~~5-16-2: DEFINITIONS~~

~~5-16-3: 2: LICENSE REQUIRED~~

~~5-16-4: 3: LICENSE APPLICATION~~

~~5-16-4: FEES~~

~~5-16-5: FEES RENEWAL~~

~~5-16-6: RENEWAL~~

~~5-16-7: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION~~

~~5-16-8: 7: TRANSFER; CHANGE IN NATURE OF BUSINESS~~

~~5-16-9: 8: PROHIBITED ACTS~~

~~5-16-10: REPORTS, SIGNS~~

~~5-16-11: 9: MANAGEMENT AND SUPERVISION~~

~~5-16-12: 10: OCCUPANCY LIMITS~~

~~5-16-13: 11: SECURITY GUARDS~~

~~5-16-14: 12: HOURS OF OPERATION~~

~~5-16-15: PENALTY~~

~~**5-16-1: LEGISLATIVE DECLARATION:** The City Council hereby declares that the operation of dance halls and cabarets in this City affects the public health, safety and welfare and the City regulation of such operations is in the public interest. (1959)~~

~~**5-16-2: DEFINITIONS:** As used in this Chapter, the following shall mean: (1959)~~

~~**5-16-1: DEFINITIONS:** The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise: (1959)~~

~~(A) "CabaretDance hall" means any commercial premises open to designed for public dancing ~~on a regular or continuing basis for gain or to and~~ which ~~the public is admitted upon payment of an admission fee or charge of any kind, not to include~~ includes one or more designated dance floors, but excluding commercial dance studios where designed and used primarily for dance instruction ~~is given on a regular and continuing basis, and.~~~~

~~(B) "Cabaret" means a dance hall, as defined by this Section, which is licensed for the sale of fermented malt beverages or malt, vinous or spirituous liquors.~~

~~(B) "Dance Hall" means any premises satisfying the definition of a "cabaret," as defined by this section, which is not licensed for the sale of fermented malt beverages or malt, vinous or spirituous liquor. (C) "Dance Hall" and "Cabaret" do not include any adult businesses as defined by Section 5-17-2, W.M.C., and the issuance of any license to any dance hall or cabaret pursuant to this Chapter shall not be deemed or construed as authorizing any such adult business.~~

**5-16-32: LICENSE REQUIRED:** It shall be unlawful for any person to operate any dance hall or cabaret without first obtaining a license therefor pursuant to this Chapter. (1959)

**5-16-43: LICENSE APPLICATION:** (1959 2229)

(A) The applicant for a license shall submit a verified application to the City Clerk on forms provided by the City Clerk. The application shall include ~~complete plans and specifications~~ a floor plan for the interior of the premises to be licensed, which shall include a drawing that shows the dimensions and location of the stage and dance floor, a copy of the lease or other evidence of the applicant's right to possession of the premises, information regarding the zoning of the location of the premises, and the fee required by this Chapter.

(B) The application shall be reviewed by the City Manager, who, within ~~ten (10)~~ twenty (20) days after receipt of the application and after such additional investigation as he may deem necessary, shall schedule a public hearing before the Special Permit and License Board. If the applicant is simultaneously applying for a license to sell fermented malt beverages or alcoholic beverages for consumption on the premises, the public hearings shall be consolidated.

(C) Notice of such hearing shall be mailed by the City Clerk to the applicant not less than ten (10) days before the hearing date. Notice of such hearing shall also be given by publication in a newspaper of general circulation in the ~~community~~ City once, not less than ten (10) days prior to the hearing date and by posting a notice of the hearing upon the premises for at least ten (10) days prior to the hearing. Publication and posting shall be done by the City Clerk.

~~(D) The City Clerk shall propose the boundaries of the neighborhood in writing to the Special Permit and License Board with a copy to the applicant. If a majority of the Board or the applicant disputes the proposed neighborhood boundaries, the issue shall be considered by the Board at a public meeting. A dispute of the boundaries by the applicant must be filed within ten (10) days of the letter notifying the applicant of the boundaries established.~~

~~(E) Prior to the hearing, the City or its designee shall circulate appropriate petitions to determine the desires of the inhabitants within the neighborhood surrounding the applicant. The petition form shall be approved by the City.~~

~~(F) At least five (5) days prior to the public hearing, the City Clerk shall send the results of the petitioning and investigation of the application to the applicant and make them available to other interested parties.~~

~~(G) After such public hearing, the Special Permit and License Board shall grant or deny the license and may place reasonable conditions upon the license.~~

**(HE)** In determining whether to grant or deny the license, the Board shall take into consideration:

- (1) The character of the applicant; \_\_\_\_\_
- (2) The applicant's prior experience and qualifications to operate such a business;
- (3) ~~The desires of the inhabitants of the neighborhood regarding such a facility including any petitions or remonstrances evidencing such desires;~~
- ~~(4) Pedestrian safety;~~
- ~~(5) Traffic volume and adequacy of parking and access;~~

- ~~(6) Essential character of the neighborhood and the applicant's~~ (4) The potential effect of the business on the peace of the neighborhood, including off-site noise
- ~~(7) and light;~~
- (5) Compliance of the structure with all applicable zoning and building regulations;
- (86) Police activity in comparable businesses;
- ~~(9) Architectural compatibility with the character of the neighborhood.~~
- (7) The proposed size and character of the business in relation to surrounding land uses; and
- (8) The reasonable requirements of the neighborhood and the desires of its inhabitants.

If the applicant is simultaneously applying for a license to sell fermented malt beverages or alcoholic beverages for consumption on the premises, the Board may rely on information from any hearing on that application in considering the criteria above.

**5-16-54: FEES:** (1959)

(A) All original applications shall be accompanied by a four hundred and fifty dollar (\$450) non-refundable application fee to defray the cost of reviewing and evaluating the application. If the applicant is simultaneously applying for a license to sell fermented malt beverages or alcoholic beverages for consumption on the premises, and the public hearings are consolidated, the application fee ~~for an original application~~ shall be one hundred dollars (\$100).

(B) The annual renewal license fee thereafter shall be one hundred dollars (\$100), payable at the time of filing the application for renewal.

**5-16-6: 5-16-5: RENEWAL:** (1959 2229 2574)

(A) All dance hall licenses issued pursuant to this Chapter shall expire one (1) year from the date of issuance, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees.

(B) Cabaret licenses issued pursuant to this Chapter shall expire concurrently with the expiration of the fermented malt beverages or alcoholic beverages license issued to the establishment, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees.

~~(C) A license may be denied renewal for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title, for any of the reasons set forth below, or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the license. License renewals shall be considered by the Special Permit and License Board concurrently with the licensee's liquor license renewal.~~

**5-16-76: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION** (1959 2229 2574)

~~(A) The Special Permit and License Board may deny, deny renewal, suspend or revoke any license at any time on the grounds that it is:~~

- ~~(1) Detrimental to the public health, safety or welfare due to the location of the dance hall or cabaret;~~

~~— (2) Because of the proximity of the location to schools or churches or other places where the public may congregate; or~~

~~— (3) Based on the criteria set forth in section 5-16-4(H).~~

~~(B) A license may be denied, cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided any reason stated in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit, and License Board.~~

~~(C) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection any violation of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(D) The Special Permit and License Board shall conduct the hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(E) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

~~(F) Any place licensed hereunder, including the parking lots and streets and sidewalks adjacent thereto which become the location of frequent or repeated violations of the City's ordinances including but not limited to disturbances, assaults, thefts, malicious mischief and disorderly conduct is hereby declared to be a nuisance which shall be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this Code and the license of the premises shall be revoked. Chapter.~~

~~**5-16-8: TRANSFER; CHANGE IN NATURE OF BUSINESS**~~ **5-16-7: TRANSFERS:** (1959 2229)

~~(A) Transfer of Business or Stock:~~

~~— (1) Within thirty (30) days after the (A) An application for a transfer of ownership or location of a dance hall or cabaret, or of the transfer of ownership of ten percent (10%) or more of the capital stock of the corporation, the new owner of the stock or business license shall file with the City Clerk a written report of the transfer be submitted on forms provided by the City Clerk. The report shall be accompanied by an investigation, together with a non-refundable application fee of two hundred and fifty dollars (\$250).~~

~~— (2) Upon receipt of the report of transfer, the City Clerk shall report the transfer to the City Manager, after sufficient investigation by the Police Department, and the City Manager may approve the transfer or, in his sole discretion, recommend to the Special Permit and License Board that a public hearing be held regarding the transfer, at which parties in interest may be heard. (B) No transfer of ownership or location of a cabaret license shall be approved except in conjunction with the transfer of the associated fermented malt beverage or alcoholic beverage license.~~

~~— (3) The (C) An application for transfer of ownership or location of a dance hall or cabaret license shall be referred by the City Clerk to the Police Department for investigation. Following said investigation, the City Clerk may approve the transfer, or refer the matter to the Special Permit and License Board, in which case the~~

Special Permit and License Board shall ~~conduct~~ consider the matter at a public meeting, and may approve the transfer or may schedule a public hearing.

~~(D) Should a public hearing after proper notice is given. Posting, publication, and notice requirements shall be the same as are required for a hearing scheduled on an original application. Criteria for approval shall be as for an original application.~~

~~—(4) At the hearing, all interested parties may appear and be heard, provided, however, that the Board shall consider only the character of the new owner or owners and whether the new owner or owners comply with all requirements of the Code and rules and regulations adopted pursuant to the Code. If the new owner or owners are not approved, the license may be revoked.~~

~~(B) Change in Nature of Business:~~

~~—(1) At least thirty (30) days prior to the commencement for transfer of expansion, remodeling, or other change in the nature of the licensed business, the owner shall submit an application for a change in the nature of the business to the City Clerk on forms provided by the City Clerk. The application shall be reviewed by the City Manager, who, within ten (10) days shall determine whether the proposed change in the nature of the business is significant. For purposes of this subsection, "significant change" shall include, but shall not be limited to: (a) an increase or decrease in the total size ownership or capacity of the licensed premises; (b) the sealing off, creation of or relocation of a common entryway, doorway, or passage or other means of public ingress or egress; (c) dance hall or cabaret license, any substantial or material enlargement of a bar, relocation of a bar or addition of a bar; and (d) any material change in the interior of the premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application. The term does not include painting and redecorating of premises; the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment, and other similar changes interested party may appear and be heard. For a proposed transfer of ownership, the Special Permit and License Board shall consider only the character of the transferee, and, in the case of an application for the transfer of a cabaret license, whether the requirements of this Code and state statute for the transfer of the ownership of the associated fermented malt or alcoholic beverage license have been met.~~

~~—(2) After investigation by the City Manager, he may approve the proposed change or, in his sole discretion, recommend to the Special Permit and License Board that a public hearing be held regarding the proposed change, at which parties in interest may be heard. The Special Permit and License Board shall conduct a public hearing after proper notice is given. Posting, publication, and notice requirements shall be the same as are required for a hearing on an original application. Criteria for approval shall be as for an original application. Petitioning shall be at the discretion of the Special Permit and License Board or City Council.~~(E) For a proposed transfer of location, the criteria for approval shall be the same as for an original application as set forth in Section 5-16-3(H).

**5-16-98: PROHIBITED ACTS: (1959 2614)**

(A) It shall be unlawful for any licensee or his agent knowingly to do or to permit any of the following acts on the premises of any premises licensed pursuant to this Chapter or on any parking lot, street or sidewalk adjacent to the premises.

~~(1) It shall be unlawful for any person or group of persons to congregate or linger needlessly at any location at or near the premises licensed pursuant to this Chapter other than in the building.~~

~~—(2) No a~~ dance hall or cabaret licensee shall to install, maintain or operate, or permit the installation, maintenance or operation of, within or upon the licensed premises, any gambling table, device, machine, apparatus or other thing contrary to this Code or to the laws of this State or which is kept or used for the purpose of gambling, either directly or indirectly. The licensee is hereby specifically charged with knowledge of and made responsible for the use of all tables, games and devices in any manner constituting a violation of this ~~section~~Section.

~~(32)~~ It shall be unlawful for any licensee knowingly to permit any unlawful or disorderly act, conduct or disturbance to be committed by any person or group of persons upon any premises licensed hereunder.

~~(3) It shall be unlawful for any licensee to fail to report immediately to the Westminster Police Department any unlawful or disorderly act, conduct or disturbance to be committed by any person or group of persons upon any premises licensed hereunder.~~

~~(4) It shall be unlawful for any licensee to conduct any activities requiring an adult business license without having first secured an adult business license.~~

~~(5) It shall be unlawful for a licensee to operate or permit the operation of any amplified sound devices anywhere outside of the licensee's enclosed premises in a manner that disturbs the peace and quiet of the surrounding neighborhood.~~

(B) Minors Restricted: (2398)

(1) It shall be unlawful for any minor to enter or remain on the premises of any business holding both a tavern liquor license and a cabaret license, or for any parent or guardian to allow the minor to do so. It shall be unlawful for a minor to use false identification to seek entry or to remain on the premises. For purposes of this ~~subsection~~Section, a "minor" is any person under the age of twenty-one (21).

(2) It shall be unlawful for any licensee or its managers, agents, and employees to admit any minor or to allow any minor to remain on the premises of any business holding both a tavern liquor license and a cabaret license. For purposes of this subsection, a "minor" is any person under the age of twenty-one (21).

(3) Subsections (1) and (2) above shall not apply to bona fide employees of ~~the a~~ duly licensed ~~business~~dance hall, nor ~~shall subsections to bona fide employees of a duly licensed tavern with a cabaret license that regularly serves meals as defined in Section 12-47-103(20), C.R.S.~~

~~(4) Subsections~~ (1) and (2) ~~above shall not~~ apply to members of entertainment groups who have contracted with the licensed business, while such groups are on the premises to provide entertainment.

~~(4) A violation of Subsection (2) above shall be grounds for the suspension or revocation of a cabaret license. If a violation is proven, the Licensing Authority may place reasonable conditions upon the operation of the business to commence after the termination of the suspension, or the Licensing Authority may place reasonable conditions upon the operation of the business in lieu of suspension.~~

~~(5) It shall be an affirmative defense to a violation of this Section that the minor or minors were, at the time of the alleged violation, (1) bona fide employees of the licensed business or (2) members of an~~

~~entertainment group on the premises to provide entertainment pursuant to a contract with the licensed business.~~

~~**5-16-10: REPORTS; SIGNS:** (1959 2229)~~

~~(A) Any licensee hereunder and its employees shall immediately report to the Police Department any unlawful or disorderly act, conduct or disturbance committed on the premises. Failure to comply with this section may be considered by the Special Permit and License Board in any action relating to revocation, suspension or non-renewal of a license. Repeated failure to comply with the requirements of this section shall constitute prima facie grounds for the suspension, revocation or non-renewal of a license.~~

~~(B) Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign to be provided by the City Clerk's office which shall be in the following form:~~

~~WARNING: CITY OF WESTMINSTER POLICE MUST BE NOTIFIED OF ALL DISTURBANCES IN THIS ESTABLISHMENT AND ON THE GROUNDS AND PARKING LOT WHICH ARE A PART OF THIS ESTABLISHMENT.~~

**5-16-119: MANAGEMENT AND SUPERVISION:** Each licensee shall manage such premises himself or employ a separate and distinct manager on the premises of at least twenty-one (21) years of age and such licensee or manager shall be present and responsible for the premises during all hours of operation. The licensee shall report the name of the manager to the City Clerk and shall report any change in managers within thirty (30) days after the change. (1959)

**5-16-1210: OCCUPANCY LIMITS:** The occupancy capacity of the premises shall be determined according to the requirements of ~~the City this~~ Code. There shall be posted on the premises in a place open to the view of the occupants thereof a sign stating the maximum number of occupants permitted therein at any one time. (1959)

**5-16-1311: SECURITY GUARDS:** Whenever the Police Department has repeatedly been required to investigate complaints of any disorderly conduct or disturbances at any premises licensed hereunder, the City Manager or his designee may, in his discretion, schedule a public hearing before the Special Permit and License Board, in the manner provided for an original application for a license, for the purpose of determining whether maintenance of licensed security guards should be required as a condition for the continuation of the license. (1959)

**5-16-1412: HOURS OF OPERATION:** Premises licensed hereunder shall open to the public no earlier than seven o'clock (7:00) a.m. and close no later than two o'clock (2:00) a.m. daily. The Special Permit and License Board may require different hours as a condition of granting the license, but in no event shall premises licensed hereunder remain open to the public later than two o'clock (2:00) a.m. (1959)

~~**5-16-15: PENALTY:** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1959)~~

Section 12. Section 6-3-5, subsection (C), W.M.C., is hereby AMENDED to read as follows:

**6-3-5: TRESPASSING:** (1224 1593 2001 2056 2706 2782)

(C) PRIMA FACIE EVIDENCE: It shall be prima facie evidence that consent is absent, denied, or withdrawn, when one or more of the following events occur:

1. ~~Any person fails or refuses to remove himself from said premises when requested to leave by the owner, occupant, any agent of the owner or occupant, or any other person having lawful control of private property requests a person to leave the premises and the person fails or refuses to do so thereof;~~ or
2. Private property, which is not then open to the public, is posted with signs giving notice that entrance is forbidden or restricted to certain hours or persons; or
3. ~~A private residence has been posted with a sign stating “NO SOLICITATIONS,” “NO TRESPASS,” or a sign with similar meaning, and a person knocks on the door or otherwise attempts to contact or speak to the residence’s occupant for the purpose of: (a) selling, distributing or offering to sell or distribute, services, food, beverages, goods or merchandise, or (b) distributing information about services, food, beverages, goods, or merchandise, or (c) inviting or attempting to discuss verbally or in written form, ideas and issues, or (d) distributing written information, or (e) seeking funds or other forms of assistance.~~
- 3.4. Such premises are fenced or otherwise enclosed in a manner designed to exclude intruders.

