OFFICE OF THE CITY MANAGER

AGENDA
1368th Regular Meeting of the
CITY COUNCIL
January 28, 2014
7:00 p.m.

1. CALL TO ORDER

2. INVOCATION – Pastor Bob Wyatt, Agape Bible Church

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL OF COUNCIL

5. APPROVAL OF AGENDA

6. AUDIENCE PARTICIPATION

DURING THIS PORTION OF THE MEETING, ANYONE MAY SPEAK ON ANY SUBJECT WHICH DOES NOT LATER APPEAR ON THE AGENDA AS A PUBLIC HEARING. SPEAKING TIME WILL BE LIMITED TO FIVE MINUTES PER INDIVIDUAL/TOPIC WITH A ONE HOUR LIMIT ON THIS SEGMENT OF THE AGENDA. IF YOU WISH TO SPEAK, PLEASE SIGN UP ON THE REGISTER LOCATED INSIDE THE COUNCIL CHAMBERS, PRIOR TO THE MEETING.

A. Presentations

None

B. Audience Participation

C. Staff Reports

1) Presentation of Fourth Quarter Economic Development Report. [340-RS]

7. COUNCIL COMMENTS/COMMUNICATIONS

8. CONSENT CALENDAR

ITEMS OF A ROUTINE AND NON-CONTROVERSIAL NATURE ARE PLACED ON THE CONSENT CALENDAR TO ALLOW THE CITY COUNCIL TO SPEND ITS TIME AND ENERGY ON THE IMPORTANT ITEMS ON A LENGTHY AGENDA. ANY COUNCILMEMBER MAY REQUEST THAT AN ITEM BE "PULLED" FROM THE CONSENT CALENDAR AND CONSIDERED SEPARATELY. AGENDA ITEMS PULLED FROM THE CONSENT CALENDAR WILL BE PLACED ON THE AGENDA AT THE END OF THE MATTERS LISTED UNDER "BUSINESS - ACTION ITEMS."

A. Approval of Minutes – January 7, 2014 Special and January 14, 2014 Regular City Council Meetings. [220-BC]

B. An ordinance approving the Annexation of approximately 12.566 acres of property located at the northwest quarter of Section 5, Township 2 South, Range 67 West of the 6th Principal Meridian, County of Adams, State of Colorado, and assigning the annexed property to Ward 3 (Snydal Annexation). (Second Reading) [120-AG]
8. CONSENT CALENDAR - Continued

C. An ordinance approving the Zoning of approximately 14.587 acres as Neighborhood Service (NS) and amending the Official Zoning Map for property located southeast of the intersection of East 120th Avenue and Holly Street (Snydal). (Second Reading) [600-PR]

D. An ordinance adopting the first amendment to the 2014 Budget amending section one of Ordinance 3267, making appropriations for the City of Thornton, Colorado for the fiscal year 2014 for all funds except that appropriations for certain individual projects shall not lapse at year end but continue until the project is completed or cancelled. (Second Reading) [380-BD]

E. An ordinance amending Section 18-35, Appeals of Floodplain Interpretations, Section 18-48 Development Permit Review, repealing and reenacting Article V, Division 7 Floodplain Regulations to comply with the State of Colorado Rules and Regulations for Regulatory Floodplains and amending Section 18-901 Definitions, of the Thornton City Code. (Second Reading) [500-CA]

9. PUBLIC HEARINGS

IN ORDER TO SCHEDULE THE TIMING AND LENGTH OF PUBLIC HEARINGS FOR THE CONVENIENCE OF THE COUNCIL, THE GENERAL PUBLIC, AND INTERESTED PARTIES, THE FIRST PUBLIC HEARING WILL BEGIN AT OR BEFORE 7:30 P.M., OR AS SOON THEREAFTER AS POSSIBLE. THIS SEGMENT OF THE AGENDA WILL LAST NO MORE THAN 2 HOURS. PROPONENTS AND OPPONENTS WHO WISH TO SPEAK ARE REQUESTED TO SIGN UP, PRIOR TO THE BEGINNING OF THE MEETING, ON THE REGISTER LOCATED INSIDE THE COUNCIL CHAMBERS, AND LIMIT THEIR REMARKS TO 5 MINUTES. GROUPS OF CITIZENS BROUGHT TOGETHER BY A COMMON INTEREST ARE REQUESTED TO CHOOSE A SPOKESPERSON WHOSE TIME TO COMMENT WILL BE EXTENDED TO 10 MINUTES. SPEAKERS MAY BE ASKED TO BE SWORN IN BY THE CITY CLERK IF THEY WISH TO SUBMIT FACTS RATHER THAN OPINIONS.

None

10. ACTION ITEMS

None

11. ADJOURNMENT

Agenda prepared by Nancy A. Vincent, City Clerk
for Jack Ethredge, City Manager

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CITY OF THORNTON
COUNCIL COMMUNICATION

Meeting Date: January 28, 2014
Agenda Item: 6C-1
Agenda Location: Staff Reports
Work Plan #: N/A
Legal Review: 1st Reading

Subject: Presentation of Fourth Quarter Economic Development Report

Recommended by: John Cody
Approved by: Jack Ethridge
Presenter(s): John Cody, Director of Economic Development

SYNOPSIS:
Staff will present highlights of the attached Fourth Quarter Economic Development Report.

RECOMMENDATION:
Staff recommends acceptance of the Economic Development Report.

BUDGET/STAFF IMPLICATIONS:
None.

ALTERNATIVES:
None.

BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY):
Staff presented the Third Quarter Economic Development Report to City Council on October 22, 2013.
Office of Economic Development
4th Quarter 2013 Highlights

January 28th, 2014
Office of Economic Development
Fully Staffed!!!
Primary Employment Update

- **Business Attraction**
  - Prospects – Good for 2013 but Starting to Decline due to Lack of Available Building Space
  - Large Prospect Negotiations Underway
  - Focus is Shifting to Employment Center Developers
  - Building Our Relationships with the RE Community
    - Commercial Real Estate Development Association (NAIOP) Function
  - Attended Corenet Conference (national site selection group)
  - Will attend Site Selectors Guild conference next month
  - New Tools Under Development – Incentive Policy, Strategic Plan

- **Business Retention**
  - Primary Employer Visits - New Survey Instrument
Commercial Redevelopment Update

- Ultimate Electronics
- North Valley Tech Center
- South Thornton Redevelopment Plan in Phase 2
Retail Program Update

- Retail Update to Council Last Month
- Continue to work with The Staenberg Group (Grove Developer) on Potential Retailers/Tenants
- New Greenfield Development Discussions Ongoing
- Attending ICSC in Las Vegas in May
Local Business Support

• Business in Thornton Advisory Commission
• Business Improvement Grant (BIG) Program
• Business Concierge Program
• Small Business Counseling Program
• ShopThorntonFirst.com
Real Estate Marketing & Research

- Upgrade of ED Web site platform
  - Improved mapping, search, and output capability
  - Just Completed
- Database Enhancement
  - Primary Employers, Properties, Prospects, Site Selectors, Resource Partners
- New Marketing Materials
  - Business Park Brochures
  - Primary Employer Maps
  - Retail Opportunities
COUNCIL COMMUNICATION

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Subject: A Motion approving the Minutes of the January 7, 2014 Special and January 14, 2014 Regular City Council meetings. [220-BC]

Recommended by: Jack Ethredge
Presenter(s): Nancy Vincent, City Clerk

SYNOPSIS:
The official Minutes of the January 7, 2014 Special and January 14, 2014 Regular City Council meetings have been prepared by the City Clerk's Office and are hereby submitted for Council's approval.

RECOMMENDATION:
Staff recommends approval of Minutes as requested.

BUDGET/STAFF IMPLICATIONS:
None

ALTERNATIVES:
3. Approve the minutes as submitted.
4. Approve the minutes with corrections requested by Council.

BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY): (includes previous City Council action)
None
MINUTES
THORNTON CITY COUNCIL
SPECIAL MEETING
JANUARY 7, 2014

1. CALL TO ORDER - By Mayor Heidi K. Williams at 8:01 p.m. in the Training Room of the Thornton City Hall.

2. ROLL CALL OF COUNCIL - Those Present were: Mayor Heidi K. Williams, Mayor Pro Tem Val Vigil, and Councilmembers Jenice “JJ” Dove, Mack Goodman, Beth Martinez Humenik, Eric Montoya, Sam Nizam and Eric Tade. Absent – Councilmember Janifer Kulmann.

STAFF MEMBERS PRESENT - Jack Ethredge, City Manager; Joyce Hunt, Assistant City Manager; Margaret Emerich, City Attorney; and Nancy Vincent, City Clerk.

3. ACTION ITEMS

Executive Session pursuant to CRS 24-6-402 (4)(e) to determine positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators regarding the RTD Northline.

MOTION WAS MADE BY COUNCILMEMBER MACK GOODMAN AND SECONDED BY MAYOR PRO TEM VAL VIGIL TO RECESS INTO EXECUTIVE SESSION. MOTION PASSED UNANIMOUSLY.

THE MEETING RECESSED INTO EXECUTIVE SESSION AT 8:03 P.M. AND RECONVENED AT 8:32 P.M.

4. ADJOURNMENT

MOTION WAS MADE BY COUNCILMEMBER MACK GOODMAN AND SECONDED BY MAYOR PRO TEM VAL VIGIL TO ADJOURN THE MEETING AT 8:33 P.M. MOTION PASSED UNANIMOUSLY.

Respectfully submitted,

__________________________
Nancy Vincent, City Clerk

ATTEST:

Mayor at time of approval

Approved at the January 28, 2014, City Council meeting.
1. CALL TO ORDER – By Mayor Heidi K. Williams at 7:00 p.m. in the Council Chambers of the Thornton City Hall.