The enumeration in this Subsection of the events constituting prima facie evidence shall not be construed to require any summons and complaint to specify one or more provisions of this Subsection.

Section 13. Chapter 4, Title IX, W.M.C., is hereby AMENDED to read as follows:

#### CHAPTER 4

#### SOLICITATION ON OR NEAR STREET OR HIGHWAY

- 9-4-1: SOLICITATION ON OR NEAR STREET OR HIGHWAY
- 9-4-2: SOUND TRUCKS
- 9-4-3: VIOLATIONS

#### **9-4-1: SOLICITATION ON OR NEAR STREET OR HIGHWAY: (2362 2387)**

(A) The purpose of this Chapter is to prevent dangers to persons and property, to prevent delays, and to avoid interference with the traffic flow. Roadways that have center medians often are designed to deal with specific traffic flow problems. Any delay or distraction may interfere with traffic planning. Sometimes persons stand near intersections and near traffic lights to contact drivers or passengers in cars that are passing or that are stopped temporarily due to traffic lights.

(B) It shall be unlawful for any person to solicit employment, business, contributions, or sales of any kind, or collect monies for the same, from the occupant of any vehicle traveling upon any street or highway when such solicitation or collection either:

- (1) Causes the person performing the activity to enter onto the traveled portion of a street or highway.
- (2) Involves the person performing the activity to be located upon any median area which separates traffic lanes for vehicular travel in opposite directions.
- (3) The person performing the activity is located such that vehicles cannot move into a legal parking area to safely conduct the transaction.

(C) It shall be unlawful for any person to solicit or attempt to solicit employment, business, contributions or sales of any kind, or collect monies for the same, from the occupant of any vehicle on any highway included in the interstate system including any entrance to or exit from such highway.

(D) For purposes of this Chapter, the traveled portion of the street or highway shall mean that portion of the road normally used by moving motor vehicle traffic.

**9-4-2: SOUND TRUCKS: (1224 2001 3017)**

(A) The use of sound trucks with sound amplifying equipment in operation shall be subject to the following regulations:

- (1) The only sounds permitted to be amplified are music or human speech.
- (2) Operations are permitted for nine (9) hours each day. The permitted nine (9) hours of operation shall be between the hours of ten o'clock (10:00) A.M. and seven o'clock (7:00) P.M.
- (3) Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of less than twelve (12) miles per hour. When stopped to make sales, said sound amplifying equipment shall not be operated.
- (4) Sound shall not be issued within one hundred (100) yards of hospitals, or within 100 hundred (100) yards of churches during the hours services are being held, or within five hundred feet (500') of a school during the school year.
- (5) The human speech and music amplified shall not be profane, lewd, indecent or slanderous.
- (6) The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred (100) yards from the sound truck and so that said volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.
- (7) It shall be unlawful for any sound truck to amplify sound along any particular route more than one time during a twenty four (24) hour period.
- (8) It shall be unlawful for any sound truck to stop within twenty five feet (25') of an intersection when making a sale, or attempting to make a sale.
- (9) It shall be unlawful for any sound truck to double park, or park in a manner contrary to any ordinance relating to parking, when attempting a sale or making a sale.
- (10) It shall be unlawful for any sound truck to make a U turn in any block.
- (11) It shall be unlawful for any driver of a sound truck to drive his vehicle backward to make or attempt to make a sale.
- (12) It shall be unlawful for any driver of a sound truck to sell to any person who is standing in the street.
- (13) It shall be unlawful for any driver of a sound truck to permit any person to hang on the vehicle, or permit any person to ride in or on the vehicle, except a bona fide assistant or assistants.
- (14) All sound trucks must be equipped with four (4) way flashing lights, both parking and taillights. Trucks must have lights flashing while seeking or making a sale.

(B) It shall be unlawful for any person to use or cause to be used, a sound truck with its sound amplifying equipment in operation in the City without having paid an annual registration fee of \$5 per vehicle and filed a registration statement with the City Clerk in writing and having it approved by the City Manager and City Clerk. This statement shall be filed in duplicate and include the following information: (2001)

- \_\_\_\_ (1) Name and address of the registrant,
- \_\_\_\_ (2) Name and address of person having direct charge of the sound truck,
- \_\_\_\_ (3) Name and address of all persons who will use or operate the sound truck,
- \_\_\_\_ (4) The purpose for which the sound truck will be used,
- \_\_\_\_ (5) A general statement as to the areas of the City in which the sound truck will be used,
- \_\_\_\_ (6) The proposed hours of operation of the sound truck,

(7) The number of days of proposed operation of the sound truck.

(C) DEFINITIONS:

(1) "Sound truck" shall mean any vehicle, or horse-drawn vehicle, having mounted, thereon, or attached thereto, any sound amplifying equipment.

(2) "Sound amplifying equipment" shall mean any machine or device for the amplification of the human voice, music or any other sound. "Sound amplifying equipment" shall not be construed as including standard automobile radios when used and heard only by the occupants of the vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

**9-4-3: VIOLATIONS:**~~(E)~~ A violation of this Chapter is a criminal offense, punishable by a fine or imprisonment, or both, as provided in Section 1-8-1 of this Code.

Section 14. Chapter 4, Title XI, W.M.C., is hereby amended BY THE ADDITION OF A NEW SECTION to read as follows:

**11-4-17: TEMPORARY USES ON PRIVATE PROPERTY: (1959 3017)**

(A) SCOPE: A temporary use permit allows for the displaying, selling, offering for sale, offering to give away or giving away of anything of value including any good, service or amusement that is not permanent in nature and does not involve any permanent structure, but which occupies any single location within the City for more than two (2) hours at a time. Examples include a Christmas tree lot, pumpkin patch, parking lot sale, carnival and other promotional use involving a temporary outdoor display, wagon, handcart, pushcart or motor vehicle. The selling or giving away of used merchandise is not permitted as a temporary use.

(B) ZONING COMPLIANCE: All temporary uses conducted pursuant to this Chapter shall conform to the zoning provisions of this Code, including the Sign Code, unless otherwise provided herein.

(C) TIME PERIOD: The temporary use permit shall designate the specific location for the use and the time period for which the permit is to be issued. Permits may not be issued for any temporary use for more than sixty (60) days per calendar year. The 60 days may run consecutively or be broken into increments, such as weekends; however, because of the intended temporary nature of the use, incremental periods shall not extend beyond thirty (30) cumulative weeks or weekends per calendar year.

(D) PERMIT REQUIRED: It shall be unlawful for any person to engage in a temporary use within the city limits of Westminster without first obtaining a permit as provided herein.

(E) EXEMPTIONS:

(1) This section does not apply to persons who knock on the door or otherwise attempt to contact or speak to the occupant of a private residence for the purpose of: (a) selling, distributing or offering to sell or distribute, services, food, beverages, goods or merchandise, or (b) distributing information about services, food, beverages, goods or merchandise, or (c) inviting or attempting to discuss verbally or in written form, ideas and issues, or (d) distributing written information, or (e) seeking funds or other forms of assistance.

(2) This section shall not be construed to require a temporary use permit for the temporary outdoor extension of regular indoor commercial activity such as a sidewalk sale, so long as the outdoor use is allowed pursuant to the zoning for the property.

(3) This section shall not apply to yard sales, garage sales or estate sales in a residential area unless such a sale is subject to the sales and use tax provisions of this Code. Children selling drinks, such as lemonade, at their own homes shall be exempted from the application of this Chapter.

(4) This section shall not apply to the temporary use of parks, community buildings and recreational facilities which are addressed in Chapter 2 of Title XIII.

(F) APPLICATION: An applicant for a Temporary use permit shall submit to the Community Development Department a completed, signed application on a form to be furnished by the Planning Division, as well as the following information:

- (1) Written authorization from the real property owner of the applicant's right to use such property is required.
- (2) A written description of the nature of the activity.
- (3) An illustration or picture of any proposed stand, including measurements.
- (4) An illustration or picture of any proposed signage, including measurements.
- (5) When requested, a list of the individuals or employees who will be operating on behalf of the business within the City.
- (6) Documentation of nonprofit tax status, if applicable.
- (7) Site Plan to include:
  - (a) The location where the activity will be conducted;
  - (b) All buildings and structures, including entrance and exit locations;
  - (c) All parking spaces, drive aisles, and emergency access aisles, including any area proposed to be blocked off or barricaded for the activity and method of barricade;
  - (d) All trash enclosures or receptacles;
  - (e) Location of on-site restrooms to be available to employees and/or the public, if any;
  - (f) All landscaped areas;
  - (g) All freestanding light fixtures; and
  - (h) All freestanding signs.
- (8) Additional information, as needed, to assess the proposed temporary use.

(G) CONDITIONS OF APPROVAL: All temporary uses must meet the following criteria:

- (1) The temporary outdoor use is of a seasonal or special event nature;
- (2) All structures subject to any building, construction or fire codes shall comply with such codes
- (3) Permitted signage may include:
  - (a) One (1) wall sign. The wall sign shall be no larger than twenty (20) square feet, inclusive of frame. The wall sign shall be securely attached to a structure used in conjunction with the temporary use or a primary building structure. In no event shall a wall sign be attached to any

structure in the public right-of-way. If the wall sign is to be attached to the primary building, written permission from the owner of such building is required.

(b) Up to three (3) incidental signs, such as menu boards or hours of operation, securely affixed to a structure used in conjunction with the temporary use. Each sign shall not exceed two (2) square feet.

(4) The location of the use shall not obstruct any sight visibility triangle.

(5) If customers are required to park in order to gain access to the temporary use location, sufficient parking, as determined by the Planning Manager or his/her designee, is available without interfering with the public rights of way on sidewalks or streets and without requiring customers to park at another location on private property without the consent of the property owner. A parking study or traffic study may be required.

(6) Safe access is available by vehicular and pedestrian traffic to the temporary use location without requiring illegal or unsafe turning movements by vehicles or trespass across private property without the consent of the property owner.

(7) The use shall not:

(a) Impedes access to the entrance of any adjacent building or driveway,

(b) Be located in such a manner as to interfere with a fire hydrant, fire escape, bus stop, loading zone, or driveway of a fire station, police station, hospital or handicapped parking space or access ramp.

(8) Adequate trash receptacles shall be provided, as determined by the Planning Manager or his/her designee.

(9) Adequate restroom facilities, if needed, as determined by the City, shall be provided either within an existing building or as port-o-lets.

(10) If needed, as determined by the City, adequate barriers and directional signs shall be installed.

(11) All other permits and licenses as required by the City for the use have been applied for or obtained.

(H) REVIEW AND ISSUANCE OF PERMIT: Upon receipt of an application for a temporary use permit, the application shall be reviewed by the Department of Community Development and referred to other departments as needed for review.

(1) If the review determines that one or more of the conditions in (H) above have not been met, the Planning Division will notify the applicant in writing describing the condition or conditions that have not been satisfied.

(2) An application for a Temporary use permit may be denied if any of the conditions in (H) above have not been met, as determined by the Planning Manager or his/her designee. The applicant may appeal a denial to the City Manager, who shall have the final decision.

(3) No approval for any business license or building permit shall be issued until the Temporary Use has been reviewed and approved by the City to insure that the conditions established in this Section have been met.

(4) The permit shall be issued in the individual's name, except as otherwise provided herein. Any permit issued to a firm, association or corporation shall include the name of the authorized representative of the firm, association or corporation which representative's name shall appear on the application, badge, and permit. No other representative of the same firm, association or corporation shall use the same permit, except as provided in this section.

(a) If a firm, association or corporation applies for and is granted a permit at the fee set forth in this Chapter, it shall be obtain badges which identify such entity for purposes of identification and enforcement for its employees under its permit.

(b) Each business applying for a permit and wishing to permit employees pursuant to such temporary permit shall provide such proof as may be required by the City Manager to demonstrate that it is a bona fide business entity separate from its alleged employees.

(I) Issuance of a permit under this Chapter does not in any way relieve an applicant from responsibility for obtaining permission from respective property owners to set up displays and sell goods on private property.

(J) CONDITIONS OF OPERATION:

(1) If permitted, each permittee shall carry his or her permit at all times while engaged in the temporary use and shall display it upon request.

(2) A permit shall be not be transferable to any other location or used by any other person or other legal entity, except as provided in this section.

(3) Temporary uses may operate at times other than the permanent on-site user, subject to City review and approval.

(4) All trash or debris accumulation caused by a permittee's activities shall be collected and deposited in a proper trash container daily. Any accumulation of trash or debris that causes the City to incur expense in removing the accumulation shall be cause for the City to revoke the Temporary use permit.

(5) A sales and use tax license shall be obtained and sales and use taxes shall be paid upon the schedule set by this Code.

(6) Any permittee issued a permit under this Chapter shall comply with all Municipal Code requirements, conditions of such permit, and all applicable laws of the City of Westminster and the State of Colorado.

(7) The permittee shall return the property to its original condition upon conclusion of doing business on the site.

(K) FEES: The fee to be charged upon application of a Temporary use permit shall be as outlined in the Land Use and Development Review Fee Schedule of the City, as amended.

(L) INSPECTION: Upon request from a City official who presents his or her City identification, the permittee or permittee's employee shall produce his or her permit and property for inspection.

(M) REVOCATION AND TERMINATION: If, upon inspection by a City official, a permittee is found to be operating in an unsafe or unlawful manner, or violating any provisions of the Municipal Code or the subject permit conditions, a permit may be immediately revoked and denied renewal. In such event, the temporary use shall immediately cease and the permittee shall return the property to its original condition.

(N) VIOLATION AND PENALTY:

(1) It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided under Title I of this Code and may also be subject to civil remedies provided by Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.

(2) Nothing in this Chapter shall be construed to alter or amend §6-3-5, Trespassing, W.M.C.

Section 15. This ordinance shall take effect upon its passage after second reading.

Section 16. 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 13th day of December, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10<sup>th</sup> day of January, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney's Office



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
January 10, 2011



**SUBJECT:** Second Reading of Councillor’s Bill No. 66 Clarifying Applicable Penalties for Various Violations of the Westminster Municipal Code

**Prepared By:** Marty McCullough, City Attorney  
Tami Cannon, Legal Administrator

**Recommended City Council Action**

Pass Councillor’s Bill No. 66 on second reading amending sections of the Westminster Municipal Code to clarify the applicable penalties for various violations.

**Summary Statement**

- Violations of the Westminster Municipal Code (“City Code” or “Code”) are punishable by either a fine or imprisonment, depending on whether the violation has been designated as a criminal offense.
- City Code section 1-8-1 provides that all Code violations are presumptively noncriminal offenses, and are civil matters, punishable by fine only, unless the violation has been expressly designated as a criminal offense.
- The City Attorney’s Office was asked to review the fine schedule list maintained by the Municipal Court that is used as a reference for quickly determining whether any given charge is a noncriminal or criminal offense under the City Code. The City Attorney's Office determined a relatively small number of provisions of the Code that could be clarified in regard to whether a violation was subject to criminal or noncriminal penalties.
- The attached ordinance has been prepared to clarify that the following are subject to criminal penalties: maintaining a public nuisance, and violating the City’s storm water quality ordinance (federally required).
- The ordinance would also decriminalize violations of Title 13 of the City Code concerning parks, open space, and community building regulations. However, conduct that is clearly criminal in other sections of the City Code that may occur in a park, open space, or community building will remain criminal. For example, Title 13 currently prohibits lighting a fire in any park. A citation issued under Title 13 would be a noncriminal violation, however, an act of arson in a City park, open space, or community building would be a criminal violation under other provisions of the City Code or state statute.
- This Councillor’s Bill was passed on first reading on December 13, 2010.

**Expenditure Required:** \$0  
**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager  
Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **66**

SERIES OF 2010

INTRODUCED BY COUNCILLORS  
**Winter - Kaiser**

**A BILL**

**FOR AN ORDINANCE AMENDING SECTIONS 1-8-1, 8-4-2, 8-4-6, 8-11-5, 8-11-7, 8-11-8, 8-11-9, 8-11-11, 11-11-9 AND 13-1-4 OF THE WESTMINSTER MUNICIPAL CODE CONCERNING PENALTIES AND CRIMINAL VERSUS NON-CRIMINAL VIOLATIONS**

THE CITY OF WESTMINSTER ORDAINS:

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

**1-8-1: PENALTIES:**

(A) All violations of any provision of this Code are hereinafter deemed noncriminal offenses and are civil matters, except those violations that are expressly designated as criminal offenses or which are punishable by imprisonment under this Code or under any counterpart state statute. Trial of noncriminal offenses shall be to the Court. No defendant found civilly liable for a noncriminal offense shall be punished by imprisonment for said offense. Any person convicted of a non criminal violation of any Section of this Code shall be fined an amount not to exceed one thousand dollars (\$1,000) Any person convicted of a criminal violation of any section of this Code shall be imprisoned for a period not to exceed three hundred sixty-five (365) days or fined an amount not to exceed one thousand dollars (\$1,000) or both; provided, however, that a person under the age of eighteen (18) years as of the date of the offense for which he is convicted shall not be subject to the imposition of a jail sentence of more than ten (10) days, except in the case of a conviction of a criminal traffic offense.

(B) The penalties provided in subsection (A) of this Section shall be applicable to every section of this Code the same as though it were a part of each and every separate section. ~~Any person convicted of a violation of any section of this Code, where any duty is prescribed or obligation imposed, or where any act which is of a continuing nature is forbidden or declared to be unlawful, shall be deemed guilty of a misdemeanor.~~

(C) A separate offense shall be deemed committed upon each day such duty or obligation remains unperformed or such act continues, unless otherwise specifically provided in this Code.

(D) Any person found to have committed a violation of a noncriminal traffic infraction, as designated in Section 10-1-3 of this Code, shall be punished by a fine of not more than five hundred dollars (\$500)

Section 2 Section 8-4-2, subsection (B), W.M.C., is hereby AMENDED to read as follows:

**8-4-2: NUISANCE DEFINED; VIOLATION SUBJECT TO CONTEMPT:**

(A) The following are deemed to be a public nuisance:

1. Any building, land, substance or personal property, the use or condition of which presents a substantial danger or hazard to the physical health or safety of the public, or used for any purpose which is in violation of the provisions of the Official Code of the City of Westminster. (1634 1646 1999)

2. The conducting or maintaining of any business, occupation, operation, or activity in violation of the provisions of the Official Code of the City of Westminster. (1634 1999)

3. Any business, occupation, operation, activity, or any building, land, substance, or personal property the use or condition of which has been identified as a public nuisance in the Official Code of the City of Westminster, the Colorado Revised Statutes, or the common law. (1634 1999)

(B) ~~Any person found guilty of violating~~ ~~It shall be unlawful for any person to violate~~ any of the provisions of this Chapter. ~~Any person found guilty of violating any of the provisions of this Chapter~~ shall, upon conviction thereof, be punished by a fine or imprisonment or both, pursuant to Section 1-8-1 of this Code. Each day that a violation of any of the provisions of this Chapter continues to exist shall be deemed to be a separate and distinct violation. (2523)

(C) Whenever, in a criminal or non-criminal prosecution under this Code, the Municipal Court finds the existence of a nuisance, the Court is authorized to abate the nuisance and assess costs in the same fashion as if a civil abatement proceeding had been commenced under Title 8, Chapter 4 of this Code. (2523)

(D) Any violation of any injunction or order issued by the Municipal Court in an action to abate a public nuisance may be punished as a contempt of court or by a fine as specified in section 1-8-1 of this Code. Unless the violation by its nature cannot be corrected, each day's failure to comply with an injunction or order to abate shall constitute a separate violation, for which an additional penalty may be imposed. (1634 1646 1999 2523)

Section 3. Section 8-4-6, W.M.C., is hereby AMENDED to read as follows:

**8-4-6: SPECIFIC NUISANCES DECLARED:** It shall be unlawful for any person to cause, maintain or permit a public nuisance. Public nuisance shall include, but shall not be limited to, the following acts or conditions: (1634 1999 3338) [The remainder of this section is unchanged.]

Section 4. Section 8-11-5, W.M.C., is hereby AMENDED to read as follows:

**8-11-5: LAND DISTURBANCE PERMIT REQUIREMENTS:** A Land Disturbance Permit shall be required prior to conducting any land disturbance activity equal to or greater than one (1) acre, earthwork involving more than two hundred (200) cubic yards, or grading on any property that has a slope in excess of eight percent (8%). The Land Disturbance Permit is available from the Engineering Division in the Department of Community Development. See Section 11-7-7 of the Westminster Municipal Code for specific regulations. Surety must also be provided before a Land Disturbance Permit will be issued.

Section 5. Section 8-11-7, subsection (E), W.M.C., is hereby AMENDED to read as follows:

**8-11-7: MAINTENANCE REQUIREMENTS:** (3391) Developers, builders, business owners, homeowners associations and landowners shall be responsible for ensuring that all BMPs identified on the approved construction drawings, Official Development Plan and the Land Disturbance Permit application are properly installed, maintained and are in good working order as hereafter provided.

(E) Should any developer, builder, business owner, homeowners association or landowner fail to adequately maintain the permanent stormwater runoff quality control measures or fail to remove the temporary measures, the City Manager or his representative may summarily cause the necessary work to be performed at the expense of such responsible party, and the cost of such abatement shall be a first and prior lien on the property as provided by Title I, Chapter 31 of this Code, and may be assessed and collected pursuant to Section 8-4-5 of this Code.

Section 6. Section 8-11-8, subsection (C), W.M.C., is hereby AMENDED to read as follows:

**8-11-8: ILLICIT DISCHARGES:**

(C) **Enforcement:** In addition to any other remedies provided in this Chapter, sShould any person discharge or cause to be discharged or spilled or maintain a condition upon any property that may result in the discharge of any substance other than naturally occurring stormwater runoff into the City's storm drainage system, except for the exceptions listed in section 8-11-8 (A) above, the City Manager or his representative may summarily cause the necessary work to be performed at the expense of such

responsible party, and the cost of such abatement shall be a first and prior lien on the property as provided by Title I, Chapter 31 of this Code, and may be assessed and collected pursuant to Section 8-4-5 of this Code. Alternatively, the City may make a demand on the surety to pay for these expenses.

Section 7. Section 8-11-9, W.M.C., is hereby AMENDED to read as follows:

**8-11-9: LAND DISTURBANCE PERMIT REMEDIATION PROCEDURES: (3391)**

(A) **City Inspector:** If a City inspector, or any other authorized City representative determines that eroded soils are leaving a disturbed area, the City inspector or authorized representative may, in writing, direct the business owner, landowner or such owner's agents or representatives on the site to repair, replace and/or install any sediment and/or erosion controls that were proposed for the site, or require additional sediment and/or erosion controls be installed if deemed necessary by the City inspector or authorized representative to minimize said sediment from migrating off-site, including the issuance of stop work orders and/or suspension or revocation of any permit. It shall be unlawful for any business or landowner or such owner's agents or representatives to fail to take all necessary measures to comply with such written directive and take all measures necessary to prevent soil erosion from migrating off site.

(B) **Right of Entry:**

1. The City inspector, or any other authorized City representative shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any land disturbance permit or order issued hereunder. Users shall allow the City inspector or authorized representative ready access to all parts of the premises for the purposes of inspection, whether announced or unannounced, sampling, records examination and copying, and the performance of any additional duties.

2. If the City inspector or authorized representative has been refused access to the property and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City inspector or authorized representative may seek issuance of a search warrant from the Municipal Court.

(C) **Compliance Orders.** Whenever the City determines that any activity is occurring that is not in compliance with a Land Disturbance Permit and/or the requirements of this Chapter, the City may issue a written compliance order to the construction site operator. The schedule shall contain specific actions the construction site operator must complete, including dates for the completion of the actions. It shall be unlawful for any construction site operator to fail to comply with any compliance order requirement.

(D) **Suspension and Revocation of Permit.** The City may suspend or revoke a construction site Land Disturbance Permit for violation of any provision of this Chapter, violation of the permit, and/or misrepresentations by the permittee or the permittee's agents, employees, or independent contractors.

(E) **Stop Work Orders.** Whenever the City determines that any activity is occurring which is not in compliance with an approved permit and/or the requirements of this ordinance, the City can order such activity stopped upon service of written notice upon the person responsible for or conducting such activity. Such person shall immediately stop all activity until authorized in writing by the City to proceed. If the appropriate person cannot be located, the notice to stop work shall be posted in a conspicuous place upon the area where the activity is occurring. The notice shall state the nature of the violation. The notice shall not be removed until the violation has been cured or authorization to remove the notice has been issued by the City. It shall be unlawful for any person to fail to comply with a stop work order.

(F) ~~**Violations and Penalties.** It shall be unlawful for any person to violate any provision of a construction site Land Disturbance Permit and/or the requirements of this Chapter, as adopted and~~

~~modified by the City. Any person violating any provision of the construction site Land Disturbance Permit and/or the requirements of this Chapter, as adopted and modified by the City, shall be deemed guilty of a misdemeanor, and subject to the penalties as set forth in Chapter 8 of Title I of this Code.~~

~~(G)(F) **Remedies Not Exclusive.** The remedies provided by this Section are in addition to any other remedies set out in this Chapter. Exercise of any such this remedy shall not be a bar against, nor a prerequisite for, taking any other action against a violator.~~

Section 8. Section 8-11-11, subsections (C) and (D), W.M.C., are hereby AMENDED to read as follows:

**8-11-11: JUDICIAL ENFORCEMENT REMEDIES: (3391)**

**(C) Criminal Prosecution:**

~~1. A user who willfully or negligently violates any provision of this ordinance, a land disturbance permit, or order issued hereunder, or any other stormwater quality standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1000.00 per violation, per day, or imprisonment for not more than one (1) year, or both.~~

~~2. A user who willfully or negligently introduces any substance into the MS4 which causes personal injury or property damage shall be subject to the penalty provisions of State law. This penalty shall be in addition to any other civil cause of action for personal injury or property damage available under State law.~~

~~3. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, land disturbance permit, or order issued hereunder shall, upon conviction, be punished by a fine of not more than \$1000.00 per violation, per day, or imprisonment for not more than one (1) year, or both.~~

~~(1) It shall be unlawful for any person to violate any provision of this Chapter, a Land Disturbance Permit, or order issued hereunder.~~

~~(2) It shall be unlawful for any person to introduce any substance into the MSA that causes personal injury or damage.~~

~~(3) It shall be unlawful to make any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Chapter, land disturbance permit, or order issued hereunder.~~

~~(4) Any violation of any provision of this Chapter is hereby declared to be a criminal violation, which shall be punishable by fine, imprisonment, or both, pursuant to the provisions of W.M.C. section 1-8-1, as the same may from time to time be amended.~~

**(D) Remedies Nonexclusive:** The remedies provided for in this ~~ordinance~~ Chapter are not exclusive. The City Manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of stormwater quality violations will generally be in accordance with the City's enforcement response plan. However, the City Manager may take other action against any user when the circumstances warrant. Further, the City Manager is empowered to take more than one enforcement action against any noncompliant user.

Section 9. Section 11-11-9, W.M.C., is hereby AMENDED to read as follows:

**11-11-9: ENFORCEMENT:**

(A) Public nuisance: any violation of the provisions of this Chapter is hereby declared to be a public nuisance.

~~1.(1)~~ Abatement of public nuisances shall be according to the provisions of Title 8, Chapter 4 of this Code.

~~2.(2)~~ Summary abatement procedures (section 8-4-4(a)) may be followed for the following reasons:

(a) Any sign whose condition or placement is found by the code enforcement officer to constitute an imminent danger of serious injury to persons or property, including but not limited to danger of collapse or blocking views of streets, alleys, driveways, or other entrances and exits from public ways.

(b) Any sign placed unlawfully in the public right-of-way. Such signs may be immediately removed and destroyed without notice or liability.

(B) ~~Criminal violations: i~~It shall be unlawful for any person to violate any of the provisions of this Chapter. Any person found guilty of violating any of the provisions of this Chapter shall, upon conviction thereof, be punished by a fine or imprisonment, or both, pursuant to Section 1-8-1 of this Code. Each day that a violation of any of the provisions of this Chapter continues to exist shall be deemed to be a separate and distinct violation. ~~The provisions of this Subsection shall not be applicable for violations of Section 11-11-6(C).~~

Section 10. Section 13-1-4, subsection (C), W.M.C., is hereby DELETED:

**13-1-4: ENFORCEMENT OF RULES: (3455)**

~~(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 11. This ordinance shall take effect upon its passage after second reading. 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 13th day of December, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10<sup>th</sup> day of January, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney's Office



WESTMINSTER  
COLORADO

Agenda Memorandum

City Council Meeting  
January 10, 2011



**SUBJECT:** Second Reading of Councillor's Bill No. 67 re Cost Recovery for the 144<sup>th</sup> Avenue, Zuni Street to Jason Drive Project

**Prepared By:** David W. Loseman, Senior Projects Engineer

**Recommended City Council Action:**

Pass Councillor's Bill No. 67 on second reading establishing recovery payments owed to the City for costs incurred in constructing improvements to the 144<sup>th</sup> Avenue, Zuni Street to Jason Drive Project.

**Summary Statement**

- The improvements to the 144<sup>th</sup> Avenue, Zuni Street to Jason Drive Project were completed in 2009 at an overall cost of approximately \$4,543,303. Westminster Municipal Code allows the City's recovery of portions of those costs from the future developers of adjoining benefited properties.
- Costs of the project were categorized and evaluated according to guidelines in the Municipal Code to determine the level of assessment of those costs to properties that benefit from them. Generally, improvements that would normally be installed by the adjacent developer as a condition of development were included. The total cost was then apportioned among the City and the properties on either side of 144<sup>th</sup> Avenue. The recovery specifically impacts undeveloped properties along the project limits, including properties within currently unincorporated areas on the north side of 144<sup>th</sup> Avenue. The City would not collect recoveries from these unincorporated properties on the north unless they are annexed and developed in the City.
- City Council action is requested to pass the attached Councillor's Bill on second reading that lists the qualifying costs and establishes the cost recovery mechanism for assessing those costs totaling \$4,543,303 to the owners of property abutting 144<sup>th</sup> Avenue within the project limits. This equates to a per linear foot cost of \$331.75 for each property.
- The attached Councillor's Bill was passed on first reading on December 13, 2010.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **67**

SERIES OF 2010

INTRODUCED BY COUNCILLORS  
**Kaiser - Lindsey**

**A BILL  
FOR AN ORDINANCE ESTABLISHING COST RECOVERIES FOR CITY-CONSTRUCTED  
PROJECT: 144<sup>TH</sup> AVENUE, ZUNI STREET TO JASON DRIVE PROJECT**

WHEREAS, Westminster Municipal Code § 11-6-7(B)(1) provides that the City shall have the authority to allocate and recover the costs of construction of public improvements or facilities from property owners based on the benefit of such improvement, facility, or service to said owners; and

WHEREAS, Westminster Municipal Code § 11-6-7(B)(3) provides that the City Council shall provide by ordinance for the recovery of appropriate costs for public improvements, facilities, or services constructed by the City, and that said ordinance shall establish the nature and extent of the recoveries due to the City, and that such ordinance may include provisions for simple interest payable to the City; and

WHEREAS, Westminster Municipal Code § 11-6-7(E)(2)(a) provides that any ordinance establishing cost recovery obligations for City-constructed improvements shall include a list of properties to be charged with cost recovery for said improvements, that said ordinance shall be recorded in the real estate records of the counties in which the properties to be charged with cost recoveries are located and, if available, shall include a final statement of construction costs for the improvements subject to recovery or, otherwise, an estimate of construction costs for the improvements to be constructed until a final statement of construction costs for the improvements may be determined and recorded following the completion of the improvements; and

WHEREAS, the City completed the installation of roadway, utility and landscape improvements along the general alignment of 144<sup>th</sup> Avenue between Zuni Street and Jason Drive; and

WHEREAS, the City, through this ordinance, now wishes to establish a cost assessment recoverable from benefiting properties.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. The nature and extent of the recoverable costs owed to the City pursuant to this ordinance include costs associated with the planning, design, right-of-way acquisition and construction of improvements to 144<sup>th</sup> Avenue between Zuni Street and Jason Drive and listed and summarized in Exhibit A, attached hereto and incorporated herein by this reference, and those costs (the "Recoverable Costs") will be assessed at \$331.75 per linear foot of all developing ownerships within the City abutting 144<sup>th</sup> Avenue, plus interest as established by City Council each year.