2. INVOCATION - By Pastor Sam Cathey, Agape Bible Church

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL OF COUNCIL - Those Present were: Mayor Heidi K. Williams, Mayor Pro Tem Val Vigil, and Councilmembers Jenice “JJ” Dove, Mack Goodman, Jan Kulmann, Beth Martinez Humenik, Eric Montoya, Sam Nizam and Eric Tade.

   STAFF MEMBERS PRESENT - Jack Ethredge, City Manager; Joyce Hunt, Assistant City Manager; Margaret Emerich, City Attorney; Charles Long, Deputy City Manager for Management Services; Jeff Coder, Deputy City Manager for City Development; Bud Elliot, Deputy City Manager for Infrastructure; Mike Soderberg, Executive Director for Community Services; Randy Nelson, Executive Director - Police Chief; Glenn Duran, Deputy Fire Chief - Operations; Chuck Seest, Finance Director; Chris Molison, Development Director; John Cody, Economic Development Director; Robb Kolstad, Management and Budget Director; Jason O'Shea, Development Engineering Manager; Glenda Lainis, Policy Planning Manager; Jim Kaiser, Floodplain Administrator; Karen Widomski, Senior Policy Analyst; Lori Hight, Senior Planner; Nancy Vincent, City Clerk; and Karren Werft, Deputy City Clerk.

5. APPROVAL OF THE AGENDA

The City Manager noted a correction to Item 8B, a resolution amending the E-470 Highway Expansion Fee. He stated that the resolution number being amended is 2012-172.

The City Manager requested an executive session prior to Adjournment in order to receive direction regarding negotiations with an economic development prospect.

The City Attorney explained that the Executive Session is being called pursuant to C.R.S. 24-6-402(4)(e) to determine positions relative to matters that are the subject of negotiation, develop strategy for negotiations, and instruct the negotiators regarding a potential incentive agreement for a user of property at 12121 Grant Street in Thornton.

MOTION WAS MADE BY COUNCILMEMBER ERIC TADE AND SECONDED BY COUNCILMEMBER ERIC MONTOYA TO APPROVE THE AGENDA AS AMENDED WITH CORRECTION TO ITEM 8B AND THE ADDITION OF AN EXECUTIVE SESSION PRIOR TO ADJOURNMENT. MOTION PASSED UNANIMOUSLY.

6. AUDIENCE PARTICIPATION

A. Presentations

None
B. Audience Participation

None

C. Staff Reports

None

7. COUNCIL COMMENTS/COMMUNICATIONS

Councilmember Martinez Humenik wished everyone a Happy New Year. She asked residents to become more informed and attend meetings. She reported on the results of holiday food drive and thanked those who participated. She stated that the Thornton Arts and Culture Division is seeking photographers to exhibit their photographs in the upcoming “Looking through our Lens Exhibit” starting March 7 through April 25 at the Oz Gallery. She reported that in 2014 a Senior Center renovation project will begin in January and the nutrition program will be moved offsite in March. She encouraged everyone to participate in citizen surveys.

Mayor pro tem Vigil wished everyone a Happy New Year and reported that the City will be kicking off the northern water project this year.

8. CONSENT CALENDAR

MOTION WAS MADE BY COUNCILMEMBER ERIC TADE AND SECONDED BY COUNCILMEMBER MACK GOODMAN TO APPROVE THE CONSENT CALENDAR AS PRESENTED. MOTION PASSED UNANIMOUSLY.

THE FOLLOWING COUNCIL DOCUMENTS WERE APPROVED ON THE CONSENT CALENDAR:

A. Approval of Minutes - December 17, 2013 Regular City Council Meeting.

B. A resolution amending Attachment 11 of Resolution 2012-172 related to the collection of the Highway Expansion fee for the City of Thornton, Colorado effective April 1, 2014.


D. A resolution designating Thornton City Hall as the public place to post notices of public meetings for 2014.

E. A resolution authorizing the City of Thornton to enter into an intergovernmental agreement with the State of Colorado, Department of Public Safety, Division of Fire Prevention and Control for temporary staffing and operation of a State Wildland fire engine.

F. A resolution approving the revocable permit between the City of Thornton and Offen Petroleum, Inc.
G. A resolution authorizing the City of Thornton to enter into an intergovernmental agreement with the State of Colorado, Department of Higher Education, through Red Rocks Community College for emergency medical services training.

H. A resolution authorizing execution of a Perpetual Electric Utility Easement by the City of Thornton to United Power, Inc. to relocate electrical lines, which will allow Weld County to perform street and intersection improvements at Weld County Roads 18 and 25.

9. PUBLIC HEARINGS

At this time, individuals wishing to provide testimony during the public hearings were sworn in by the City Clerk.

A. A public hearing regarding the Annexation, Findings of Fact, Zoning, Comprehensive Plan and Conceptual Site Plan for the Snydal Annexation.

The public hearing was opened at 7:11 p.m. The City Manager gave the opening remarks.

COUNCILMEMBER MARTINEZ HUMENIK LEFT THE CHAMBERS AT 7:13 P.M. DUE TO A POSSIBLE CONFLICT OF INTEREST.

Chris Molison, Development Director, stated that he was previously sworn. He entered into the record the notice of hearing published in the Northglenn-Thornton Sentinel; the notice mailed to property owners within 1,500 feet; and the four required notices of the annexation hearing; which were marked as City's Exhibit's A - C, respectively. He also entered into the record the Affidavit of Posting and Posting Log which was marked as Applicant's Exhibit #1.

Mr. Molison presented slides of a vicinity map showing the location of the property; aerial photo of the site and surrounding area; close up aerial of the site; annexation map; Comprehensive Plan Amendment showing surrounding uses and proposed Neighborhood Service zoning; Zoning map; a section of a map showing the Holly Street Corridor and the locations of commercial zoning; a section of a map showing the 120th Avenue Corridor and the locations of commercial zoning; the permitted uses allowed in the Neighborhood Services Zoning and the restricted uses; and proposed Conceptual Site Plan. These were later marked as City's Exhibit D.

Mr. Molison reviewed the City policies regarding annexations and noted that the parcel to be annexed is 12.566 acres and meets the contiguity requirements of the State. He explained that the Applicant is requesting a Comprehensive Plan Amendment to change the future land use designation from Residential Low to Commercial. He stated that Neighborhood Services Zoning is proposed by the Applicant. He noted that the Conceptual Site Plan is currently unspecified. He said it is required to come back to Council at a future date and is a condition in the CSP resolution before development occurs.

Mr. Molison pointed out where he believes three access points will be located; a future traffic signal at 119th and Holly Street; location of detached sidewalks; and buffering and setbacks. He reviewed the results of the community meeting and
stated that since that meeting, the requested zoning has changed from Community Retail to Neighborhood Services. He gave the reasons for staff's recommendation of the proposed development based on the findings outlined in the Council Communication.

Ryan Valentine, Applicant, 990 S. Broadway, Denver, CO, stated that he was previously sworn. He gave the history of the Snydal property and the reason why the property owners are requesting annexation at this time. He stated that based on feedback from the community meeting, they changed their zoning request. He said there are no development plans at this time.

Richard Johnson, 5821 E. 119th Place, signed up to speak in opposition to the proposed development and stated that he was previously sworn. He said he is not opposed to the annexation. He expressed concern with the access and egress on 119th Avenue. He recommended that a better definition of Neighborhood Services be placed on the City's web site. He said there is plenty of commercial to the west and the north and believes it should remain residential.

Darlene Stalin, 5830 E. 119th Place, was sworn in by the City Clerk. She expressed concern about access on 119th Avenue and the safety of children walking to school in the neighborhood. She asked if they will be notified of the businesses that will locate there.

The City Manager referred to the allowed uses and stated that the market will determine which businesses may be interested.

No one else signed up nor wished to speak in support of or in opposition to the proposed development.

Mr. Molison stated that the location of the access on 119th has not been determined. He said the businesses will most likely have to come back for the Development Permit or Specific Use Permit hearing. He added that notices will be sent to adjacent neighborhoods for those public hearings. He clarified that the Development Permits and Appeals Board does not have the authority to change zoning.

The public hearing was closed at 7:41 p.m.

1) An ordinance approving the Annexation of approximately 12.566 acres of property located at the northwest quarter of Section 5, Township 2 South, Range 67 West of the 6th Principal Meridian, County of Adams, State of Colorado, and assigning the annexed property to Ward 3 (Snydal Annexation).

MAYOR PRO TEM VAL VIGIL INTRODUCED, READ BY TITLE AND MOVED TO APPROVE THE ANNEXATION OF APPROXIMATELY 12.566 ACRES OF PROPERTY LOCATED AT THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, AND ASSIGNING THE ANNEXED PROPERTY TO WARD 3 (SNYDAL ANNEXATION). MOTION WAS SECONDED BY COUNCILMEMBER ERIC TADE AND PASSED UNANIMOUSLY.
2) A resolution adopting certain Findings of Fact for the annexation to the City of Thornton of certain unincorporated territory at the northwest quarter of Section 5, Township 2 South, Range 67 West of the 6th Principal Meridian, County of Adams, State of Colorado, and assigning the annexed property to Ward 3 (Snydal Annexation).

MOTION WAS MADE BY COUNCILMEMBER ERIC TADE AND SECONDED BY MAYOR PRO TEM VAL VIGIL TO APPROVE A RESOLUTION ADOPTING CERTAIN FINDINGS OF FACT FOR THE ANNEXATION TO THE CITY OF THORNTON OF CERTAIN UNINCORPORATED TERRITORY AT THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, AND ASSIGNING THE ANNEXED PROPERTY TO WARD 3 (SNYDAL ANNEXATION). MOTION PASSED UNANIMOUSLY.

3) A resolution approving a Comprehensive Plan Amendment to change the designation of the property from Residential Low to Commercial and amending the Future Land Use Map for property located southeast of the intersection of East 120th Avenue and Holly Street (Snydal).

MOTION WAS MADE BY COUNCILMEMBER ERIC MONTOYA AND SECONDED BY COUNCILMEMBER ERIC TADE TO APPROVE A RESOLUTION APPROVING A COMPREHENSIVE PLAN AMENDMENT TO CHANGE THE DESIGNATION OF THE PROPERTY FROM RESIDENTIAL LOW TO COMMERCIAL AND AMENDING THE FUTURE LAND USE MAP FOR PROPERTY LOCATED SOUTHEAST OF THE INTERSECTION OF EAST 120TH AVENUE AND HOLLY STREET (SNYDAL). MOTION PASSED UNANIMOUSLY.

4) An ordinance approving the Zoning of approximately 14.587 acres as Neighborhood Service (NS) and amending the Official Zoning Map for property located southeast of the intersection of East 120th Avenue and Holly Street (Snydal).

COUNCIMEMBER ERIC TADE INTRODUCED, READ BY TITLE AND MOVED TO APPROVE AN ORDINANCE ON FIRST READING, WHICH APPROVES THE ZONING OF APPROXIMATELY 14.587 ACRES AS NEIGHBORHOOD SERVICE (NS) AND AMENDING THE OFFICIAL ZONING MAP FOR PROPERTY LOCATED SOUTHEAST OF THE INTERSECTION OF EAST 120TH AVENUE AND HOLLY STREET (SNYDAL). MOTION WAS SECONDED BY MAYOR PRO TEM VAL VIGIL AND PASSED UNANIMOUSLY.

5) A resolution approving the Conceptual Site Plan for approximately 11.65 acres of property located southeast of the intersection of East 120th Avenue and Holly Street (Snydal).

MOTION WAS MADE BY COUNCILMEMBER ERIC TADE AND SECONDED BY COUNCILMEMBER ERIC MONTOYA TO APPROVE A RESOLUTION APPROVING THE CONCEPTUAL SITE PLAN FOR APPROXIMATELY 11.65 ACRES OF PROPERTY LOCATED
B. A public hearing regarding a resolution approving the First Amendment to the Amended and Restated Service Plan for North Holly Metropolitan District and the intergovernmental agreement between the City of Thornton and North Holly Metropolitan District regarding the First Amendment to the Amended and Restated Service Plan for the District.

The public hearing was opened 7:46 p.m. The City Manager gave the opening remarks.

Karen Widomski, Senior Policy Analyst, stated that she was previously sworn. She entered into the record the notice of hearing published in the Northglenn-Thornton Sentinel which was marked as City's Exhibit A, and the Certificate of Mailing which was marked as Applicant's Exhibit #1.

COUNCILMEMBER MARTINEZ HUMENIK RETURNED TO THE CHAMBERS AT 7:47 P.M.

Ms. Widomski explained that the First Amendment would grant to the District limited eminent domain powers to acquire right-of-way along the east side of Holly Street from E. 140th Street to the southern boundary of the Holly Hills Estates project. She gave the history of metropolitan districts and background of the North Holly District. She presented a map showing the location of the District and the area proposed for eminent domain. This was later marked as City's Exhibit B.

Ms. Widomski noted that State law does grant metropolitan district the authority to utilize and exercise the power of eminent domain. She stated that the improvements and widening of that portion of Holly Street are required by the annexation agreement for Holly Hills Estate Subdivision. She explained that pursuant to the 2009 City of Thornton Transportation Plan, Holly Street is designated as a six-lane major arterial at build out and will need to be widened. She said the request is being made based on problems getting the right-of-way property released from the bank. She noted that the Communication indicated that the District is asking to use eminent domain for a 20-foot right-of-way but the District will only be acquiring a 10-foot right-of-way through eminent domain. She stated that Exhibit E of the Service Plan and Exhibit A of the intergovernmental agreement have been changed to show the right-of-way as only 10 feet.

Kent Carlson, 12460 First Street, stated that he was previously sworn. He gave a brief history on the right-of-way to be acquired. He said he worked with the banks for over a year to get the property released from the mortgage. He stated that he believes the power of eminent domain will help get the loans removed without going through the full process.

No one signed up nor wished to speak in support of or in opposition to the proposed resolution.

The public hearing was closed at 7:55 p.m.

MOTION WAS MADE BY MAYOR PRO TEM VAL VIGIL AND SECONDED BY COUNCILMEMBER BETH MARTINEZ HUMENIK TO APPROVE A
RESOLUTION APPROVING THE FIRST AMENDMENT TO THE AMENDED AND RESTATED SERVICE PLAN FOR NORTH HOLLY METROPOLITAN DISTRICT AND THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF THORNTON AND NORTH HOLLY METROPOLITAN DISTRICT REGARDING THE FIRST AMENDMENT TO THE AMENDED AND RESTATED SERVICE PLAN FOR THE DISTRICT. MOTION PASSED UNANIMOUSLY.

C. A public hearing regarding an ordinance amending Section 18-35, Appeals of Floodplain Interpretations, Chapter 18-48 Development Permit Review, repealing and reenacting Article V, Division 7 Floodplain Regulations to comply with the State of Colorado Rules and Regulations for Regulatory Floodplains and amending Section 18-901 Definitions, of the Thornton City Code.

Jim Kaiser, Floodplain Administrator, stated that he was previously sworn. He entered into the record the notice of hearing published in the Northglenn-Thornton Sentinel which was marked as City's Exhibit A. He gave a slide presentation which was later marked as City's Exhibit B. He explained why the City has a floodplain ordinance and reviewed the following updates to the existing requirements: 1) incorporates current Urban Drainage studies by reference; 2) clarifies titles to reflect the current organization; 3) clarifies the current requirement for floodplain development permit; and 4) codifies the current City practice of prohibiting platted lots in the floodplain.

Mr. Kaiser also reviewed some of the new requirements such as: 1) the addition of a definition of "pollutant"; 2) establishment of standards for fencing in the floodplain; 3) codification of requirements for elevation certificates; 4) and establishment of "critical facilities" such as facilities that provide essential services, buildings for the manufacture and storage of hazardous materials, facilities that serve at risk populations, and facilities that provide continuity of government. He reviewed the special requirements of critical facilities such as elevation and access.

No one signed up nor wished to speak in support of or in opposition to the proposed ordinance.

The public hearing was closed at 8:07 p.m.

COUNCILMEMBER MACK GOODMAN INTRODUCED, READ BY TITLE AND MOVED TO APPROVE AN ORDINANCE ON FIRST READING, WHICH AMENDS SECTION 18-35, APPEALS OF FLOODPLAIN INTERPRETATIONS, CHAPTER 18-48 DEVELOPMENT PERMIT REVIEW, REPEALING AND REENACTING ARTICLE V, DIVISION 7 FLOODPLAIN REGULATIONS TO COMPLY WITH THE STATE OF COLORADO RULES AND REGULATIONS FOR REGULATORY FLOODPLAINS AND AMENDING SECTION 18-901 DEFINITIONS, OF THE THORNTON CITY CODE. MOTION WAS SECONDED BY COUNCILMEMBER BETH MARTINEZ HUMENIK AND PASSED UNANIMOUSLY.

10. ACTION ITEMS

A. An ordinance amending Section 36-430 of the Thornton City Code to prohibit recreational vehicles, motor homes and any type of trailer from parking crosswise or at an angle in a driveway on a residential lot.
COUNCILMEMBER ERIC TADE INTRODUCED, READ BY TITLE AND MOVED TO APPROVE AN ORDINANCE ON SECOND READING, WHICH AMENDS SECTION 38-430 OF THE THORNTON CITY CODE TO PROHIBIT RECREATIONAL VEHICLES, MOTOR HOMES AND ANY TYPE OF TRAILER FROM PARKING CROSSWISE OR AT AN ANGLE IN A DRIVEWAY ON A RESIDENTIAL LOT. MOTION WAS SECONDED BY COUNCILMEMBER ERIC MONTOYA AND PASSED BY A MAJORITY VOTE OF THE COUNCIL AS FOLLOWS:

Ayes: Williams, Dove, Goodman, Martinez Humenik, Montoya, Nizam, Tade and Vigil
Abstain: Kulmann

Councilmember Kulmann noted that she abstained from voting since she was not present during the discussion of this item at the Planning Session.

B. An ordinance adopting the first amendment to the 2014 Budget amending section one of Ordinance 3267, making appropriations for the City of Thornton, Colorado for the fiscal year 2014 for all funds except that appropriations for certain individual projects shall not lapse at year end but continue until the project is completed or cancelled. (First Reading)

Robb Kolstad, Management and Budget Director, explained that the proposed amendment to the 2014 Budget authorizes funding for City operation of Thorn Creek Golf Course.

COUNCILMEMBER BETH MARTINEZ HUMENIK INTRODUCED, READ BY TITLE AND MOVED TO APPROVE AN ORDINANCE ON FIRST READING, WHICH ADOPTS THE FIRST AMENDMENT TO THE 2014 BUDGET AMENDING SECTION ONE OF ORDINANCE 3267, MAKING APPROPRIATIONS FOR THE CITY OF THORNTON, COLORADO FOR THE FISCAL YEAR 2014 FOR ALL FUNDS EXCEPT THAT APPROPRIATIONS FOR CERTAIN INDIVIDUAL PROJECTS SHALL NOT LAPSE AT YEAR END BUT CONTINUE UNTIL THE PROJECT IS COMPLETED OR CANCELLED. MOTION WAS SECONDED BY MAYOR PRO TEM VAL VIGIL AND PASSED UNANIMOUSLY.