Section 2. The properties (the "Assessed Properties") described in Exhibit B, attached hereto and incorporated herein by this reference, are hereby assessed the Recoverable Cost noted in Exhibit A. The Recoverable Costs shall be due and payable in accordance with the provisions of W.M.C. § 11-6-7, as the same may be amended.

Section 3. This ordinance shall take effect upon its passage after second reading.

Section 4. 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.

Section 5. The City Clerk shall cause a copy of this ordinance to be recorded in the real estate records of Adams County immediately following its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 13<sup>th</sup> day of December, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10<sup>th</sup> day of January, 2011.

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Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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City Clerk

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City Attorney's Office

**EXHIBIT "A"**

Recoverable Costs for 144th Avenue, Zuni Street to Jason Drive Project		
Dec-10		
Project Expense	Cost	Remarks
Final Design Engineering	\$ 422,552.82	Contract and amendments with FHU
Right-of-Way costs	\$ 183,026.03	
Road Construction Costs	\$ 3,154,807.04	See roadway construction attached
Encana Gas relocation cost	\$ 264,000.00	
Utility	\$ 28,472.00	
Street lighting	\$ 221,969.37	Both sides 144th Ave.
Construction Engineering	\$ 268,475.76	Contract and amendments with PBS&J
<b>Total Cost</b>	<b>\$ 4,543,303.02</b>	
Total cost divided by 3	\$ 1,514,434.34	
Total project length	4,565.00	Station 102+15.33 to station 147+80.55
<b>RECOVERABLE COST (PRINCIPAL) (TOTAL COST DIVIDED BY 3 DIVIDED BY PROJECT LENGTH), PLUS INTEREST AS ESTABLISHED BY CITY COUNCIL EACH YEAR.</b>	<b>\$ 331.75</b>	Total cost divided by the project length

PREMIER PAVING INC.  
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Pay Estimate # 12 (FINAL)

29003  
 12/1/09 - 12/31/09  
 12/31/2009  
 # 12

Name: City of Westminster  
 Address: 4800 W 92nd Ave  
 Westminster, CO 80031  
 Project: 144th Ave, Zuni Street to Jason Drive  
 Job #: S06-01A

PBS&J Item #s	Bid Item #	ITEM DESCRIPTION	PLANNED QUANTITY	UNIT	UNIT PRICE	CONTRACT TOTAL	TOTAL QUANTITY	TOTAL AMOUNT
5	201	CLEARING AND GRUBBING	1	LS	\$ 4,750.00	\$ 4,750.00	1	\$ 4,750.00
10	202	REMOVAL OF CONCRETE PAVEMENT	81	SY	\$ 11.00	\$ 891.00	54	\$ 594.00
15	202	REMOVAL OF PIPE	123	LF	\$ 6.00	\$ 738.00	123	\$ 738.00
20	202	REMOVAL OF FENCE	1,731	LF	\$ 1.00	\$ 1,731.00	490	\$ 490.00
25	202	REMOVAL OF ASPHALT MAT	3,817	SY	\$ 0.50	\$ 1,908.50	5462	\$ 2,731.00
30	202	REMOVAL OF PAVEMENT MARKING	1,250	SF	\$ 2.00	\$ 2,500.00	111	\$ 222.00
35	202	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	1	LS	\$ 1,250.00	\$ 1,250.00	1	\$ 1,250.00
40	202	CLEAN CULVERT	2	EA	\$ 310.00	\$ 620.00	0	\$ -
45	203	BLADING	4	HOUR	\$ 115.00	\$ 460.00	0	\$ -
50	203	DOZING	4	HOUR	\$ 140.00	\$ 560.00	0	\$ -
55	203	COMBINATION LOADER	4	HOUR	\$ 120.00	\$ 480.00	6	\$ 720.00
60	203	BACKHOE	4	HOUR	\$ 105.00	\$ 420.00	8	\$ 840.00
65	203	EMBANKMENT MATERIAL (COMPLETE IN PLACE)	5,093	CY	\$ 7.00	\$ 35,651.00	5635	\$ 39,445.00
70	203	POTHOLING	50	HOUR	\$ 175.00	\$ 8,750.00	31	\$ 5,425.00
75	206	STRUCTURE EXCAVATION	220	CY	\$ 22.00	\$ 4,840.00	220	\$ 4,840.00
80	206	STRUCTURE BACKFILL (CLASS I)	324	CY	\$ 29.00	\$ 9,396.00	342	\$ 9,918.00
85	208	TEMPORARY BERMS	125	LF	\$ 5.00	\$ 625.00	0	\$ -
90	208	EROSION LOG (12 INCH)	20	LF	\$ 5.00	\$ 100.00	40	\$ 200.00
95	208	SILT FENCE	1,127	LF	\$ 1.00	\$ 1,127.00	1123	\$ 1,123.00
100	208	CHECK DAM	1	EA	\$ 2,000.00	\$ 2,000.00	2	\$ 4,000.00
105	208	CONCRETE WASHOUT STRUCTURE	1	EA	\$ 1,150.00	\$ 1,150.00	1	\$ 1,150.00
110	208	STORM DRAIN INLET PROTECTION	6	EA	\$ 185.00	\$ 1,110.00	5	\$ 925.00
115	208	STABILIZED CONSTRUCTION ENTRANCE	1	EA	\$ 1,200.00	\$ 1,200.00	1	\$ 1,200.00
120	208	SEDIMENT REMOVAL AND DISPOSAL	1	LS	\$ 218.75	\$ 218.75	1	\$ 218.75
125	208	EROSION CONTROL SUPERVISOR	20	HOUR	\$ 57.00	\$ 1,140.00	11	\$ 627.00
130	210	RESET MAILBOX	1	EA	\$ 185.00	\$ 185.00	1	\$ 185.00
135	210	RESET VINYL FENCE AND BRICK COLUMNS	500	LF	\$ 31.00	\$ 15,500.00	500	\$ 15,500.00

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140	210	RESET WOOD FENCE	259	LF	\$ 12.00	\$ 3,108.00	304	\$ 3,648.00
145	210	RESET/ADJUST WATER METER	1	EA	\$ 775.00	\$ 775.00	0	\$ -
150	210	ADJUST VALVE BOX	1	EA	\$ 365.00	\$ 365.00	0	\$ -
155	210	RESET TRAFFIC SIGNAL HEAD	2	EA	\$ 195.00	\$ 390.00	2	\$ 390.00
160	212	SEEDING (NATIVE)	2	ACRE	\$ 410.00	\$ 820.00	2	\$ 820.00
165	212	SOIL CONDITIONING	2	ACRE	\$ 1,170.00	\$ 2,340.00	2	\$ 2,340.00
170	213	MULCHING (WEED FREE)	2	ACRE	\$ 635.00	\$ 1,270.00	2	\$ 1,270.00
175	216	SOIL RETENTION BLANKET (CLASS I)	978	SY	\$ 1.15	\$ 1,124.70	695	\$ 799.25
180	216	SOIL RETENTION BLANKET (CLASS III)	66	SY	\$ 6.50	\$ 429.00	47	\$ 305.50
185	217	HERBICIDE TREATMENT	12	HOUR	\$ 67.00	\$ 804.00	0	\$ -
190	304	AGGREGATE BASE COURSE (CLASS 6)	163	TON	\$ 17.00	\$ 2,771.00	163	\$ 2,771.00
195	307	HYDRATED LIME	9,150	SY	\$ 7.30	\$ 66,795.00	9969.3	\$ 72,775.89
200	403	HOT MIX ASPHALT (GRADING SX) (100) (PG 64-22)	1,006	TON	\$ 46.25	\$ 46,527.50	1484.78	\$ 68,671.08
205	403	HOT MIX ASPHALT (GRADING S) (100) (PG 64-22)	3,163	TON	\$ 44.00	\$ 139,172.00	3227	\$ 141,988.00
210	403	HOT MIX ASPHALT (PATCHING)(ASPHALT)	100	TON	\$ 65.00	\$ 6,500.00	112	\$ 7,280.00
215	411	EMULSIFIED ASPHALT (SLOW-SETTING)	1,830	GAL	\$ 2.00	\$ 3,660.00	1224	\$ 2,448.00
220	420	GEOTEXTILE (EROSION CONTROL) (CLASS A)	12	SY	\$ 3.00	\$ 36.00	0	\$ -
225	506	RIPRAP (12 INCH)	4	CY	\$ 56.00	\$ 224.00	4	\$ 224.00
226	506	<b>SOIL RIPRAP (18 INCH)</b>	278	CY	\$ 19.00	\$ 5,282.00	248	\$ 4,712.00
230	514	PIPE RAILING	127	LF	\$ 115.00	\$ 14,605.00	124.5	\$ 14,317.50
235	601	CONCRETE CLASS D (BOX CULVERT)	256	CY	\$ 335.00	\$ 85,760.00	256	\$ 85,760.00
240	602	REINFORCING STEEL	41,500	LB	\$ 1.05	\$ 43,575.00	40423	\$ 42,444.15
250	603	18 INCH REINFORCED CONCRETE PIPE	372	LF	\$ 34.50	\$ 12,834.00	403	\$ 13,903.50
255	603	24 INCH REINFORCED CONCRETE PIPE	578	LF	\$ 44.85	\$ 25,923.30	578	\$ 25,923.30
260	603	18 INCH REINFORCED CONCRETE PIPE END SECTION	1	EA	\$ 565.00	\$ 565.00	2	\$ 1,130.00
265	603	24 INCH REINFORCED CONCRETE PIPE END SECTION	1	EA	\$ 655.00	\$ 655.00	1	\$ 655.00
270	604	INLET TYPE C (5 FOOT)	1	EA	\$ 2,580.00	\$ 2,580.00	1	\$ 2,580.00
275	604	INLET TYPE D (5 FOOT)	1	EA	\$ 3,520.00	\$ 3,520.00	1	\$ 3,520.00

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280	604	INLET TYPE 16 (DOUBLE) (5 FOOT)	1	EA	\$ 3,745.00	\$ 3,745.00	1	\$ 3,745.00
285	604	INLET TYPE R L 10 (5 FOOT)	3	EA	\$ 3,720.00	\$ 11,160.00	3	\$ 11,160.00
290	604	MANHOLE SLAB BASE (5 FOOT)	4	EA	\$ 2,125.00	\$ 8,500.00	4	\$ 8,500.00
295	607	FENCE (TEMPORARY)	1,319	LF	\$ 1.65	\$ 2,176.35	1409	\$ 2,324.85
300	608	CONCRETE CURB RAMP	33	SY	\$ 65.00	\$ 2,145.00	39.9	\$ 2,593.50
305	608	CONCRETE DRIVEWAY	37	SY	\$ 46.00	\$ 1,702.00	92.44	\$ 4,252.24
310	608	CONCRETE SIDEWALK (6 INCH)	1,302	SY	\$ 27.25	\$ 35,479.50	1338.11	\$ 36,463.50
315	609	CURB AND GUTTER TYPE 2 (SECTION I-B)	438	LF	\$ 10.85	\$ 4,752.30	174	\$ 1,887.90
320	609	CURB AND GUTTER TYPE 2 (SECTION II-B)	2,491	LF	\$ 12.00	\$ 29,892.00	2669	\$ 32,028.00
325	614	SIGN PANEL (CLASS I)	61	SF	\$ 15.55	\$ 948.55	45.25	\$ 703.64
326	614	STEEL SIGN POST (2X2 INCH TUBING)	91	LF	\$ 10.40	\$ 946.40	91	\$ 946.40
330	614	PEDESTRIAN SIGNAL FACE (16) (COUNTDOWN)	4	EA	\$ 565.00	\$ 2,260.00	4	\$ 2,260.00
335	614	PEDESTRIAN PUSH BUTTON	4	EA	\$ 150.00	\$ 600.00	4	\$ 600.00
340	617	DETOUR CULVERT PIPE	102	LF	\$ 33.00	\$ 3,366.00	28	\$ 924.00
345	619	BEND - WATER (DIP) (45 DEG - 6 INCH)	4	EA	\$ 220.00	\$ 880.00	6	\$ 1,320.00
350	619	PIPE - WATER (6 INCH) (PVC - C900)	70	LF	\$ 23.00	\$ 1,610.00	60	\$ 1,380.00
355	620	SANITARY FACILITY	1	EA	\$ 1,400.00	\$ 1,400.00	1	\$ 1,400.00
360	625	CONSTRUCTION SURVEYING	1	LS	\$ 7,500.00	\$ 7,500.00	1	\$ 7,500.00
365	626	MOBILIZATION	1	LS	\$ 29,500.00	\$ 29,500.00	1	\$ 29,500.00
370	627	PAVEMENT MARKING PAINT	11	GAL	\$ 98.60	\$ 1,084.60	11	\$ 1,084.60
375	627	PERFORMED THERMO-PLASTIC PAVEMENT MARKIN	649	SF	\$ 11.40	\$ 7,398.60	639	\$ 7,284.60
380	630	TRAFFIC CONTROL INSPECTION	21	DAY	\$ 80.00	\$ 1,680.00	52	\$ 4,160.00
385	630	TRAFFIC CONTROL MANAGEMENT	53	DAY	\$ 130.00	\$ 6,890.00	16	\$ 2,080.00
390	630	CONSTRUCTION TRAFFIC SIGN (PANEL SIZE A)	3	EA	\$ 11.00	\$ 33.00	13	\$ 143.00
395	630	CONSTRUCTION TRAFFIC SIGN (PANEL SIZE B)	1	EA	\$ 13.00	\$ 13.00	1	\$ 13.00
400	630	DRUM CHANNELIZING DEVICE	33	EA	\$ 1.50	\$ 49.50	33	\$ 49.50
405	630	TRAFFIC CONE	12	EA	\$ 1.00	\$ 12.00	12	\$ 12.00
410	630	FLASHING BEACON (TEMPORARY)	2	EA	\$ 95.00	\$ 190.00	3	\$ 285.00

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415	630	UNIFORMED TRAFFIC CONTROL	16	HOUR	\$ 48.00	\$ 768.00	0	\$ -
420	630	BARRICADE (TYPE 3 M-B)(TEMPORARY)	2	EACH	\$ 21.00	\$ 42.00	0	\$ -
425	630	FLAGGING	857	HOUR	\$ 19.00	\$ 16,283.00	381	\$ 7,239.00
430	700	UTILITY ADJUSTMENTS	1	FA	\$ 12,500.00	\$ 12,500.00	0	\$ -
435	700	LANDSCAPE AND IRRIGATION ADJUSTMENTS	1	FA	\$ 6,250.00	\$ 6,250.00	0	\$ -
440	201	CLEARING AND GRUBBING	1	LS	\$ 14,250.00	\$ 14,250.00	1	\$ 14,250.00
445	202	REMOVAL OF CONCRETE PAVEMENT	120	SY	\$ 11.00	\$ 1,320.00	459	\$ 5,049.00
450	202	REMOVAL OF PIPE	672	LF	\$ 6.00	\$ 4,032.00	507	\$ 3,042.00
455	202	REMOVAL OF FENCE	2,905	LF	\$ 1.00	\$ 2,905.00	500	\$ 500.00
460	202	REMOVAL OF ASPHALT MAT	13,073	SY	\$ 0.50	\$ 6,536.50	13813	\$ 6,906.50
465	202	REMOVAL OF GROUND SIGN	7	EA	\$ 38.00	\$ 266.00	8	\$ 304.00
470	202	REMOVAL OF PAVEMENT MARKING	3,750	SF	\$ 2.00	\$ 7,500.00	910.6	\$ 1,821.20
475	202	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	1	LS	\$ 3,750.00	\$ 3,750.00	1	\$ 3,750.00
480	202	PLUG CULVERT	1	EA	\$ 700.00	\$ 700.00	1	\$ 700.00
485	202	CLEAN CULVERT	4	EA	\$ 310.00	\$ 1,240.00	0	\$ -
490	203	BLADING	12	HOUR	\$ 115.00	\$ 1,380.00	0	\$ -
495	203	DOZING	12	HOUR	\$ 140.00	\$ 1,680.00	0	\$ -
500	203	COMBINATION LOADER	12	HOUR	\$ 1,440.00	\$ 1,440.00	0	\$ -
505	203	BACKHOE	12	HOUR	\$ 105.00	\$ 1,260.00	0	\$ -
510	203	EMBANKMENT MATERIAL (COMPLETE IN PLACE)	15,280	CY	\$ 7.00	\$ 106,960.00	15675	\$ 109,725.00
515	203	POTHOLING	150	HOUR	\$ 175.00	\$ 26,250.00	61	\$ 10,675.00
520	207	TOPSOIL (IMPORT)	2,177	CY	\$ 25.00	\$ 54,425.00	2177	\$ 54,425.00
525	208	TEMPORARY BERMS	375	LF	\$ 5.00	\$ 1,875.00	0	\$ -
530	208	EROSION LOG (12 INCH)	60	LF	\$ 5.00	\$ 300.00	466	\$ 2,330.00
535	208	SILT FENCE	3,379	LF	\$ 1.00	\$ 3,379.00	1648	\$ 1,648.00
540	208	CHECK DAM	1	EA	\$ 2,000.00	\$ 2,000.00	1	\$ 2,000.00
545	208	CONCRETE WASHOUT STRUCTURE	1	EA	\$ 1,150.00	\$ 1,150.00	1	\$ 1,150.00
550	208	STORM DRAIN INLET PROTECTION	19	EA	\$ 185.00	\$ 3,515.00	19	\$ 3,515.00