MOTION WAS MADE BY COUNCILMEMBER ERIC TADE AND SECONDED BY COUNCILMEMBER ERIC MONTOYA TO RECESS INTO EXECUTIVE SESSION.

THE MEETING RECESSED INTO EXECUTIVE SESSION AT 8:17 P.M. AND RECONVENED AT 8:52 P.M.

11. ADJOURNMENT

MOTION WAS MADE BY COUNCILMEMBER JENICE "JJ" DOVE AND SECONDED BY COUNCILMEMBER BETH MARTINEZ HUMENIK TO ADJOURN THE MEETING AT 8:52 P.M. MOTION PASSED UNANIMOUSLY.
Respectfully submitted,

Karren Werft, Deputy City Clerk

ATTEST:

Mayor at time of approval

Approved at the January 28, 2014, City Council meeting.
Subject: An ordinance approving the annexation of approximately 12.566 acres of property located at the northwest quarter of Section 5, Township 2 South, Range 67 West of the 6th Principal Meridian, County of Adams, State of Colorado, and assigning the annexed property to Ward 3 (Snydal Annexation).

SYNOPSIS:

The public hearing for this annexation was postponed by Council on September 24, 2013 due to the applicant’s failure to properly post the property in accordance with Code requirements.

The total amount of land to be annexed is approximately 12.566 acres and consists of one parcel. The parcel meets the State Statute required 1/6 (16.67%) contiguity with existing City limits.

Total Area proposed for the Snydal Annexation: 12.566 acres

Percent of contiguity: 78.8%

Percent of contiguity required by State law: 16.67%

Percent of landowners of the area proposed for annexation signing petition (exclusive of streets): 100%

RECOMMENDATION:

Staff recommends Alternative No. 1, approval of the ordinance because the proposed annexation satisfies the requirements of the Colorado Revised Statutes and complies with the annexation policies of the City of Thornton (City). The proposed land use meets the intent of the land use goals of the Comprehensive Plan and the property is located within the City’s growth area.

BUDGET/STAFF IMPLICATIONS:

None.

ALTERNATIVES:

1. Approve the annexation of the property. The State Statute requires an ordinance to approve the annexation and a resolution to make findings of fact.
2. Deny the annexation of the property.
3. If Council wants to allow the landowners in the area proposed for annexation to make the decision, Council may set the annexation for an election. The City is required by State Statute to pay the costs for the annexation election.

4. Continue the public hearing on the annexation for the applicant to address any of the technical requirements or policy issues that Council believes have not been adequately addressed, but the State law requires Council receive one hour of testimony at the first public hearing before approving a continuance.

BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY): (includes previous City Council action)

The adopted annexation policies for the City of Thornton require the City to annex property in a strategic and planned manner; that annexed land be zoned in substantial compliance with the City’s Comprehensive Plan and applicable development standards, and that annexation is required as a condition of providing utility service.

Section 31-12-115, C.R.S. requires that lands annexed into the City be zoned within 90 days of the date of annexation. The property is proposed to be zoned Neighborhood Services (NS) concurrent with the annexation request. The proposed annexation complies with the eligibility requirements of Sections 31-12-104 and 31-12-105, C.R.S. and the notice and procedural requirements of Section 31-12-108, C.R.S.

Existing Land Use: Residential
Existing Zoning: Agricultural (A-1), Unincorporated Adams County
Proposed Zoning: NS
Surrounding Zoning:
   North: NS, Wright Farms Library
   East: A-1; Unincorporated Adams County
   South: POS; Skylake Ranch
   West: NS; Skylake Ranch

The Comprehensive Plan requires that “land currently outside the City limits...be annexed and zoned in a manner which is consistent with the Comprehensive Plan...” The land use element of the Comprehensive Plan designates the subject property as Residential Low which includes single-family residential lots with a density range between one and five dwelling units per acre which are served by a public water and wastewater system. Conditions in the area have changed such that commercial development is appropriate. The proposed Comprehensive Plan amendment is consistent with the overall direction, intent, policies and goals of the City’s Comprehensive Plan by ensuring that residential neighborhoods are adequately served by quality community and neighborhood scale commercial centers at appropriate locations.

On July 23, 2013, City Council adopted a Resolution acknowledging receipt of the petition for annexation and established September 24, 2013 as the date of the public hearing on the proposed annexation. However, the applicant failed to properly post notices on the property and Council postponed the public hearing. Four public notices of the annexation hearing were advertised in the Northglenn-Thornton Sentinel on December 12, 2013, December 19, 2013, December 26, 2013, and January 2, 2014, in accordance with State law. Adjacent property owners within 1,500 feet of the property were notified. An Impact Report was hand delivered to the Clerk of the Board and Board of County Commissioners on August 23, 2013.
RIGHT-OF-WAY OF HOLLY STREET (60 FOOT RIGHT-OF-WAY), SAID EASTERN RIGHT-OF-WAY ALSO BEGINNING EASTERLY
00°06'40" EAST, 249.0S FEET DESCRIPTED NORTHERLYBOUNDARY, NORTH 88°43'40" WEST 20.01 FEET SUBDIVISION;

SECOND NORTHERLY LINE OF LAND DESCRIBED IN SCHEDULE

AUGUST 1, 1994.

RIGHT-OF-WAY); RIGHT-OF-WAY ALSO BEGINNING EASTERN TANGENT TO CURVE, SOUTH 89'53'20" WEST, 213.14 FEET; THENCE DEPARTING SAID EASTERN LINE AND SAID WESTERN RIGHT-OF-WAY AND ALONG THE SOUTHERLY THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY AND}

THE SOUTHERLY RIGHT-OF-WAY OF EAST 120TH AVENUE (70 FOOT \10E RIGHT-OF-WAY), SAID SOUTHERLY

WESTERLY PROLONGATION TANGENT TO CURVE, SOUTH 83'48'50" WEST, 112.21 FEET TO THE SOUTHEASTERLY CORNER OF SAID LAST DESCRIBED ANNEXATION PARCEL OF LAND.


THE CITY OF THORNTON IS SHOWN ON THE COUNTY SURVEY OF THE COUNTY OF ADAMS, STATE OF COLORADO, TOWNSHIP 2 SOUTH, RANGE 67 WEST, OF THE 6TH P.M.

Job No. 10232

REVISIONS

8/26/2012

11/20/12 2D SURVEY, DEPTH NEW 7/93 7/27/12 3D SURVEY, DEPTH NEW 7/93
SNYDAL SUBDIVISION - ANNEXATION MAP
ANNEXATION TO THE CITY OF THORNTON
A PORTION OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4, SECTION 5,
TOWNSHIP 2 SOUTH, RANGE 67 WEST, OF THE 6TH P.M.
COUNTY OF ADAMS, STATE OF COLORADO
SHEET 2 OF 2
AN ORDINANCE APPROVING THE ANNEXATION OF APPROXIMATELY 12.566 ACRES OF PROPERTY LOCATED AT THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, AND ASSIGNING THE ANNEXED PROPERTY TO WARD 3 (SNYDAL ANNEXATION).

WHEREAS, the Thornton City Council has determined that annexation of a certain parcel of land, as described in Exhibit A, attached hereto (the Property), is in substantial compliance with Section 31-12-101, et. seq., C.R.S.; and

WHEREAS, after notice pursuant to Section 31-12-108, C.R.S., the Thornton City Council has held a public hearing on the proposed annexation to determine if the annexation complies with Sections 31-12-104 and 105, Colorado Revised Statutes; and

WHEREAS, the Thornton City Council has, by Resolution, determined that the requirements of Sections 31-12-104 and 105 have been met, that an election is not required, and that no additional terms or conditions are to be imposed on the annexed area.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. The annexation of that certain parcel of land situated in the County of Adams, State of Colorado, described in Exhibit A, attached hereto and hereby incorporated as if fully set forth herein to the City of Thornton, Colorado, is hereby annexed to and made part of the City of Thornton, Colorado.

2. The annexation of the Property to the City of Thornton, Colorado, is complete and effective on the date of recordation of the annexation ordinance and maps, except for the purpose of imposition of property taxes which shall be effective on and after the first day of January 2014.

3. The Agreement attached hereto as Exhibit B and incorporated as if fully set forth herein is hereby approved. The City Manager is authorized to execute the Agreement on behalf of the City. The Council determines that the terms and conditions of such Agreement serve the best interests of the City, and the furtherance of the public health, safety and general welfare by such incorporations, herein ordain that such Agreement shall constitute an operative element of this Annexation Ordinance No. _______.

INTRODUCED BY: ______ Vigil _______
4. The Property is hereby assigned to Ward 3, pursuant to the requirements of the Thornton City Charter, and the City of Thornton Ward and Precinct Map.

5. After the effective date of this ordinance, the City Clerk is hereby authorized and directed to:

   A. File one copy of the annexation map with the original of this ordinance in the office of the City Clerk of the City of Thornton, Colorado.

   B. File two certified copies of this ordinance and the map of the area annexed and described in Exhibit A with the Adams County Clerk and Recorder.

6. The annexation by and to the City of Thornton of the Property meets all the requirements of the law.

7. This ordinance shall take effect upon final passage.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on January 14, 2014.

PASSED AND ADOPTED on second and final reading on ____________, 2014.

CITY OF THORNTON, COLORADO

Heidi K. Williams, Mayor

ATTEST:

Nancy A. Vincent, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK’S OFFICE FOR PUBLIC INSPECTION.
APPROVED AS TO LEGAL FORM:

Margaret Emerich, City Attorney

PUBLICATION:

Posted in six (6) public places after first and second readings.

Published in the Northglenn-Thornton Sentinel after first reading on January 23, 2014, and after second and final reading on ________________, 2014.
ANNEXATION AGREEMENT
SNYDAL SUBDIVISION

THIS AGREEMENT is entered into this _____ day of _____, 2013, between the City of Thornton, a Colorado municipal corporation ("City"), Alice Y. Ogura ("Ogura"), Rodney Snydal and Lorraine C. Snydal ("Snydal") and Kevin McDonough, a/k/a Kevin D. McDonough, Betsy McDonough, a/k/a Betsy A. McDonough and The Megan McDonough Support Trust dated June 26, 1998, a Colorado trust (collectively "McDonough") (Ogura, Snydal and McDonough are collectively referred to herein as the "Owners").

WITNESSETH

WHEREAS, the Owners are the fee Owners of that certain real property situated in the County of Adams, State of Colorado, as more particularly described on Exhibit “A” attached hereto and incorporated herein by reference (the “Property”); and

WHEREAS, the Owners have determined that it is desirable, for the future development of the Property, that the City provide municipal services, and that the Property be annexed to the City; and

WHEREAS, the City has determined that it is in the best interests of the residents of the City that the Property be developed within the boundaries of the City and that the City provide municipal services and receive revenues from development occurring on the Property; and

WHEREAS, the Owners acknowledge that the need for conveyance and dedication of public rights-of-way and other land as contemplated in this Agreement are directly related to and generated by development intended to occur within the Property and that no taking thereby will occur requiring any compensation; and

WHEREAS, the Owners and the City are entering into this Agreement in furtherance of annexation and zoning on the Property; and

WHEREAS, the Owners and the City wish to define a mutually acceptable general land use plan that will represent the intended use of the Property; and

WHEREAS, the Owners and the City acknowledge that the Owner may be required to construct certain public improvements related both in nature and extent to the impact of the development of the Property.

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter contained, the dedication of certain land or grant of easements to the City, and other valuable consideration, the sufficiency and adequacy of which are hereby acknowledged by the parties, the parties hereto agree as follows:
SECTION 1. The Owners agree to prepare, at Owners' expense, all materials necessary for the annexation and zoning of the Property, including, without limitation, the annexation petition, associated legal descriptions, and associated maps for the annexation and zoning.

SECTION 2. The City agrees to take any and all appropriate actions, at City's expense, as are required by the annexation laws of Colorado applicable to annexing cities which are necessary with respect to the subject annexation petition, including, but not limited to, the publication of all required notices and the holding of all required hearings regarding same. The City further agrees to zone the Property within 90 days of annexation of the Property.

SECTION 3. The Owners agree that the Property shall initially be proposed for Neighborhood Services NS District zoning, as depicted on the Zoning Map of Snydal Subdivision, consisting of NS zoning as defined by the Thornton City Code ("City Code"). The Property shall be subject to all applicable master plans adopted by the City at the time of subdivision or any future subdivision of the Property. Master plans include, but are not limited to drainage, transportation, water, sanitary sewer, parks and open space.

SECTION 4. The Owners acknowledge that the annexation and zoning of the Property are subject to the plenary legislative discretion of the Thornton City Council and the rights of initiative and referendum reserved unto its citizens. No assurances of annexation or zoning have been made or relied upon by the Owners. In the event that, in the exercise of its legislative discretion, and prior to the second reading of the annexation ordinance, the City fails to approve the Zoning Map or Conceptual Site Plan, then the sole and exclusive remedy occasioned by the exercise of such discretion shall be the withdrawal of the Annexation Petition, by the Owners, in accordance with the Colorado Municipal Annexation Act of 1965, as amended from time to time.

SECTION 5. The Owners for themselves or any successors or assigns agree to convey and dedicate free and clear of all liens and encumbrances unless otherwise accepted by the City, at the time of subdivision, or at such sooner time as may be requested by the City, and at no charge to the City, the real property specified for dedication to the City in this Annexation Agreement, or any portion thereof, in accordance with City Code.

SECTION 6. The Owner shall be responsible for construction of off-site and on-site transportation, water, sanitary sewer, and drainage improvements for development of the Property. Additional transportation improvements and the acquisition of real property may be required of the Owner for the development of the Property, including but not limited to off-site transitions, turn lanes, raised landscape medians, traffic signals, pedestrian underpasses, intersection improvements, roadway connections, or any other improvements as required by City Code for development of the Property. If any of the improvements are constructed by the City, which the Owner
would have otherwise been responsible for, prior to the development of the Property, the Owner shall be responsible for reimbursing the City for the cost of those improvements. The amount of the reimbursement shall be based upon actual construction costs, brought to present day value at time of payment based upon increases in the Construction Cost Index for the Denver metropolitan area between the date the costs were incurred and the date of the Developer's Agreement. Timing of the payment of the reimbursement will be determined at the time of the Developer's Agreement.

SECTION 7. Right-of-way acquisition, construction of improvements, or responsibility for the same is to be more specifically set forth by a Developer's Agreement negotiated between the Owner and the City.

SECTION 8. The Owner shall participate in any future reimbursement agreements associated with the Property in accordance with City Code.

SECTION 9. The Owners acknowledge that upon annexation, the Property shall be subject to the same ordinances, rules, regulations, and policies, as applicable to all other property presently situated within the city limits of the City, except as otherwise provided herein, and except for the imposition of general property taxes which shall be imposed pursuant to law. All lawfully established existing land uses and site conditions onsite at the time of annexation shall be permitted to continue until such time as the site is redeveloped in the City. No expansion of any existing land uses not permitted by the adopted NS zoning is permitted, however the construction of accessory structures such as decks and sheds, which do not increase the habitable area of the homes, is allowed.

SECTION 10. The Owners agree to grant, convey and dedicate all non-tributary and not non-tributary groundwater owned by the Owners and appurtenant to the Property, to the City at the time of approval of the first subdivision plats for the Property, or at such sooner time as may be requested by the City.

SECTION 11. This Agreement shall not be effective until the annexation ordinance and this Agreement are recorded.

SECTION 12. This Agreement shall be recorded with the Clerk and Recorder of Adams County and constitute a covenant running with the land. This agreement shall be binding on the Owners and future assigns of the Owners and all other persons who may purchase any portion of the land described herein from the Owners or any persons hereinafter having any interest in the Property, or portion thereof. Wherever used herein, the term the “Owners” shall also mean any of the heirs, executors, personal representatives, transferees, or assigns of the Owners and all such parties shall have the right to enforce and be enforced under the terms of the Agreement as if they were the original parties hereto. In the event that all or a part of the Property is sold, transferred, or otherwise conveyed to additional or multiple parties,
all Owners shall be jointly and severally liable for all the obligations required by this Agreement.

SECTION 13. Prior to the recordation of the first subdivision plat for any portion of the Property, the Owners agree to commence and complete any proceeding for the exclusion of the Property from any fire district. The Owners shall provide the City with a copy of the Court order for the exclusion of the Property from the fire district.

SECTION 14. The Owners agree to oppose the Property being included in any expansion of an Adams County special district unless the Owners have received prior written approval of the special district expansion from the City. An expansion of an Adams County special district into the City shall meet the requirements of Chapter 66 of the City Code.

SECTION 15. In addition to any other remedies which may exist, this Agreement shall be enforceable by an action for specific performance filed in Adams County District Court.

SECTION 16. The Owners agree that no development can take place on the Property until the land is subdivided according to the City of Thornton Development Code requirements.

SECTION 17. A waiver by any party to this Agreement or the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

SECTION 18. Invalidation of any of the provisions of this Agreement or any paragraph, sentence, clause, phrase, or word herein shall not affect the validity of any other provision of this Agreement. This Agreement may be amended only by an instrument in writing signed by all the parties.

SECTION 19. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and the Owners, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on such Agreement. It is the expressed intention of the City and the Owners that any person other than the City and the Owners receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

SECTION 20. The laws of the State of Colorado shall govern this Agreement. The parties agree and acknowledge that this Agreement may be enforced at law or in equity. In addition to any other available remedies, it is understood and agreed that the City may withhold or revoke any permits or certificates, including but not limited to building permits and certificates of occupancy, for the Property or for any structure or lot within this development in the event of a breach of this Agreement by the Owners.
SECTION 21. If the Owners breach this Agreement, then it shall pay the City's reasonable costs and attorney's fees incurred in the enforcement of the terms, conditions, and obligations of this Agreement.

SECTION 22. This Agreement is intended to control development of the Property. Execution of this Agreement by Deed of Trust Holders signifies their consent to the Agreement, but does not obligate the Deed of Trust Holders to perform any of the Agreement's terms except as otherwise provided for herein unless a Deed of Trust Holder assumes development of the Property or a portion thereof and then only (1) as a condition precedent to the issuance of building permits for the construction of improvements on the subject property, or the issuance of certificates of occupancy, as the case may be, or (2) if a public improvement required to be constructed as a term and condition of the Agreement is only partially constructed at such time as Deed of Trust Holder assumes development responsibilities for all or a portion of the Property, and failure to complete the construction of such public improvement would endanger the public health, safety, or welfare, in which case the Deed of Trust Holder shall be required to complete only so much of the public improvement as is necessary to eliminate the danger to the public health, safety, and welfare.

SECTION 23. Any notice or communication required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to the other parties. Such notice shall be deemed to have been given when deposited in the United States Mail or other private mail service. Such notice or communications shall be given to the parties at their addresses set forth below:

SECTION 24. The Owner shall be responsible for the following offsite improvements including but not limited to the construction of a right turn lane for northbound Holly Street onto East 119th Avenue and sidewalk construction along the limits of said right turn lane.