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555	208	STABILIZED CONSTRUCTION ENTRANCE	2	EA	\$ 1,200.00	\$ 2,400.00	3	\$ 3,600.00
560	208	SEDIMENT REMOVAL AND DISPOSAL	1.00	LS	\$ 656.25	\$ 656.25	1	\$ 656.25
565	208	EROSION CONTROL SUPERVISOR	60	HOURL	\$ 57.00	\$ 3,420.00	28	\$ 1,596.00
570	210	RESET MAILBOX	4	EA	\$ 185.00	\$ 740.00	4	\$ 740.00
575	210	RESET WOOD FENCE	434	LF	\$ 12.00	\$ 5,208.00	427	\$ 5,124.00
580	210	RESET GROUND SIGN	5	EA	\$ 185.00	\$ 925.00	7	\$ 1,295.00
585	210	RESET SIGN (SPECIAL)	1	EA	\$ 13,000.00	\$ 13,000.00	1	\$ 13,000.00
590	210	RESET/ADJUST WATER METER	3	EA	\$ 775.00	\$ 2,325.00	1	\$ 775.00
595	210	RESET FIRE HYDRANT	1	EA	\$ 985.00	\$ 985.00	1	\$ 985.00
600	210	ADJUST VALVE BOX	11	EA	\$ 365.00	\$ 4,015.00	10	\$ 3,650.00
605	210	ADJUST MANHOLE	3	EA	\$ 695.00	\$ 2,085.00	3	\$ 2,085.00
610	210	ADJUST FIRE HYDRANT	1	EA	\$ 1,100.00	\$ 1,100.00	0	\$ -
615	210	MODIFY MANHOLE (SPECIAL)	1	EA	\$ 1,645.00	\$ 1,645.00	0	\$ -
620	212	SOIL PREPARATION	6.78	ACRE	\$ 815.00	\$ 5,525.70	6.507	\$ 5,303.21
625	212	SEEDING (NATIVE)	5	ACRE	\$ 410.00	\$ 2,050.00	5	\$ 2,050.00
630	212	SOD	38,100	SF	\$ 0.30	\$ 11,430.00	42971	\$ 12,891.30
635	212	SOIL CONDITIONING	5	ACRE	\$ 1,170.00	\$ 5,850.00	6.507	\$ 7,613.19
640	213	MULCHING (WEED FREE)	5	ACRE	\$ 635.00	\$ 3,175.00	5	\$ 3,175.00
645	213	MULCHING (COBBLE EDGING)	4,500	SF	\$ 0.80	\$ 3,600.00	12500	\$ 10,000.00
650	213	MULCHING (WOOD CHIP)	31,750	SF	\$ 0.55	\$ 17,462.50	34073.4	\$ 18,740.37
655	213	LANDSCAPE WEED BARRIER FABRIC	3,295	SY	\$ 1.15	\$ 3,789.25	4606.7	\$ 5,297.71
660	213	METAL LANDSCAPE BORDER	900	LF	\$ 3.00	\$ 2,700.00	966	\$ 2,898.00
665	214	GROUND COVERS, PERENNIALS NO. 1 CONT	1,688	EA	\$ 9.00	\$ 15,192.00	1659	\$ 14,931.00
670	214	DECIDUOUS TREE (2.5 - 3 INCH CAL)	73	EA	\$ 345.00	\$ 25,185.00	75	\$ 25,875.00
675	214	DECIDUOUS TREE (8-10 FT HT.)	67	EA	\$ 220.00	\$ 14,740.00	76	\$ 16,720.00
680	214	EVERGREEN TREE (8 FT HT.)	1	EA	\$ 245.00	\$ 245.00	5	\$ 1,225.00
685	214	SHRUBS (NO. 5 CONTAINER)	1,470	EA	\$ 27.00	\$ 39,690.00	1534	\$ 41,418.00
690	214	LANDSCAPE ESTABLISHMENT / MAINTENANCE	1	LS	\$ 12,000.00	\$ 12,000.00	1	\$ 12,000.00

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695	217	HERBICIDE TREATMENT	12	HOUR	\$ 67.00	\$ 804.00	0	\$ -
700	304	AGGREGATE BASE COURSE (CLASS 6)	167	TON	\$ 17.00	\$ 2,839.00	167	\$ 2,839.00
705	307	HYDRATED LIME	21,370	SY	\$ 7.30	\$ 156,001.00	24018.7	\$ 175,336.51
710	403	HOT MIX ASPHALT (GRADING SX) (100) PG 64-22)	2,351	TON	\$ 46.25	\$ 108,733.75	2779.21	\$ 128,538.46
715	403	HOT MIX ASPHALT (GRADING S) (100) PG 64-22)	7,566	TON	\$ 44.00	\$ 332,904.00	6659.52	\$ 293,018.88
720	403	HOT MIX ASPHALT (PATCHING)(ASPHALT)	100	TON	\$ 65.00	\$ 6,500.00	109.29	\$ 7,103.85
725	411	EMULSIFIED ASPHALT (SLOW-SETTING)	4,274	GAL	\$ 2.00	\$ 8,548.00	3213	\$ 6,426.00
730	420	GEOTEXTILE (EROSION CONTROL) (CLASS A)	581	SY	\$ 3.00	\$ 1,743.00	76	\$ 228.00
735	506	RIPRAP (12 INCH)	76	CY	\$ 56.00	\$ 4,256.00	118	\$ 6,608.00
745	601	CONCRETE CLASS D	22	CY	\$ 315.00	\$ 6,930.00	22	\$ 6,930.00
749	603	12 INCH REINFORCED CONCRETE PIPE	44	LF	\$ 31.00	\$ 1,364.00	44	\$ 1,364.00
750	603	18 INCH REINFORCED CONCRETE PIPE	901	LF	\$ 34.50	\$ 31,084.50	904	\$ 31,188.00
755	603	24 INCH REINFORCED CONCRETE PIPE	944	LF	\$ 44.85	\$ 42,338.40	919	\$ 41,217.15
760	603	30 INCH REINFORCED CONCRETE PIPE	767	LF	\$ 56.00	\$ 42,952.00	775	\$ 43,400.00
765	603	54 INCH REINFORCED CONCRETE PIPE	279	LF	\$ 131.00	\$ 36,549.00	277	\$ 36,287.00
770	603	60 INCH REINFORCED CONCRETE PIPE	363	LF	\$ 161.00	\$ 58,443.00	0	\$ -
775	603	23" x 14" REINFORCED CONCRETE PIPE	134	LF	\$ 71.00	\$ 9,514.00	134	\$ 9,514.00
780	603	45" x 29" REINFORCED CONCRETE PIPE	98	LF	\$ 118.00	\$ 11,564.00	112	\$ 13,216.00
785	603	18 INCH REINFORCED CONCRETE PIPE END SECTION	2	EA	\$ 565.00	\$ 1,130.00	2	\$ 1,130.00
790	603	24 INCH REINFORCED CONCRETE PIPE END SECTION	1	EA	\$ 655.00	\$ 655.00	1	\$ 655.00
795	603	30 INCH REINFORCED CONCRETE PIPE END SECTION	2	EA	\$ 765.00	\$ 1,530.00	2	\$ 1,530.00
800	603	23" x 14" REINFORCED CONCRETE PIPE END SECTION	1	EA	\$ 825.00	\$ 825.00	1	\$ 825.00
805	603	12 INCH CORRUGATED STEEL PIPE	43	LF	\$ 35.50	\$ 1,526.50	135	\$ 4,792.50
810	603	18 INCH CORRUGATED STEEL PIPE	78	LF	\$ 37.50	\$ 2,925.00	0	\$ -
815	603	12 INCH STEEL END SECTION	4	EA	\$ 165.00	\$ 660.00	10	\$ 1,650.00
820	603	18 INCH STEEL END SECTION	6	EA	\$ 225.00	\$ 1,350.00	0	\$ -
825	603	6 INCH DUCTILE IRON PIPE	220	LF	\$ 35.70	\$ 7,854.00	220	\$ 7,854.00
830	604	INLET (SPECIAL)	1	EA	\$ 4,300.00	\$ 4,300.00	1	\$ 4,300.00

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Pay Estimate # 12 (FINAL)

29003  
 12/1/09 - 12/31/09  
 12/31/2009  
 # 12

Name: City of Westminster  
 Address: 4800 W 92nd Ave  
 Westminster, CO 80031  
 Project: 144th Ave, Zuni Street to Jason Drive  
 Job #: S06-01A

PBS&J Item #s	Bid Item #	ITEM DESCRIPTION	PLANNED QUANTITY	UNIT	UNIT PRICE	CONTRACT TOTAL	TOTAL QUANTITY	TOTAL AMOUNT
835	604	INLET TYPE C (5 FOOT)	1	EA	\$ 2,580.00	\$ 2,580.00	1	\$ 2,580.00
840	604	INLET TYPE C (SPECIAL)	2	EA	\$ 7,035.00	\$ 14,070.00	2	\$ 14,070.00
845	604	INLET TYPE D (10 FOOT)	1	EA	\$ 3,835.00	\$ 3,835.00	1	\$ 3,835.00
850	604	INLET TYPE D (SPECIAL)	1	EA	\$ 10,075.00	\$ 10,075.00	1	\$ 10,075.00
855	604	INLET TYPE R L 10 (5 FOOT)	6	EA	\$ 3,720.00	\$ 22,320.00	5	\$ 18,600.00
860	604	INLET TYPE R L 10 (10 FOOT)	5	EA	\$ 4,110.00	\$ 20,550.00	5	\$ 20,550.00
865	604	INLET TYPE R (SPECIAL)	1	EA	\$ 4,540.00	\$ 4,540.00	1	\$ 4,540.00
870	604	MANHOLE SLAB BASE (5 FOOT)	2	EA	\$ 2,125.00	\$ 4,250.00	2	\$ 4,250.00
875	604	MANHOLE SLAB BASE (10 FOOT)	3	EA	\$ 2,940.00	\$ 8,820.00	4	\$ 11,760.00
880	604	MANHOLE BOX BASE (10 FOOT)	2	EA	\$ 7,140.00	\$ 14,280.00	2	\$ 14,280.00
885	604	MANHOLE SLAB BASE (20 FOOT) (SANITARY)	1	EA	\$ 3,130.00	\$ 3,130.00	1	\$ 3,130.00
890	604	MANHOLE SLAB BASE (25 FOOT) (SANITARY)	3	EA	\$ 3,365.00	\$ 10,095.00	3	\$ 10,095.00
895	607	FENCE (TEMPORARY)	3,958	LF	\$ 1.65	\$ 6,530.70	3,958	\$ 6,530.70
900	608	CONCRETE CURB RAMP	167	SY	\$ 65.00	\$ 10,855.00	137.9	\$ 8,963.50
905	608	CONCRETE DRIVEWAY	64	SY	\$ 46.00	\$ 2,944.00	242.7	\$ 11,164.20
910	608	CONCRETE SIDEWALK (6 INCH)	3,694	SY	\$ 27.25	\$ 100,661.50	3,705	\$ 100,961.25
915	609	CURB AND GUTTER TYPE 2 (SECTION I-B)	6,354	LF	\$ 10.85	\$ 68,940.90	6,639.5	\$ 72,038.58
920	609	CURB AND GUTTER TYPE 2 (SECTION II-B)	6,353	LF	\$ 12.00	\$ 76,236.00	6,617	\$ 79,404.00
925	610	MEDIAN COVER MATERIAL (RED PATTERNED CONC)	4,319	SF	\$ 12.25	\$ 52,907.75	4,262.9	\$ 52,220.53
930	610	MEDIAN EDGING (RED PATTERNED CONCRETE)	4,189	LF	\$ 15.50	\$ 64,929.50	4,325	\$ 67,037.50
935	613	2 INCH ELECTRICAL CONDUIT (TRENCH)	2,640	LF	\$ 4.95	\$ 13,068.00	3,251	\$ 16,092.45
940	613	2 INCH ELECTRICAL CONDUIT (BORED)	250	LF	\$ 11.80	\$ 2,950.00	204	\$ 2,407.20
945	613	3 INCH ELECTRICAL CONDUIT (TRENCH)	350	LF	\$ 8.25	\$ 2,887.50	674	\$ 5,560.50
950	613	PULL BOX (30"x48"x12") - INTERCONNECT	6	EA	\$ 885.00	\$ 5,310.00	6	\$ 5,310.00
955	613	LARGE PULL BOX (18"x30"x12")	4	EA	\$ 370.00	\$ 1,480.00	4	\$ 1,480.00
960	614	SIGN PANEL (CLASS 1)	127	SF	\$ 15.55	\$ 1,974.85	81.75	\$ 1,271.21
965	614	STEEL SIGN POST (2X2 INCH TUBING)	223	LF	\$ 10.40	\$ 2,319.20	180.5	\$ 1,877.20
970	614	FLASHING BEACON (SOLAR POWERED)	4	EA	\$ 3,715.00	\$ 14,860.00	0	\$ -

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 Job #: S06-01A

29003  
 12/1/09 - 12/31/09  
 12/31/2009  
 # 12

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975	619	BEND - WATER (DIP) (45 DEG - 4 INCH)	8	EA	\$ 184.00	\$ 1,472.00	8	\$ 1,472.00
980	619	BEND - WATER (DIP) (45 DEG - 10 INCH)	8	EA	\$ 425.00	\$ 3,400.00	8	\$ 3,400.00
985	619	BEND - WATER (DIP) (90 DEG - 4 INCH)	2	EA	\$ 185.00	\$ 370.00	2	\$ 370.00
990	619	BLOW-OFF ASSEMBLY	1	EA	\$ 2,060.00	\$ 2,060.00	1	\$ 2,060.00
995	619	WATER SERVICE LINE (NO METER)	2	EA	\$ 1,380.00	\$ 2,760.00	2	\$ 2,760.00
1000	619	WATER SERVICE LINE (WITH METER)	1	EA	\$ 970.00	\$ 970.00	1	\$ 970.00
1005	619	FIRE HYDRANT ASSEMBLY	5	EA	\$ 3,480.00	\$ 17,400.00	5	\$ 17,400.00
1010	619	PIPE - WATER (4 INCH) (PVC - C900)	1,365	LF	\$ 20.00	\$ 27,300.00	1365	\$ 27,300.00
1015	619	PIPE - WATER (10 INCH) (PVC - C900)	1,401	LF	\$ 29.00	\$ 40,629.00	1433	\$ 41,557.00
1020	619	PIPE - WATER (12 INCH) (PVC - C900)	21	LF	\$ 43.00	\$ 903.00	5	\$ 215.00
1025	619	PIPE - WATER (18 INCH) (PVC - C900)	206	LF	\$ 138.00	\$ 28,428.00	206	\$ 28,428.00
1030	619	PIPE - SANITARY (4 INCH) (PVC - C900)(DR26)	147	LF	\$ 26.00	\$ 3,822.00	147	\$ 3,822.00
1035	619	PIPE - SANITARY (8 INCH) (PVC - C900)(DR26)	1,622	LF	\$ 36.00	\$ 58,392.00	1577	\$ 56,772.00
1040	619	TEE - WATER (DIP) (4"x4")	2	EA	\$ 220.00	\$ 440.00	2	\$ 440.00
1045	619	TEE - WATER (DIP) (10"x4")	1	EA	\$ 570.00	\$ 570.00	1	\$ 570.00
1050	619	TEE - WATER (DIP) (10"x6")	4	EA	\$ 590.00	\$ 2,360.00	4	\$ 2,360.00
1055	619	TEE - WATER (DIP) (10"x10")	1	EA	\$ 600.00	\$ 600.00	1	\$ 600.00
1060	619	TEE - WATER (DIP) (12"x4")	1	EA	\$ 585.00	\$ 585.00	1	\$ 585.00
1065	619	TEE - WATER (DIP) (12"x10")	1	EA	\$ 730.00	\$ 730.00	1	\$ 730.00
1070	619	TEE - WATER (DIP) (12"x12")	1	EA	\$ 750.00	\$ 750.00	1	\$ 750.00
1075	619	REDUCER (12"x6")	1	EA	\$ 408.00	\$ 408.00	1	\$ 408.00
1080	619	VALVE - GATE (4 INCH)	5	EA	\$ 775.00	\$ 3,875.00	5	\$ 3,875.00
1085	619	VALVE - GATE (6 INCH)	4	EA	\$ 885.00	\$ 3,540.00	4	\$ 3,540.00
1090	619	VALVE - GATE (10 INCH)	4	EA	\$ 1,785.00	\$ 7,140.00	4	\$ 7,140.00
1095	619	VALVE - GATE (12 INCH)	3	EA	\$ 2,145.00	\$ 6,435.00	2	\$ 4,290.00
1100	620	SANITARY FACILITY	1	EA	\$ 1,400.00	\$ 1,400.00	1	\$ 1,400.00
1105	623	IRRIGATION SYSTEM	1	LS	\$ 66,520.00	\$ 66,520.00	1,072,159	\$ 71,320.00
1110	625	CONSTRUCTION SURVEYING	1	LS	\$ 22,500.00	\$ 22,500.00	1.17	\$ 26,365.50