SECTION 25. The Owner agrees to pay the amount of $176,565.40 back to the City prior to recordation of the Developer's Agreement for the payment for right-of-way that was purchased for the 120th Avenue and Holly Street Widening project. The Owner agrees to pay their proportionate amount for the 120th Avenue and Holly Street Widening project prior to the recordation of the first subdivision plat. This amount is $201,151.67 at the February 2010 construction costs (based upon the Construction Cost Index for the Denver metropolitan of 6326.81). Payment shall be recalculated based upon the increases in the Construction Cost Index for the Denver metropolitan area between the date the costs were incurred and the date of collection prior to the execution of the first Developers Agreement.
City: City of Thornton
9500 Civic Center Dr.
Thornton, CO 80229

Owners: Kevin and Betsy McDonough
and The Megan McDonough
Support Trust Dated June 26, 1998
11940 Holly Street
Denver, CO 80233

Rodney Snydal and Lorraine C. Snydal
PO Box 724
Monument, CO 80132

Alice Y. Ogura
PO Box 2356
Fort Bragg, CA 95437

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

[Signatures on following pages]
THE MEGAN MCDONOUGH SUPPORT TRUST DATED JUNE 26, 1998

By: 
Name: Patsy McDonough, TRUSTEE
Title: TRUSTEE OF THE MEGAN MCDONOUGH SUPPORT TRUST

STATE OF COLORADO )
COUNTY OF ADAMS ) ss.

The foregoing was subscribed and sworn to before me this 15 day of June, 2013, by Patsy and Kevin McDonough, as Trustee of The Megan McDonough Support Trust dated June 26, 1998.

WITNESS my hand and official seal.

My commission expires: 6-8-2016

[Signature]

NOTARY PUBLIC

ADDRESS: 3879 E 120th Ave
Thornton, CO 80233
The foregoing was subscribed and sworn to before me this 26th day of June, 2013, by Kevin McDonough, a/k/a Kevin D. McDonough.

WITNESS my hand and official seal.

My commission expires: 6-8-2016.

Name: Kevin McDonough, a/k/a Kevin D. McDonough

ADDRESS: 3879 E 120th Ave
Thornton, CO 80233

STATE OF COLORADO )
COUNTY OF ADAMS )

The foregoing was subscribed and sworn to before me this 26th day of June, 2013, by Betsy McDonough, a/k/a Betsy A. McDonough.

WITNESS my hand and official seal.

My commission expires: 6-8-2016.

Name: Betsy McDonough, a/k/a Betsy A. McDonough

ADDRESS: 3879 E 120th Ave
Thornton, CO 80233
The foregoing was subscribed and sworn to before me this 6th day of June, 2013, by Rodney Snydal.

WITNESS my hand and official seal.

My commission expires: 5/13/2015

Name: Rodney Snydal

Valarie A. Escalon
NOTARY PUBLIC
ADDRESS: 1010 W. Baptist Rd
Colorado Springs, CO 80921

The foregoing was subscribed and sworn to before me this 16th day of June, 2013, by Lorraine C. Snydal.

WITNESS my hand and official seal.

My commission expires: 5/13/2015

Name: Lorraine C. Snydal

Valarie A. Escalon
NOTARY PUBLIC
ADDRESS: 1010 W. Baptist Rd
Colorado Springs, CO 80921
The foregoing was subscribed and sworn to before me this 11th day of June, 2013, by Alice Y. Ogura.

WITNESS my hand and official seal.

My commission expires: 9/21/14

NOTARY PUBLIC
ADDRESS: 210 W. Green St
Urbana, IL 61801
CITY OF THORNTON
A Municipal Corporation

By: ____________________________
Jack Ethredge, City Manager

ATTEST:

______________________________
City Clerk

APPROVED AS TO FORM:

______________________________
Margaret A. Emerich, City Attorney
EXHIBIT A
THE PROPERTY

OGURA LEGAL DESCRIPTION

LOTS 3, 4, 5, 10, 11, AND 12, BLOCK 1, AND LOTS 3, 4 AND 5, BLOCK 2, SNYDAL SUBDIVISION, COUNTY OF ADAMS, STATE OF COLORADO, EXCEPT ANY PORTION CONVEYED TO THE CITY OF THORNTON BY DEED RECORDED MARCH 3, 2008 UNDER RECEPTION NO. 200800016728.

SNYDAL LEGAL DESCRIPTION

LOTS 1, 2, 13 AND 14, BLOCK 1, AND LOTS 1 AND 2, BLOCK 2, SNYDAL SUBDIVISION, COUNTY OF ADAMS, STATE OF COLORADO, EXCEPT ANY PORTION CONVEYED TO THE CITY OF THORNTON BY DEED RECORDED MARCH 3, 2008 UNDER RECEPTION NO. 200800016722.

MCDONOUGH LEGAL DESCRIPTION

PARCEL A:
THAT PART OF TRACT "A", SKYLAKE RANCH PHASE I, A SUBDIVISION PLAT RECORDED IN FILE 16, MAP 297, IN THE OFFICE OF THE CLERK AND RECORDER OF THE COUNTY OF ADAMS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT "A"; THENCE ALONG THE BOUNDARY OF SAID TRACT "A" THE FOLLOWING FIVE (5) COURSES: (1) SOUTH 87 DEGREES 32 MINUTES 27 SECONDS EAST ALONG THE NORTH LINE OF SAID TRACT "A" A DISTANCE OF 139.24 FEET; (2) THENCE SOUTH 01 DEGREES 04 MINUTES 30 SECONDS WEST A DISTANCE OF 182.27 FEET; (3) THENCE SOUTH 88 DEGREES 55 MINUTES 30 SECONDS EAST A DISTANCE OF 98.97 FEET; (4) THENCE SOUTH 01 DEGREES 04 MINUTES 30 SECONDS WEST A DISTANCE OF 70.24 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF EAST 119TH AVENUE; (5) THENCE NORTH 88 DEGREES 55 MINUTES 30 SECONDS WEST ALONG SAID NORTH LINE A DISTANCE OF 184.89 FEET; THENCE DEPARTING THE BOUNDARY OF SAID TRACT "A", NORTH 43 DEGREES 55 MINUTES 30 SECONDS WEST A DISTANCE OF 75.36 FEET TO A POINT ON THE WEST LINE OF SAID TRACT "A"; THENCE NORTH 01 DEGREES 04 MINUTES 30 SECONDS EAST ALONG SAID WEST LINE A DISTANCE OF 202.59 FEET TO THE POINT OF BEGINNING, EXCEPT ANY PORTION CONVEYED TO THE CITY OF THORNTON IN SPECIAL WARRANTY DEED RECORDED OCTOBER 5, 2009 UNDER RECEPTION NO. 2009000073984, COUNTY OF ADAMS, STATE OF COLORADO.
PARCEL B:
A PARCEL OF LAND LOCATED IN THE WEST 1/2 OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 5; THENCE SOUTH 01 DEGREES 04 MINUTES 30 SECONDS WEST ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF SECTION 5, 548.40 FEET; THENCE SOUTH 87 DEGREES 32 MINUTES 30 SECONDS EAST 30.01 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE EAST RIGHT OF WAY LINE OF HOLLY STREET; THENCE S 87 DEGREES 32 MINUTES 30 SECONDS EAST 260.59 FEET TO A POINT, THAT ALONG WITH THE FOLLOWING 2 CALLS IS ON THE SOUTH LINE OF SNYDAL SUBDIVISION, AS RECORDED IN FILE 11, MAP 46, RECEPTION NO. 651724; THENCE NORTH 89 DEGREES 10 MINUTES 00 SECONDS EAST, 157.90 FEET; THENCE NORTH 86 DEGREES 40 MINUTES 00 SECONDS EAST 186.50 FEET TO A POINT, SAID POINT TO BE KNOWN AS SKYLAKE RANCH THE NORTHWEST CORNER OF TRACT "D"; THENCE SOUTH 01 DEGREES 23 MINUTES 49 SECONDS EAST 333.76 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT, WITH A CENTRAL ANGLE OF 43 DEGREES 34 MINUTES 34 SECONDS, WITH A RADIUS OF 200 FEET, WHOSE LONG CHORD BEARS NORTH 74 DEGREES 06 MINUTES 13 SECONDS WEST, A CHORD DISTANCE OF 148.69 FEET, AN ARC DISTANCE OF 152.34 FEET; THENCE SOUTH 84 DEGREES 04 MINUTES 30 SECONDS WEST 180.96 FEET TO A POINT OF CURVE TO THE RIGHT; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT, WITH A CENTRAL ANGLE OF 7 DEGREES 00 MINUTES 00 SECONDS, WITH A RADIUS OF 305.00 FEET, WHOSE LONG CHORD BEARS SOUTH 87 DEGREES 34 MINUTES 30 SECONDS WEST A CHORD DISTANCE OF 37.24 FEET, AN ARC DISTANCE OF 37.26 FEET; THENCE NORTH 01 DEGREES 04 MINUTES 30 SECONDS EAST, 70.24 FEET; THENCE NORTH 88 DEGREES 55 MINUTES 30 SECONDS WEST, 98.97 FEET; THENCE NORTH 01 DEGREES 04 MINUTES 30 SECONDS EAST, 182.27 FEET; THENCE NORTH 87 DEGREES 32 MINUTES 30 SECONDS WEST, 159.24 FEET TO A POINT ON THE EAST RIGHT OF WAY OF HOLLY STREET; THENCE NORTH 01 DEGREES 04 MINUTES 30 SECONDS EAST, 50.02 FEET TO THE POINT OF BEGINNING, EXCEPT THAT PART PLATTED AS LOT 9, REGAL ESTATES, COUNTY OF ADAMS, STATE OF COLORADO.

PARCEL C:
LOT 9, REGAL ESTATES, EXCEPT THAT PORTION RE-PLATTED AS SKYLAKE RANCH PHASE I, COUNTY OF ADAMS, STATE OF COLORADO.
COUNCIL COMMUNICATION

Meeting Date: January 28, 2014
Agenda Item: 8C
Agenda Location: Consent Calendar
Work Plan #: N/A
Legal Review:

Subject: An ordinance approving the Zoning of approximately 14.587 acres as Neighborhood Service (NS) and amending the Official Zoning Map for property located southeast of the intersection of East 120th Avenue and Holly Street (Snydal).

Recommended by: Jeff Coder
Approved by: Jack Ethridge
Presenter(s): Mike Mallon, Current Planning Manager

SYNOPSIS:

This requested zoning is in conformance with State Law which requires that lands annexed into the City be zoned within 90 days of the effective date of the annexation ordinance. The applicant is proposing to zone approximately 14.587 acres of property, as Neighborhood Services (NS). Annexation of the site is concurrently proposed.

The future land use designation for the property is currently Residential Low, but conditions have changed since the map was created. The applicant is proposing to change the designation from Residential Low to Commercial.

RECOMMENDATION:

Staff recommends Alternative No. 1, approval of the requested zoning for the property because the proposed zoning meets all of the requirements of the Development Code and will provide uses on the site which are compatible with the adjacent developed areas and anticipated development in the immediate area.

BUDGET/STAFF IMPLICATIONS:

None.

ALTERNATIVES:

1. If the Comprehensive Plan Amendment is approved, then approve the Zoning Ordinance.
2. If the Comprehensive Plan Amendment is approved, then deny the Zoning Ordinance and provide direction to staff regarding Council’s preferred option for the zoning designation.
3. If the Comprehensive Plan Amendment is denied, deny the Zoning Ordinance and provide direction to staff regarding Council’s preferred option for the zoning designation.
BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY): (includes previous City Council action)

This proposal meets the following Thornton City Code criteria for change in zoning:

- **Growth and other development factors in the community support changing the zoning.**

  The area is experiencing both commercial and residential growth. The Rangeview Library was recently constructed on the opposite side of East 120th Avenue, a Kum & Go gas station has been approved on the west side of Holly Street, and the Mayfield Subdivision, which includes some commercial elements, is proposed just to the east at 120th Avenue and Quebec.

- **The change in zoning represents orderly development of the City and there are, or are planned to be, adequate services and infrastructure to support the proposed zoning change and existing uses in the area.**

  The property in question is located at the intersection of two major arterial streets and is surrounded by incorporated property on three sides. The location provides an orderly development within the City as well as existing utilities to serve the site.

- **The change in zoning provides for an appropriate use of the property.**

  The intersection of two arterial streets provides a very appropriate location for commercial development. The position allows the site to be visible and accessible to travelers on both major roads.

- **The change in zoning is in substantial conformance with the goals and policies of the Comprehensive Plan and other adopted plans and policies of the City.**

  A concurrent application for a Comprehensive Plan Amendment for this property is being considered with this zoning application. The Comprehensive Plan Amendment to change the Future Land Use Map designation for this property must be approved prior to the approval of this zoning request. The request is to change the Future Land Use Map designation for the property from Residential Low to Commercial. The proposal promotes applicable Comprehensive Plan policies, including the following:

    5.5.4 **Ensure that all residential neighborhoods are adequately served by quality community and neighborhood scale commercial centers at appropriate locations.**

    6.3.1 **Promote the development and maintenance of healthy, viable commercial centers.**

- **The proposed zoning is sensitive to and compatible with the existing and planned use and development of adjacent properties.**

  The site under consideration is bordered by roads on three sides, and on two sides with commercial zoning. An existing open space within the Skylake Ranch subdivision is situated on the south, with residential property located to the east. The Development Code has
provisions for buffering between residential and commercial uses, and the requirements of the Conceptual Site Plan and Development Permit will ensure sensitive and compatible development.

**Zoning:** The proposed project will zone approximately 14.587 acres of property in conformance with State Law which requires that lands annexed into the City be zoned within 90 days of the effective date of the annexation ordinance. The applicant is proposing NS zoning for the property. The requested zoning will allow the development of neighborhood commercial uses as allowed by the Development Code.

**Zoning and Land Use:** The proposed zoning and concurrently proposed CSP meet or exceed all standards specified in Chapter 18 of the Thornton City Code. This proposal provides an effective complement to the existing and approved development in the area.

All lawfully established existing land uses and site conditions onsite at the time of annexation will be permitted to continue until such time as the site is developed. No expansion of any existing land uses not permitted by the proposed NS zoning will be permitted, however the construction of ancillary structures such as decks and sheds, which do not increase the habitable area of the homes, is allowed.

**PUBLIC NOTICE AND RESPONSE:**

**Public Notification:** All residents within at least 1,500 feet of this site were sent notice of the public hearing ten days prior to January 14, 2014. A public notice of the hearing was advertised in the Northglenn-Thornton Sentinel on January 2, 2014. Notification of the City Council hearing was posted on the property for ten days prior to the January 14, 2014 public hearing.

**Public Response:** A community meeting was held on October 15, 2012. The developer and City staff attended the meeting. The purpose of this meeting was to present and discuss the proposed annexation, zoning, Comprehensive Plan Amendment, and conceptual site plan with surrounding residents. Approximately 14 residents attended the meeting and asked questions concerning the proposed development type. At that time the proposed zoning was Community Retail (CR) and the proposed uses were retail stores up to 100,000 square feet in area, gas station, fast food, and personal service uses. The residents expressed concern over hours of operation, noise, and disruption to their neighborhood. The requested zoning has since been changed to NS, which does not allow retail uses larger than 3,500 square feet or gas stations.

**HISTORY:**

On July 23, 2013, the petition for annexation into the City of Thornton was acknowledged by the City Council.

WHEREAS, Rodney & Lorraine Snydal, Alice Y. Ogura, Kevin & Betsy McDonough, and the Megan McDonough Support Trust are the owners ("Owners") of certain real property ("Property") within the City of Thornton ("City"), described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, the Property is currently being annexed and an application has been submitted to zone the property to Neighborhood Services (NS); and

WHEREAS, the Owners have submitted to the City an application for consideration of the Snydal zoning; and

WHEREAS, the proposed zoning application is consistent with the goals and desires of the City, provides for orderly growth within the City and provides for a beneficial and efficient use of the Property; and

WHEREAS, the aforesaid zoning application and all supporting documents are hereby incorporated as if fully set forth herein; and

WHEREAS, the application for zoning is a matter of public record in the custody of the City Development Department, and is available for public inspection during business hours of the City; and

WHEREAS, on January 14, 2014, the City Council of the City of Thornton conducted a public hearing on said application, pursuant to the procedural and notice requirements of Chapter 18 of the Thornton City Code, and the Council having considered the evidence presented in support of and in opposition to the application, the applicable zoning, the City’s Comprehensive Plan, and staff recommendations and so having considered the record and given appropriate weight to the evidence.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. It is found that the Owners and the City have complied with the provisions of State Law and the Thornton City Code pertaining to zoning of annexed property.

2. It is found that the NS zoning district meets the Thornton City Code criteria as follows:
a. Growth and other development factors in the community support changing the zoning.

b. The change in zoning represents orderly development of the City and there are, or are planned to be, adequate services and infrastructure to support the proposed zoning change and existing uses in the area.

c. The change in zoning provides for an appropriate use of the property.

d. The change in zoning is in substantial conformance with the goals and policies of the Comprehensive Plan and other adopted plans and policies of the City.

The proposal promotes applicable Comprehensive Plan policies, including the following:

5.5.5 Ensure that all residential neighborhoods are adequately served by quality community and neighborhood scale commercial centers at appropriate locations.

6.3.1 Promote the development and maintenance of healthy, viable commercial centers.

e. The proposed zoning is sensitive to and compatible with the existing and planned use and development of adjacent properties.

3. The Council finds that the application for the NS zoning and amending the Official Zoning Map has been considered in accordance with the provisions of Chapter 18 of the Thornton City Code.

4. The Snydal zoning to NS is hereby approved subject to the following conditions:

A. Approval of the NS zoning does not waive any additional requirements of the development as established by the Annexation, the Subdivision Plat, Developer’s Agreement, or any Development Permit associated with the Property.

B. When the Development Permit is submitted, the Owners shall provide a landscape plan that is consistent with the City's water-wise landscape regulations which emphasize the use of drought-tolerant materials.

C. The Owners shall install all public improvements that are required to serve the Property including, but not limited to, streets, utilities, drainage improvements, street lights, curb, gutter, sidewalks and right-of-way landscape. Timing of said improvements will be determined at the time of the Developer’s Agreement associated with the Subdivision Plat.
D. This development shall have two points of access and a looped water system to allow proper fire protection during construction and development.

E. This development shall complete all appropriate drainage work necessary to serve the development as determined by the Development Engineering Division of the City. Timing of said improvements will be determined at the time of the Developer's Agreement.

F. This Property shall meet the grading requirements of Section 18-676(a) (2) of the Code. The grading plans shall be reviewed at the time of Subdivision Plat.

G. The Owners shall install all public improvements that are required to serve the Property. Details and timing of those improvements, and all off-site easements will be determined with the Subdivision Plat.

H. All public improvements are to be designed and constructed to the City of Thornton Standards and Specifications for the Design and Construction of Public Improvements.

I. The Owners agree that no development can take place on the Property under the NS zoning until the land is subdivided according to the City of Thornton Development Code requirements.

5. Land use approvals and building permits for the development described herein shall be subject to requirements including, but not limited to, the payment of impact fees and development charges, concurrency management requirements, design standards, moratoriums, building permit limitations and other land use and development requirements in effect at the time that such proposed development applies for a building permit.