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29003  
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PBS&J Item #s	Bid Item #	ITEM DESCRIPTION	PLANNED QUANTITY	UNIT	UNIT PRICE	CONTRACT TOTAL	TOTAL QUANTITY	TOTAL AMOUNT
1115	626	MOBILIZATION	1	LS	\$ 88,500.00	\$ 88,500.00	1	\$ 88,500.00
1120	627	PAVEMENT MARKING PAINT	34	GAL	\$ 98.60	\$ 3,352.40	34	\$ 3,352.40
1125	627	PREFORMED THERMO-PLASTIC PAVEMENT MARKIN	1,291	SF	\$ 11.40	\$ 14,717.40	1,291	\$ 14,717.40
1130	630	TRAFFIC CONTROL INSPECTION	65	DAY	\$ 80.00	\$ 5,200.00	65	\$ 5,200.00
1135	630	TRAFFIC CONTROL MANAGEMENT	161	DAY	\$ 130.00	\$ 20,930.00	161	\$ 20,930.00
1140	630	CONSTRUCTION TRAFFIC SIGN (PANEL SIZE A)	11	EA	\$ 11.00	\$ 121.00	23	\$ 253.00
1145	630	CONSTRUCTION TRAFFIC SIGN (PANEL SIZE B)	1	EA	\$ 13.00	\$ 13.00	2	\$ 26.00
1150	630	DRUM CHANNELIZING DEVICE	99	EA	\$ 1.50	\$ 148.50	99	\$ 148.50
1155	630	TRAFFIC CONE	38	EA	\$ 1.00	\$ 38.00	38	\$ 38.00
1160	630	FLASHING BEACON (TEMPORARY)	2	EA	\$ 95.00	\$ 190.00	1	\$ 95.00
1165	630	BARRICADE (TYPE 3 M-B)(TEMPORARY)	4	EACH	\$ 21.00	\$ 84.00	5	\$ 105.00
1170	630	FLAGGING	2,572	HOURL	\$ 19.00	\$ 48,868.00	1006	\$ 19,114.00
1175	700	UTILITY ADJUSTMENTS	1	FA	\$ 37,500.00	\$ 37,500.00	0.02	\$ 750.00
1180	700	LANDSCAPE AND IRRIGATION ADJUSTMENTS	1	FA	\$ 18,750.00	\$ 18,750.00	0	\$ -
CHANGE ORDERS								
1185	210	RESET VINYL FENCE AND BRICK COLUMNS	50	LF	\$ 31.00	\$ 1,550.00	35	\$ 1,085.00
1190	603	18 INCH CORRUGATED STEEL PIPE	60	LF	\$ 37.50	\$ 2,250.00	40	\$ 1,500.00
1195	603	18 INCH STEEL END SECTION	2	EA	\$ 225.00	\$ 450.00	2	\$ 450.00
1200	608	CONCRETE DRIVEWAY	20	SY	\$ 46.00	\$ 920.00	20	\$ 920.00
1205	503	DRILLED CAISSON (36 INCH)	20	LF	\$ 238.00	\$ 4,760.00	20	\$ 4,760.00
1210	603	18 INCH CORRUGATED STEEL PIPE	-40	LF	\$ 37.50	\$ (1,500.00)	0	\$ -
1215	603	18 INCH STEEL END SECTION	-2	EA	\$ 225.00	\$ (450.00)	0	\$ -
1220	613	LARGE PULL BOX (18"x30"x12") (TRAFFIC STAMP)	3	EA	\$ 370.00	\$ 1,110.00	3	\$ 1,110.00
1225	613	SMALL PULL BOX (13"x24"x12") (ELECTRIC STAMP)	2	EA	\$ 565.00	\$ 1,130.00	2	\$ 1,130.00
1230	613	WIRING (SIGNALS, LUMINAIRES, ELEC SERVICE)	1	LS	\$ 4,129.50	\$ 4,129.50	1	\$ 4,129.50
1235	613	2 INCH ELECTRICAL CONDUIT (TRENCH)	180	LF	\$ 4.95	\$ 891.00	180	\$ 891.00
1240	613	3 INCH ELECTRICAL CONDUIT (TRENCH)	90	LF	\$ 8.25	\$ 742.50	90	\$ 742.50
1245	613	2 INCH ELECTRICAL CONDUIT (TRENCH) (INSTALL C	224	LF	\$ 9.00	\$ 2,016.00	224	\$ 2,016.00

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1250	613	6 INCH ELECTRICAL CONDUIT (TRENCH) (INSTALL C	61	LF	\$ 14.00	\$ 854.00	61	\$ 854.00
1255	614	TRAFFIC SIGNAL POLE, 30' MA W/LUMINAIRE	2	EA	\$ 2,290.00	\$ 4,580.00	2	\$ 4,580.00
1260	614	PEDESTRIAN SIGNAL POLE (INCLUDES CAISSON)	2	EA	\$ 1,335.00	\$ 2,670.00	2	\$ 2,670.00
1265	614	PEDESTRIAN SIGNAL FACE (16) (COUNTDOWN)	4	EA	\$ 565.00	\$ 2,260.00	4	\$ 2,260.00
1270	614	PEDESTRIAN PUSH BUTTON	4	EA	\$ 150.00	\$ 600.00	4	\$ 600.00
1275	614	TRAFFIC SIGNAL FACE (12-12-12) LED, GELcore/Dalili	8	EA	\$ 715.00	\$ 5,720.00	8	\$ 5,720.00
1280	614	TRAFFIC SIGNAL CONTROLLER AND CABINET (ASC)	1	EA	\$ 15,000.00	\$ 15,000.00	1	\$ 15,000.00
1285	614	FLASHING BEACON (SOLAR POWERED)	-4	EA	\$ 3,715.00	\$ (14,860.00)	0	\$ -
1290	614	SIGN PANEL (CLASS I)	-33	SF	\$ 15.55	\$ (513.15)	0	\$ -
1295	614	STEEL SIGN POST (2X2 INCH TUBING)	-42	LF	\$ 10.40	\$ (436.80)	0	\$ -
1300	619	VALVE - GATE (10 INCH)	2	EA	\$ 1,785.00	\$ 3,570.00	2	\$ 3,570.00
1305	627	PREFORMED THERMO-PLASTIC PAVEMENT MARKIN	88	SF	\$ 11.40	\$ 1,003.20	33	\$ 376.20
1310	206	STABILIZATION MATERIAL (MATERIAL & HAUL)	87.39	TN	\$ 13.50	\$ 1,179.77	87.39	\$ 1,179.77
1315	206	12" x 8" Wet Tap	1	EA	\$ 3,255.00	\$ 3,255.00	1	\$ 3,255.00
1320	206	8" Tapping Valve	1	EA	\$ 2,073.75	\$ 2,073.75	1	\$ 2,073.75
1325	206	8" x 6" Reducer	1	EA	\$ 236.25	\$ 236.25	1	\$ 236.25
1330	206	Wood Fence	225	LF	\$ 23.25	\$ 5,231.25	225	\$ 5,231.25
1070	619	12" x 12" Tee	1	EA	\$ (750.00)	\$ (750.00)	1	\$ (750.00)
1075	619	12" x 6" Reducer	1	EA	\$ (408.00)	\$ (408.00)	1	\$ (408.00)
1090	619	12" Gate Valve	1	EA	\$ (2,145.00)	\$ (2,145.00)	1	\$ (2,145.00)
1335	1335	Dewatering	1	LS	\$ 26,152.00	\$ 26,152.00	1	\$ 26,152.00
1340	1340	Landscape SE Corner @ Huntington Trails	1	LS	\$ 14,532.13	\$ 14,532.13	0	\$ -
1345	1345	Open Space Trailhead Pedestrian Paths	1	LS	\$ 4,097.00	\$ 4,097.00	1	\$ 4,097.00
1350	1350	Relocate Water Service	1	LS	\$ 835.00	\$ 835.00	1	\$ 835.00
1355	1355	CONCRETE DRIVEWAY W/Rebar	25	SY	\$ 49.50	\$ 1,237.50	25	\$ 1,237.50
		Type I Delineators	6	EA	\$ 37.00	\$ 222.00	6	\$ 222.00
		Variable Message Boards	2	EA	\$ 10,500.00	\$ 21,000.00	2	\$ 21,000.00
		Final CO to Close	1	LS	\$ (160,502.96)	\$ (160,502.96)	1	\$ (160,502.96)

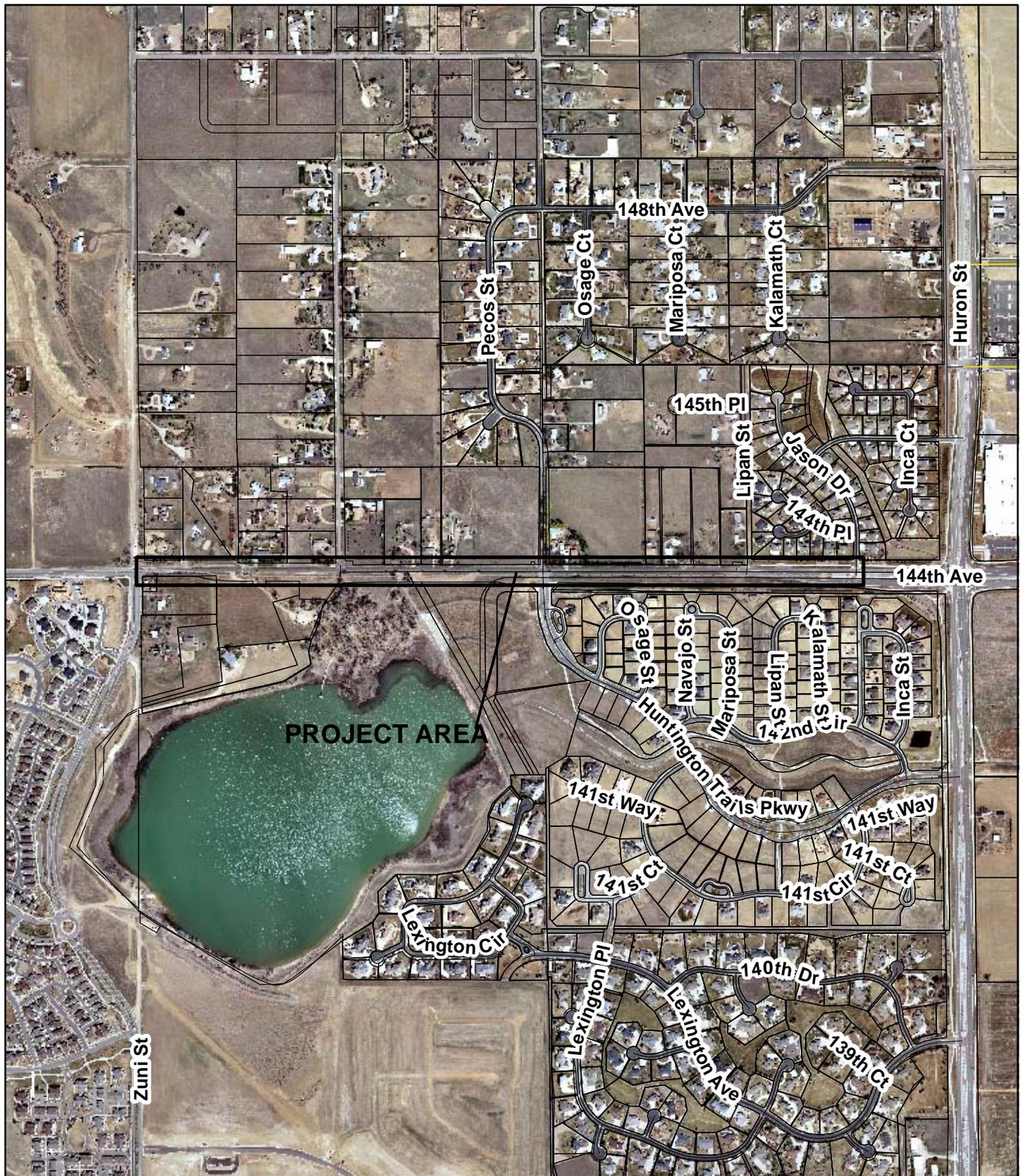
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<b>Project Totals</b>								\$ 3,154,807.04
								\$ 3,154,807.04



**EXHIBIT "B"**  
**144TH AVENUE, ZUNI STREET**  
**TO JASON DRIVE PROJECT -**  
**RECOVERY COSTS**

**F**





## Agenda Item 9 A

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
January 10, 2011



**SUBJECT:** Resolution No. 1 re Reappoint Members to Boards and Commissions and Fill Vacancies

**Prepared By:** Linda Yeager, City Clerk

**Recommended City Council Action**

Adopt Resolution No. 1 reappointing members whose terms expired December 31, 2010 to two-year terms and appointing alternate members to regular membership, where applicable, on the Board of Building Code Appeals, the Environmental Advisory Board, the Historic Landmark Board, the Human Services Board, the Open Space Advisory Board, the Parks, Recreation and Libraries Advisory Board, the Personnel Board, the Planning Commission, and the Special Permit and License Board.

**Summary Statement**

- City Council action is requested to reappoint citizens serving as members of the aforementioned established City Boards and Commissions and had their terms of appointment expire on December 31, 2010, and to appoint alternate members to regular membership where vacancies exist.
- All affected Board members were contacted to determine interest and willingness to continue serving. New terms are for two-year periods.
- The remaining vacancies on City Boards and Commissions will be filled at a later date after City Council has had the opportunity to conduct interviews with interested Westminster citizens.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Does City Council want to reappoint those individuals on Boards and Commissions whose terms of office expired on December 31, 2010, and fill vacancies through the appointment of alternate members to regular membership?

**Alternative**

None identified

**Background Information**

The terms of office of three members on the Board of Building Code Appeals expired on December 31. James C. Black, Emma Pinter, and Delbert Ragland would like to be reappointed to the Board. Adoption of the attached resolution will name them to an additional two-year term that will expire December 31, 2012.

The terms of Steve Breitzka, Michele Christiansen, Denise Dillinger, and William Lange on the Environmental Advisory Board expired December 31. All would like to be reappointed to another two-year term that would expire December 31, 2012, and will be if the attached resolution is adopted. With the resignations of Yvonne Martin and Shawn Wallace in recent months, there are vacancies in a regular and an alternate membership that will need to be filled at a later date.

The terms of office of Dan Gossert, Kaaren Hardy, Patti Kinnear, and Chris Meschuk on the Historic Landmark Board expired on December 31. All have voiced interest in being reappointed to two-year terms that would expire December 31, 2012. The attached resolution makes those reappointments. There is a vacancy in the alternate membership on this Board that will need to be filled at a later date.

The terms of office of Tom Bruchmann and Samantha Dixion on the Human Services Board expired December 31. Both would be pleased to be reappointed. The attached resolution reappoints them to two-year terms that will expire December 31, 2012.

The terms of three members of the Open Space Advisory Board expired December 31, and Sarada Krishnan, Marley Steele-Inama, and Randal Whorton have expressed interest in being reappointed. The proposed resolution makes these reappointments to terms of office that will expire December 31, 2012.

The terms of office of four members on the Parks, Recreation and Libraries Advisory Board expired at year end. Stephanie Bingham, Ronald Dickerson, and Mary Litwiler would like to be reappointed. Catherine Payne decided after much contemplation to resign after 15 years of service. The attached resolution will reappoint Ms. Bingham, Mr. Dickerson, and Ms. Litwiler to the Board with terms to expire December 31, 2012. It will also appoint Bernice Aspinwall, the current alternate to the Board, to fill the vacancy created by Ms. Payne's resignation. This Board has an alternate member vacancy to be filled at a later date.

The terms of office of Margaret Rivera and Betty Whorton on the Personnel Board expired on December 31. They would like to be reappointed, and the attached resolution accomplishes reappointment to terms that will expire December 31, 2012.

The terms of five members of the Planning Commission expired on December 31. All five would like to continue serving another two-year term. If adopted, the attached resolution reappoints Donald Anderson, Christopher Beall, Mike Litzau, Timothy McClung, and Joe McConnell to additional terms on the Commission that will expire December 31, 2012.

The terms of office of three members of the Special Permit and License Board expired on December 31. John Velasquez and George Werkmeister have voiced interest in reappointment. Citing employment and family demands on his time, Michael Borchlewicz decided to resign his membership and thanked Council for the opportunity to serve. In addition to reappointing Messrs. Velasquez and Werkmeister the attached ordinance names David Amin, the current alternate, to fill the vacancy created by Mr. Borchlewicz's resignation. There is an alternate member vacancy on this Board that will need to be filled at a later date.

The commitment of citizens volunteering for boards and commissions is an important component of our strategic goal to be a Financially Sustainable City Government providing Exceptional Service.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **1**

INTRODUCED BY COUNCILLORS

SERIES OF 2011

---

**A RESOLUTION FOR CITY OF WESTMINSTER BOARD AND COMMISSION  
REAPPOINTMENTS AND NEW APPOINTMENTS**

WHEREAS, each member of the City's Boards and Commissions whose term expired on December 31, 2010 has been contacted and the majority of them have conveyed the desire to be reappointed to the Board where they are currently serving; and

WHEREAS, it is important to have each City Board or Commission working with its full complement of authorized members to carry out the business of the City of Westminster with citizen representation; and

WHEREAS, Council has accepted with regret resignations recently received from Catherine Payne (regular member) of the Parks, Recreation and Libraries Advisory Board and from Michael Borchlewicz (regular member) of the Special Permit and License Board.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER that the following individuals are hereby reappointed regular members of the City of Westminster Board or Commission listed below with terms of office to expire December 31, 2012.

<b><u>BOARD/COMMISSION</u></b>	<b><u>NAMES OF RE-APPOINTEES</u></b>
Board of Building Code Appeals	James C. Black, Emma Pinter, and Delbert Ragland
Environmental Advisory Board	Steve Breitzka, Michele Christiansen, Denise Dillinger, and William Lange
Historic Landmark Board	Dan Gossert, Kaaren Hardy, Patti Kinnear, and Chris Meschuk
Human Services Board	Tom Bruchmann and Samantha A. Dixon
Open Space Advisory Board	Sarada Krishnan, Marley Steele-Inama, and Randal Whorton
Parks, Recreation and Libraries Advisory Board	Stephanie Bingham, Ronald Dickerson, and Mary Litwiler
Personnel Board	Margaret Rivera and Betty Whorton
Planning Commission	Donald Anderson, Christopher Beall, Mike Litzau, Timothy McClung, and Joe McConnell
Special Permit and License Board	John Velasquez and George Werkmeister

BE IT FURTHER RESOLVED that the following appointments of alternate members are being made to fill vacancies in regular memberships created by resignations with terms of office to expire December 31, 2012:

<u>BOARD/COMMISSION</u>	<u>NAMES OF APPOINTEES</u>
Parks, Recreation and Libraries Advisory Board	Bernice Aspinwall
Special Permit and License Board	David Amin

PASSED AND ADOPTED this 10<sup>th</sup> day of January, 2011.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney



## Agenda Item 10 A

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
January 10, 2011



**SUBJECT:** Councillor's Bill No. 1 re Fire Code Minor Revisions

**Prepared By:** Gary Pedigo, Fire Marshal

### Recommended City Council Action

Pass Councillor's Bill No. 1 on first reading clarifying the requirements for roof clearance of solar photovoltaic installations.

### Summary Statement

- City Council adopted the 2009 edition of the International Fire Code (IFC) on September 13, 2010.
- At that time, section 11-10-5 was added to the City Code to add IFC 611.1 concerning roof clearances of solar photovoltaic installations. The section currently requires that panels shall be placed no closer than an average of 18" from any roof valley. This language has led to some confusion and misinterpretation. Council is asked to clarify that panels shall be placed no closer than 18" from any roof valley.
- This clarification should assist contractors and other interested parties utilizing the City Code to better understand this section and eliminate misinterpretations.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should the City's Fire Code be modified to accurately represent what is allowed by the City for the installation of solar photovoltaic installations?

**Alternative**

Do not approve the attached ordinance leaving the Fire Code as it currently reads. This is not recommended because this allows some misinterpretation of the Code forcing the Fire Department to negotiate and provide interpretation on multiple submittals of plans for solar voltaic installations.

**Background Information**

When adopting the new International Fire and Building Codes, Chief Building Official Dave Horras and Fire Marshal Gary Pedigo recognized the growth in solar voltaic systems in residential applications. It was determined that the City needed some guidelines for solar installations to allow fire crews to operate safely on roofs at dwellings that have these installations. The guidelines were developed in a series of meetings with representatives from the industry. After the Codes were adopted, it became apparent through conversations with system designers who were submitting plans for review that the language needed to be clarified with respect to clearances from roof valleys.

This recommendation supports in general the Strategic Plan goal of a "Safe and Secure Community." More specifically this action supports the objective "Provision of Non Emergency Services Related to Public Education and Prevention."

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment - Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **1**

SERIES OF 2011

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING SECTION 11-10-5 OF THE WESTMINSTER MUNICIPAL  
CODE CONCERNING SOLAR PHOTOVOLTAIC INSTALLATIONS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 11-10-5, W.M.C., is hereby AMENDED to read as follows:

**11-10-5: Chapter 6 Building Services and Systems:**

(A) Section 611 is added to the International Fire Code to read as follows:

**611 Solar Photovoltaic Installations:**

**611.1. Roof Clearances for Installation:**

- a. Panels shall not be placed closer than 2'0" to the ridge of any roof.
- b. Panels shall be placed no closer than 2'0" to the head wall at the top of any roof slope.
- c. Panels shall be placed no closer than ~~an average of~~ 18" from any roof valley.
- d. Additional roof access may be required based on unique site conditions as determined by the Fire Department.

**611.2 Direct Current (DC) Wiring:**

- a. Direct current (DC) conduit, wiring, and raceways shall be located below the solar array or a minimum of 24" below the roof sheathing.

**611.3 Labeling:**

- a. For residential applications, a label stating CAUTION, SOLAR PHOTO VOLTAIC SYSTEM ON PREMISES, shall be placed at or within the main electrical service disconnect.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. 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 10<sup>th</sup> day of January 2011.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24<sup>th</sup> day of January 2011.

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Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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City Clerk

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City Attorney's Office



## Agenda Item 10 B

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
January 10, 2011



**SUBJECT:** Councillor's Bill No. 2 re Swim and Fitness Supplemental Appropriation and Award of Adams County Grant Funds

**Prepared By:** Kathy Piper, Landscape Architect II

### Recommended City Council Action

Pass Councillor's Bill No. 2 on first reading authorizing a supplemental appropriation in the amount of \$205,000 reflecting the City's receipt of an Adams County Open Space Grant for the Swim and Fitness Center Renovation.

### Summary Statement

- In July of 2010, Staff received City Council's approval to submit a request of \$999,117 to Adams County Open Space to help fund the renovation of the Swim and Fitness Center. Staff presented the grant request on August 26, 2010, and on November 17, 2010, the City was awarded \$205,000 for the water play feature only.
- The Department of Parks, Recreation and Libraries has budgeted POST bond, Conservation Trust Funds and CIP funds in the amount of \$1,772,510 for renovation of this facility.
- Renovations will include updating the shower and locker room facilities, providing a family changing room, moving the sauna, steam room and hot tub to more accessible and visibly secure locations and providing a new outdoor splash pad.

**Expenditure Required:** \$205,000

**Source of Funds:** Adams County Open Space Grant

**Policy Issue**

Does Council wish to continue to pursue the use of grant funds to help fund the Swim and Fitness Renovation project?

**Alternative**

Council could choose not to appropriate these grant funds. However, this is not recommended because the City and residents will benefit from these additional funds as they will allow enhancements for the project and because the City has successfully used grant funds from Adams County Open Space in the past.

**Background Information**

Originally, the Swim and Fitness Center renovation project was allocated \$1 million from the 2007 POST bond proceeds, but in April of 2009, \$750,000 was reallocated to the City Park Recreation Center Aquatics Renovation and remodel project. That left \$250,000 remaining in the Swim and Fitness Center renovation Capital Improvement account. The 2008 Carryover Appropriation FY 2009 allocated an additional \$327,200 for the Swim and Fitness Center Expansion Project to assist in completing the phase I expansion project as originally proposed. These funds were from Parks and Open Space and Trails (POST) 2007 bond interest earnings accrued during 2008 of \$159,818 and \$167,382 of higher than anticipated Adams County Open Space attributable share funds.

The accrued bond interest from 2009 of \$125,000 was approved in the third quarter supplemental appropriation of 2010 for this project as well. Additional funding will come from the Building Maintenance and Operations account in the amount of \$344,000. Some of these funds were originally to be used to repair the locker room plumbing and structural wall issues and now will help offset the renovation costs.

Parks, Recreation and Libraries CIP Reserve	\$250,000
Parks and Open Space Bond/Bond Interest	\$533,000
Swim and Fitness Center Renovation CIP Account	\$180,170
Swim and Fitness Center Conservation Trust Fund	\$165,340
Recreation Improvement CIP Account	\$300,000
Building Operations and Maintenance	\$344,000
Adams County Open Space Grant	\$205,000
Total	\$1,977,510

A conceptual master plan for future expansion of the facility has been developed by Sink Combs Dethlefs that will provide for upgraded locker room facilities a family changing room, evaluating the core area to eliminate the various levels that will help with accessibility for various abilities, adding additional areas for party rooms, upgrading swim features, and providing a gymnasium, indoor track, and parking accessibility from the north and south of the facility.

Phase One of this project would concentrate on upgrading the current restroom and shower facilities and including a family changing room, and rearranging and redesigning the circulation for better patron access to lockers and pool area. The sauna, steam room and hot tub will be relocated within the pool area to help with user conflicts from the tot pool and front lobby.

These projects meet City Council’s Strategic Plan Goal of “Financially Sustainable City Government Providing Exceptional Services” by providing alternative funding sources for capital improvement projects.

These appropriations will amend General Capital Improvement Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Adams County OS Grant	7501.40630.0010	\$0	<u>\$205,000</u>	\$205,000
Total Change to Revenues			<u>\$205,000</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Swim and Fitness Renovation	80975050817.80400.8888	\$180,170	<u>\$205,000</u>	\$385,170
Total Change to Expenses			<u>\$205,000</u>	

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **2**

SERIES OF 2011

INTRODUCED BY COUNCILLORS

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**A BILL**

**FOR AN ORDINANCE INCREASING THE 2011 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2011 ESTIMATED REVENUES IN THIS FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2011 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 3550 is hereby increased by \$205,000. This appropriation is due to the receipt of an Adams County Open Space Grant.

Section 2. The \$205,000 increase in the General Capital Improvement Fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item #10 B dated January 10, 2011 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Capital Improvement Fund	<u>\$205,000</u>
Total	<u>\$205,000</u>

Section 3 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 4. This ordinance shall take effect upon its passage after the second reading.

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 10<sup>th</sup> day of January 2011.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 24<sup>th</sup> day of January 2011.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**WESTMINSTER HOUSING AUTHORITY**  
**WESTMINSTER CITY HALL, 4800 W. 92ND AVENUE**  
**MONDAY, January 10, 2011**  
**7:00 P.M.**

- 1. Roll Call**
- 2. Minutes of Previous Meeting** (September 13, 2010)
- 3. New Business**
  - A. Designation of Official Places to Post Public Notices
  - B. Resolution No. 41 re 2011 WHA and Westminster Commons Budgets
- 4. Executive Session** – Discuss strategy and progress on potential sale, acquisition, trade or exchange of certain Authority owned real property and the Authorities' position relative thereto, pursuant to CRS §24-6-402(4)(a).
- 5. Adjournment**

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE WESTMINSTER HOUSING AUTHORITY  
MONDAY, SEPTEMBER 13, 2010 AT 8:05 P.M.

ROLL CALL

Present at roll call were Housing Authority Chairperson McNally, Vice Chairperson Dittman, and Members Briggs, Kaiser, Lindsey, Major, and Winter. Also present were J. Brent McFall, Executive Director, Martin McCullough, Attorney for the Authority, and Linda Yeager, Secretary.

MINUTES OF PRECEDING MEETING

Member Briggs moved, seconded by Dittman, to accept the minutes of the meeting of June 14, 2010 as written and distributed. The motion carried unanimously.

RESOLUTION NO. 40 ACCEPTING ASSIGNMENT OF PRIVATE ACTIVITY BONDS FROM CITY

It was moved by Member Major, seconded by Winter, to adopt Resolution No. 40 accepting the assignment from the City of Westminster of \$3,000,000 of private activity bond allocation for 2010 for the qualified purposes set for in the assignment, and authorizing the Chair to execute the necessary documents. At roll call, the motion passed unanimously.

ADJOURNMENT:

There being no further business to conduct, it was moved by Dittman, seconded by Major to adjourn. The motion carried and the meeting adjourned at 8:07 p.m.

\_\_\_\_\_  
Chairperson

ATTEST:

\_\_\_\_\_  
Secretary

# WHA Agenda Item 3 A

## Agenda Memorandum

Westminster Housing Authority Meeting  
January 10, 2011



**SUBJECT:** Designation of Official Places to Post Public Notices

**Prepared By:** Linda Yeager, City Clerk

### Recommended Board Action

Designate the bulletin board in the lobby of City Hall and the City of Westminster website as the locations for posting public notices of official meetings of the Westminster Housing Authority pursuant to §24-6-402 (2)(c) C.R.S. of the Colorado Open Meetings Act.

### Summary Statement

- The referenced section of the Colorado Open Meetings Act provides that the places where notices of official public meetings will be posted shall be designated annually by the governing body at its first regular meeting of each calendar year.
- All meeting notices for the Westminster Housing Authority have been posted on the bulletin board across from the cashiers' counter in the lobby of City Hall and on the City's website. It is proposed that the same locations be designated for 2011.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Does the Board concur with the designation of the City Hall lobby bulletin board and City of Westminster website as the locations for posting public notices for official meetings?

**Alternative**

Identify other locations for posting public notices. This is not recommended as the City Hall bulletin board and City website serve the purpose of providing public notice.

**Background Information**

The Open Meetings Act, more commonly called the Colorado Sunshine Act, provides that the public place or places for posting public notice of meetings shall be designated annually at the local governing body's first regular meeting of each calendar year. Historically, notices have been posted in paper format on the City Hall lobby bulletin board and electronically on the City's website. This process appears to work well as a means of providing public notice of upcoming agenda items, and it is recommended these locations continue to be designated as the official places for posting.

Respectfully submitted,

J. Brent McFall  
Executive Director

# WHA Agenda Item 3 B

## Agenda Memorandum

Westminster Housing Authority Meeting  
January 10, 2011



**SUBJECT:** Resolution No. 41 re 2011 Westminster Housing Authority and Westminster Commons Budgets

**Prepared By:** Tony Chacon, Senior Projects Coordinator

### Recommended Board Action

Adopt Resolution No. 41 approving the 2011 Westminster Housing Authority Budget and the 2011 Westminster Commons Senior Housing Project Budget.

### Summary Statement

- The 2011 operating budget revenues for the Westminster Housing Authority (WHA) include a \$40,000 owner distribution from Westminster Commons.
- The operating budget expenses for the WHA include \$9,000 for utilities, maintenance, and insurance expenses, and \$18,000 in contractual services. A \$70,000 payment to the City of Westminster, made in previous years to cover administrative expenses, is no longer included in the budget.
- The \$18,000 Contractual Services line item includes a \$15,000 expense for consulting services to be used in conjunction with negotiating and completing a transaction relative to the sale of the Westminster Commons.
- The 2011 Budget of Westminster Commons is shown separately from the WHA Budget.
- The Westminster Commons Budget includes net rental revenue of \$924,817 and other revenues of \$5,977 for total revenues of \$930,794. Expenses include administrative and payroll expenses of \$235,250, utilities expenses of \$111,234, repairs and maintenance expenses of \$151,144, taxes & insurance expenses of \$34,428, depreciation expense of \$96,984, and other miscellaneous expenses (including \$60,000 transfer to WHA) of \$155,609, for total expenses of \$784,835 leaving an Ordinary Income balance of \$145,959.

<b>Expenditure Required:</b>	\$ 54,548	WHA Operations and Debt Service
	\$784,835	Westminster Commons Cost of Operations

<b>Source of Funds:</b>	WHA Operating Revenues and Fund Balance
	Westminster Commons Revenues

**Policy Issue**

Does the Board of the WHA wish to support the activities of the Westminster Housing Authority and Westminster Commons by adopting the proposed 2011 budgets?

**Alternative**

Do not adopt the 2011 Westminster Housing Authority or Westminster Commons Budgets. This is not recommended as an approved budget is necessary for the operation of the Commons, for the WHA to carry out financing activities and for the WHA to enter into contracts needed to pursue WHA projects and goals.

**Background Information**

Department of Community Development staff manages the WHA and the contract with Howard Bishop & Company, which is the property manager for the Westminster Commons. The Westminster Commons budget is presented separately from the remaining WHA activities.

Westminster Housing Authority

WHA revenues from operating activities for 2011 will come only from the Westminster Commons project that is expected to generate \$40,000 for the year as a distribution to the owner (the Authority). The WHA currently owns two buildings (Rodeo Market and Vehicle Service Center) that are currently under lease at nominal cost to the South Westminster Arts Group (SWAG). SWAG, however, is responsible for paying a portion of the utility cost. Therefore, the WHA will not receive any lease revenues from either of these buildings in 2011, which is reflected in the proposed budget.

Authority expenses include \$9,000 for utilities that are higher than in 2010 due to higher than expected utility costs and anticipated rate hikes by Xcel Energy. An \$18,000 expense for contractual expenses covers the cost of insurance and mowing of weeds on WHA owned vacant property and completing a sales transaction relative to Westminster Commons.

The 2010 budget also reflects a loan payment of \$27,548 to the Colorado Brownfields Revolving Loan Fund administered by the Colorado Housing Finance Authority. This payment is for a loan used to clean up contaminated property along Little Dry Creek in conjunction with the City's efforts to secure land between Federal Boulevard and Lowell Boulevard to be used for drainage and park improvements. The loan was taken on by the WHA due to "TABOR" limitations regarding incurring debt and multi-year contractual limitations.

The 2011 budget would leave the WHA with a cash balance of \$130,451 to be carried forward into 2012.

Westminster Commons

The Westminster Commons budget projects total income at \$930,714, which is a \$20,624 increase over the 2010 budget amount of \$910,152. This increase is primarily due to a reduction in vacancies and a substantial increase in rent income and tenant assistance payments from the United States Department of Housing and Urban Development (HUD) accounting for 96% of the increase. Rental income from the Westminster Commons senior housing facility projected at \$464,046 in rent income and \$470,166 in tenant assistance payments provided through the Section 8 program administered by HUD. The total net rental income (rents less vacancy) is projected at \$924,817. The income projection also includes \$5,977 from other miscellaneous sources.

Expenditures in the 2011 budget include operating expenses of \$784,835 including administration and payroll, utilities, repairs and maintenance, depreciation, taxes and insurance, and other miscellaneous costs for mortgage payment and a \$60,000 transfer to WHA. The budgeted expenses for 2011 reflect an \$18,767 (2%) increase over the 2010 budget. The most significant cost increases are related to utilities, an increase of \$5,914, and room decorating/refurbishment at \$8,280. These two items alone constitute 76% of the proposed budget increase. Payroll and management fees are proposed to increase by \$5,074 or about a 3% increase over 2010 levels. Net cash flow is expected to be positive in the amount of \$145,959 for 2011. Additional details regarding proposed revenues and expenditures are attached to the proposed budget.

Respectfully submitted,

J. Brent McFall  
Executive Director

Attachments:

- Resolution
- 2011 WHA Proposed Budget
- 2011 Westminster Commons Budget

WESTMINSTER HOUSING AUTHORITY

RESOLUTION NO. **41**

INTRODUCED BY BOARD MEMBERS

SERIES OF 2011

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**A RESOLUTION ADOPTING THE 2011 BUDGET FOR THE  
WESTMINSTER HOUSING AUTHORITY AND THE 2011 WESTMINSTER COMMONS  
FACILITY BUDGET**

WHEREAS, the Westminster Housing Authority (the "Authority") is a political subdivision of the State of Colorado, duly organized, existing, and acting pursuant to C.R.S. section 29-4-201 *et seq.* (the "Act"); and

WHEREAS, the Authority was created to carry out the purposes of a public housing authority pursuant to the Act; and

WHEREAS, the Westminster Housing Authority Board has not yet adopted a formal operating budget for fiscal year 2011 for the Westminster Housing Authority and the Westminster Commons senior apartment facility; and

WHEREAS, the Westminster Housing Authority has received revenue and anticipates receiving additional revenues; and

WHEREAS, the Westminster Housing Authority anticipates expenditures for various purposes relating to the goals of the Authority and operating the Westminster Commons senior housing project.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Westminster Housing Authority that the attached 2011 Westminster Housing Authority Budget and 2011 Westminster Commons Facility Budget are hereby approved and the amounts stated therein are hereby appropriated for the fiscal year 2011.

PASSED AND ADOPTED this 10th day of January, 2011.

ATTEST:

\_\_\_\_\_  
Nancy McNally, Chair

\_\_\_\_\_  
Authority Secretary

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Authority Attorney

**WESTMINSTER HOUSING AUTHORITY (Excluding Westminster Commons)**

**2011 Proposed Budget**

	<u>2009 Actual</u>	<u>2010 Budget</u>	<u>2010 Estimated</u>	<u>2011 Proposed</u>
<b>Revenues</b>				
Monthly Revenue Transfers from Commons	\$ 60,000	\$ 60,000	\$ 60,000	\$ 40,000
Rental Income (Rodeo Market)	-	-	-	-
Interest	4,795	1,200	4,500	500
<i>Total Operating Revenues</i>	<u>64,795</u>	<u>61,200</u>	<u>64,500</u>	<u>40,500</u>
<b>Expenditures</b>				
Administrative Fee	70,000	70,000	70,000	-
Utilities	5,690	9,000	7,400	9,000
Contractual	54,821	63,000	22,900	18,000
<i>Total Operating Activities</i>	<u>130,511</u>	<u>142,000</u>	<u>100,300</u>	<u>27,000</u>
<b>Net Operating Surplus (Deficit)</b>	<u>(65,716)</u>	<u>(80,800)</u>	<u>(35,800)</u>	<u>13,500</u>
<b>Other Financing Sources (Uses)</b>				
Debt Service:				
Principal		(19,674)	(20,001)	(22,103)
Interest expense	(7,639)	(7,874)	(7,547)	(5,445)
Capital Contributions	115,553	-	-	-
<i>Total other financing sources (uses)</i>	<u>107,914</u>	<u>(27,548)</u>	<u>(27,548)</u>	<u>(27,548)</u>
<b>Net change in cash balance</b>	42,198	(108,348)	(63,348)	(14,048)
<b>Cash balance beginning</b>	359,044	217,256	207,847	144,499
<i>Accrual and Balance Sheet Adjustments</i>	<u>(193,395)</u>	<u>-</u>	<u>-</u>	<u>-</u>
<b>Cash balance ending</b>	<u>\$ 207,847</u>	<u>\$ 108,908</u>	<u>\$ 144,499</u>	<u>\$ 130,451</u>

1. \$15,000 to be used in conjunction with finalizing agreement relative to sale of Westminster Commons

**2011 WESTMINSTER COMMONS BUDGET**

	<b>Acct</b>	<b>09'Budget</b>	<b>09'Actual</b>	<b>10'Budget</b>	<b>10'Project</b>	<b>11'Budget</b>
<b>Ordinary Income</b>						
Rent Income - Apartments	5120	415,900	455,469	456,204	469,319	464,046
Income - Tenant Assist Pmts.	5121	481,124	468,635	458,196	470,166	470,166
Vacancies - Apartments	5220	-8,940	-9,808	-9,144	-9,395	-9,395
Interest Rev - Proj Operations	5410	408	1,444	552	461	461
Inc From Inv - Replacement Res	5440	1,824	1,450	1,344	532	532
Laundry & Vending Revenue	5910	2,004	2,578	2,400	3,466	3,466
Forfeited Security Deposits	5940	0	672	240	1,278	1,278
Other Revenue	5991	0	2,780	240	2,956	240
Other Revenue (loss) on Sale	5992	120	0	120	0	0
<b>Total Income</b>		<b>892,440</b>	<b>923,220</b>	<b>910,152</b>	<b>938,783</b>	<b>930,794</b>
<b>Expense</b>						
<b>Adminstrative Expense</b>						
Advertising	6210	1,200	926	1,200	827	828
Office Supplies	6311	18,564	17,389	17,676	18,072	18,072
Management Fees	6320	51,060	52,541	52,356	53,480	54,446
Manager Rent Free Unit	6331	14,016	18,976	21,600	21,834	22,068
Professional Fees						
Audit Expense	6350	5,208	5,500	5,496	5,500	5,500
Telephone Expense	6360	9,312	11,005	10,320	10,341	10,320
<b>Total Adminstrative Expense</b>		<b>99,360</b>	<b>106,337</b>	<b>108,648</b>	<b>110,054</b>	<b>111,234</b>
<b>Utilities</b>						
Electricity	6450	43,632	38,928	37,000	39,126	39,120
Water	6451	15,444	16,695	14,292	16,496	17,004
Gas	6452	49,008	37,571	37,000	38,944	38,940
Sewer	6453	9,504	16,176	17,028	16,357	16,356
<b>Total Utilities Expense</b>		<b>117,588</b>	<b>109,370</b>	<b>105,320</b>	<b>110,054</b>	<b>111,420</b>
<b>Repairs and Maintenance</b>						
<b>Janitorial &amp; Cleaning</b>						
Janitorial Supplies	6515	1,184	1,188	804	1,700	1,692
Janitorial Contracts	6517	8,443	5,498	4,680	7,539	7,536
Extermination	6519	960	1,498	1,440	2,150	3,192
Garbage & Trash Removal	6525	5,976	5,829	5,976	6,612	6,612
<b>Landscaping &amp; Groundskeeping</b>						
Grounds Supplies	6536	624	2,010	432	432	432
Grounds Contracts	6537	2,592	2,419	2,856	5,884	2,892
<b>Repairs and Maintenance</b>						
Repairs Material	6541	8,820	13,239	11,892	11,144	11,892

	<b>Acct</b>	<b>09'Budget</b>	<b>09'Actual</b>	<b>10'Budget</b>	<b>10'Project</b>	<b>11'Budget</b>
Repairs Contract	6542	25,920	19,582	24,000	16,360	21,000
Elevator Maintenance/Contract	6545	21,000	19,759	19,596	27,990	25,140
Heating/Cooling Repr & Maint	6546	26,091	28,415	21,996	15,424	25,900
Snow Removal	6548	3,408	1,623	1,608	1,608	1,608
Fire Alarm Maintenance	6581	9,132	7,414	9,132	7,248	7,248
Decorating						
Decorating Contract	6560	30,000	27,284	24,000	33,585	30,000
Decorating Supplies	6561	5,988	4,020	3,720	6,568	6,000
<b>Total Repairs and Maintenance</b>		<b>150,138</b>	<b>139,778</b>	<b>132,132</b>	<b>144,244</b>	<b>151,144</b>
<b>Depreciation Expense</b>						
Depr-Land Improve.	6611	18,078	18,078	18,078	8,974	0
Depr.-Bldgs & Improv	6620	67,112	67,112	67,112	67,112	67,112
Depr-Bldg Equip F&P	6630	24,898	29,872	29,872	29,872	29,872
Depr-Bldg Equip Port	6640	14,327	12,492	14,327	14,327	0
<b>Total Depreciation Expense</b>		<b>124,415</b>	<b>127,554</b>	<b>129,389</b>	<b>120,285</b>	<b>96,984</b>
<b>Taxes &amp; Insurance</b>						
Property & Liab. Ins.	6720	28,008	22,511	17,982	17,982	22,920
Fidelity Bond Ins.	6721	468	468	1,185	1,185	468
Health Ins.	6723	10,027	9,652	9,504	9,437	11,040
<b>Total Taxes &amp; Insurance</b>		<b>38,503</b>	<b>32,631</b>	<b>28,671</b>	<b>28,604</b>	<b>34,428</b>
<b>Payroll Expenses</b>						
Office Salaries	6310	61,536	61,939	59,172	61,514	62,552
Manager's Salaries	6330	38,556	40,614	40,668	39,232	40,272
Cleaning Payroll	6510	11,310	11,410	11,316	11,093	11,088
SS ER 6.29%	6712		581	6,888	6,900	6,900
Medicare ER 1.45%	6713		136	1,608	1,614	1,620
FUTA Expense .08%	6714		8	888	385	384
SUTA Expense 1.22%	6715		30	1,356	1,200	1,200
(FICA 08',09 only)	6711	10,464	8,985			0
<b>Total Payroll Expenses</b>		<b>121,866</b>	<b>123,703</b>	<b>121,896</b>	<b>121,938</b>	<b>124,016</b>
<b>Other Expense</b>						
Workmen's comp	6722	3,900	3,992	3,960	4,174	4,176
Other-D&O, Discrimination	6729	5,940	5,157	4,272	4,272	4,272
Interest - Mortgage	6820	91,200	90,835	86,004	86,255	86,255
Transfer to City	6850	60,000	60,000	60,000	60,000	60,000
Deferred Loss Amortized	6891		906	906	906	906
<b>Total Other Expense</b>		<b>161,040</b>	<b>160,890</b>	<b>155,142</b>	<b>155,607</b>	<b>155,609</b>
<b>Total Expenses</b>		<b>812,910</b>	<b>800,263</b>	<b>766,068</b>	<b>791,655</b>	<b>784,835</b>
<b>Net Ordinary Income</b>		<b>79,494</b>	<b>122,957</b>	<b>144,084</b>	<b>147,128</b>	<b>145,959</b>

**WESTMINSTER COMMONS**

**Notes to the 2011 Proposed Budget**

**Income**

5120	<u>Resident Portion of Rent</u> Full Occupancy \$600 x 127 x 6 months + \$613 x 127 x 6 months (Managers + Maint. Assist. Units - 3 not included)
5121	<u>Income - Tenant Assist Pmts.</u> Does not reflect any HAP increase in 2011.
5220	<u>Vacancies = 1%</u>
5410	<u>Interest Income - Project Operations</u> Historic
5440	<u>Income from Interest - Reserve for Replacements</u> Historic
5910	<u>Laundry &amp; Vending Income - slightly increased charges to tenants</u>
5991	<u>Other Revenue</u> Contains refunds/rebates. In 2010, we received \$2,630 for hail

**Administrative Expenses**

6331	<u>Manager Rent Free Units</u> 2 manager units + 1 maintenance assistant unit
6360	<u>Telephone</u> Based on historical charges.

**Utilities** 6450 - 6453

	<u>Utilities</u> Based on historical (budget billing for gas/electric). Set by Xcel Energy.
6330	<u>Manager Salary</u> Fifty-cent/hour increase for 1 manager (no increase 2 years). Part-time maintenance staff pay included @ \$13/hr. (no increase)
6331	<u>Manager Rent-Free Unit</u>  3 units @ \$613/unit.

**Repairs & Maintenance**

6517	<u>Janitor &amp; Cleaning Contract</u> 2010 over due to exterior window cleaning (every other year) and 2011 based on projected for 2010.
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6519	<u>Extermination</u> Increase due to bed bug treatment in 2010 and projected in 2011.
6537	<u>Grounds Contract</u> 2010 overage due to tree removals - none expected in 2011
6542	<u>Repairs Contract</u> Continued savings realized due to hiring of a maintenance assistant 2011 calculated at a \$1,750/month average
6545	<u>Elevator Maintenance/Contract</u> 2010 overage due to mandatory installation of 2-way phones and 2011 includes cost of 2-way telephones + maintenance contract
6546	<u>Heating /Cooling Repair &amp; Maintenance</u> 2011 increase based on the purchase of 8 new PTAC
6560	<u>Decorating Contract</u> Historical based on 2010 - increased vacancies due to aging tenant
6561	<u>Decorating Supplies</u> <u>Historical based on 2010 - increased vacancies due to aging tenant</u>

#### **Depreciation Expense**

6611	<u>Depreciation Land Improvements</u> - fully depreciated
6640	<u>Depreciation Building Equipment Portable</u> - fully depreciated

#### **Taxes & Insurance**

6720	<u>Property &amp; Liability Insurance</u> Contains Commercial Package (hazard on buildings), Umbrella and Tenant Discrimination Policy.
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#### **Payroll Expenses**

6310	<u>Office Salaries</u> Fifty cent per hour Cindy Castillo (no increase 2 years)
6330	<u>Manager's Salaries</u> Fifty cent per hour manager Tyler (no increase 2 years)