6. The conditions set forth in this Ordinance shall run with the land and be binding upon the Owners and their successors and assigns.

7. This ordinance shall take effect upon final passage.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on January 14, 2014.
PASSED AND ADOPTED on second and final reading on __________, 2014.

CITY OF THORNTON, COLORADO

Heidi K. Williams, Mayor

ATTEST:

Nancy A. Vincent, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO LEGAL FORM:

Margaret Emerich, City Attorney

PUBLICATION:

Posted in six (6) public places after first and second readings.

Published in the Northglenn-Thornton Sentinel after first reading on January 23, 2014, and after second and final reading on _________________, 2014.
EXHIBIT A

PROPERTY DESCRIPTION
SNYDAL SUBDIVISION ANNEXATION

A PARCEL OF LAND LYING WITHIN THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 5, WHENCE THE NORTHERLY LINE OF SAID NORTHWEST QUARTER BEARS NORTH 88°49'04" EAST, WITH ALL BEARINGS HERIN BEING REFERENCED TO SAID NORTHERLY LINE;

THENCE SOUTH 37°21'55" EAST, 49.56 FEET TO THE NORTHWEST CORNER OF LOT 1, BLOCK 1, SNYDAL SUBDIVISION, SAID NORTHEAST CORNER ALSO BEING A POINT ON THE WASTERLY RIGHT-OF-WAY OF SAID SUNDOWN AT SKYLAKE RANCH - AMENDMENT NO. 2, IN SAID COUNTY AND STATE, PER PLAT RECORDED AUGUST 14, 1997 AT RECEPTION NUMBER C0421976, IN SAID OFFICE OF THE CLERK AND RECORDER;


THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY AND THE SOUTHERLY BOUNDARY OF SAID ANNEXATION MAP, NORTH 88°49'04" EAST, 1009.23 FEET TO THE NORTHEASTERLY CORNER OF LOT 7, BLOCK 1, SNYDAL SUBDIVISION, SAID NORTHEASTERLY CORNER ALSO BEING A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF EAST 119TH AVENUE (50 FOOT RIGHT-OF-WAY);

THENCE ALONG THE NORTHERLY LINE OF SAID LOT 7, BLOCK 1, AND SAID WESTERLY RIGHT-OF-WAY, SOUTH 00°06'40" EAST, 6.60 FEET TO THE SOUTHEASTERLY CORNER OF THE LAND DESCRIBED AS PARCEL NO. 5A IN THE WARRANTY DEED TO THE CITY OF THORNTON RECORDED MARCH 7, 2008 AT RECEPTION NO. 2008000018478, IN SAID OFFICE OF THE CLERK AND RECORDER;

THENCE DEPARTING SAID EASTERLY LINE AND SAID WESTERLY RIGHT-OF-WAY AND ALONG THE SOUTHERLY LINE OF SAID PARCEL NO. 5A, SOUTH 88°49'04" WEST, 143.26 FEET TO THE EASTERLY LINE OF LOT 6, BLOCK 1, SNYDAL SUBDIVISION;

THENCE ALONG THE EASTERLY LINE OF SAID LOT 6, BLOCK 1, SOUTH 00°06'40" EAST, 4.30 FEET TO THE SOUTHEASTERLY CORNER OF THE LAND DESCRIBED AS PARCEL NO. 5A IN SAID WARRANTY DEED TO THE CITY OF THORNTON;

THENCE DEPARTING SAID EASTERLY LINE OF LOT 6, BLOCK 1 AND ALONG THE SOUTHERLY LINE OF SAID PARCEL NO. 5A, SOUTH 88°49'04" WEST, 150.00 FEET TO THE EASTERLY LINE OF LOT 5, BLOCK 1, SNYDAL SUBDIVISION;

THENCE ALONG THE EASTERLY LINE OF LOT 5, BLOCK 1 AND LOT 10, BLOCK 1, SNYDAL SUBDIVISION, SOUTH 00°06'40" EAST, 249.05 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 10, BLOCK 1;

THENCE SOUTH 00°06'20" EAST, 50.00 FEET TO THE NORTHEAST CORNER OF LOT 5, BLOCK 2, SNYDAL SUBDIVISION;

THENCE ALONG THE EASTERLY LINE OF SAID LOT 5, BLOCK 2, SOUTH 00°06'40" EAST, 187.94 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 5, BLOCK 2 OF SAID SNYDAL SUBDIVISION, BEING A POINT ON THE NORTHERLY boundary OF THE ANNEXATION MAP TO THE CITY OF THORNTON, RECORDED JULY 26, 1994 AT RECEPTION NUMBER C0002877 IN SAID OFFICE OF THE CLERK AND RECORDER;

THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 5, BLOCK 2, AND SAID NORTHERLY boundary OF SAID LAST DESCRIBED ANNEXATION MAP, SOUTH 83°48'50" WEST, 112.21 FEET TO THE NORTHWESTERLY CORNER OF LOT 60, SUNDOWN AT SKYLAKE RANCH - AMENDMENT NO. 2, IN SAID COUNTY AND STATE, PER PLAT RECORDED JULY 23, 1998 AT RECEPTION NUMBER C0421976, IN SAID OFFICE OF THE CLERK AND RECORDER AND THE WESTERLY BOUNDARY OF SAID ANNEXATION MAP TO THE CITY OF THORNTON, RECORDED JULY 26, 1994;

THENCE ALONG THE WESTERLY boundary OF SAID SUNDOWN AT SKYLAKE RANCH - AMENDMENT NO. 2 AND ALONG THE WESTERLY boundary OF SUNDOWN AT SKYLAKE RANCH, IN SAID COUNTY AND STATE, PER PLAT RECORDED AUGUST 14, 1997 AT RECEPTION...
NUMBER C0308324, IN SAID OFFICE OF THE CLERK AND RECORDER AND ALSO ALONG THE WESTERLY BOUNDARY OF SAID LAST DESCRIBED ANNEXATION MAP, SOUTH 02°34'59" EAST, 333.76 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF EAST 119TH AVENUE (50 FOOT WIDE RIGHT-OF-WAY) AS SHOWN ON THE PLAT OF SKYLAKE RANCH PHASE 1, RECORDED AUGUST 22, 1985 AT RECEPTION NO. 8594914, IN SAID OFFICE OF THE CLERK AND RECORDER, BEING THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 200.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 36°31'57" WEST, SAID NORTHEASTERLY RIGHT-OF-WAY ALSO BEING THE NORTHERLY BOUNDARY OF SAID ANNEXATION MAP TO THE CITY OF THORNTON, RECORDED JULY 26, 1994; THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY OF EAST 119TH AVENUE AND SAID NORTHERLY BOUNDARY OF SAID LAST DESCRIBED ANNEXATION MAP THE FOLLOWING 5 COURSES:

1) WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 43°38'39" AN ARC LENGTH OF 152.35 FEET;
2) TANGENT TO SAID CURVE, SOUTH 82°53'20" WEST, 180.96 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 305.00 FEET;
3) WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07°00'00" AN ARC LENGTH OF 37.26 FEET;
4) TANGENT TO SAID CURVE, SOUTH 89°53'20" WEST, 213.14 FEET;
5) NORTH 45°06'40" WEST, 35.36 FEET TO THE EAST-SIDE PROLONGATION OF THE NORTEHERLY LINE OF SAID TRACT A AND ALONG SAID LAST DESCRIBED NORTHERLY BOUNDARY, NORTH 00°06'40" WEST, 231.67 FEET TO THE NORTHWEST CORNER OF TRACT A, SAID SKYLAKE RANCH PHASE 1 AND THE NORTHERLY BOUNDARY OF SAID ANNEXATION MAP TO THE CITY OF THORNTON, RECORDED JULY 26, 1994;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY OF HOLLY STREET (60 FOOT WIDE RIGHT-OF-WAY) AS SHOWN ON SAID PLAT OF SKYLAKE RANCH PHASE 1, SAID EASTERLY RIGHT-OF-WAY ALSO BEING THE EASTERLY BOUNDARY OF SAID ANNEXATION MAP TO THE CITY OF THORNTON, RECORDED DECEMBER 21, 1973 AT RECEPTION NO. A025983, IN SAID OFFICE OF THE CLERK AND RECORDER;

THENCE ALONG THE WESTERLY PROLONGATION OF THE NORTHERLY LINE OF SAID TRACT A AND ALONG SAID LAST DESCRIBED NORTHERLY BOUNDARY, NORTH 88°43'40" WEST 20.01 FEET TO THE SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF LOT 1, BLOCK 2, SAID SNYDAL SUBDIVISION, SAID WESTERLY LINE ALSO BEING THE EASTERLY RIGHT-OF-WAY OF HOLLY STREET (60 FOOT WIDE RIGHT-OF-WAY), SAID EASTERLY RIGHT-OF-WAY ALSO BEING THE EASTERLY BOUNDARY OF THE ANNEXATION MAP TO THE CITY OF THORNTON, RECORDED JULY 26, 1994;

THENCE ALONG SAID SOUTHERLY PROLONGATION AND SAID EASTERLY RIGHT-OF-WAY AND SAID EASTERLY BOUNDARY OF SAID LAST DESCRIBED ANNEXATION MAP, NORTH 00°06'40" WEST, 558.97 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 547,393 SQ. FT. OR 12.566 ACRES, MORE OR LESS.

ROBERT D. SNOGDGRASS, PLS 36580
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR
FOR AND BEHALF OF CALVADA SURVEYING, INC.
6551 REVERE PARKWAY, SUITE 165
CENTENNIAL, CO 80111
COUNCIL COMMUNICATION

Meeting Date: January 28, 2014  
Agenda Item: 8D  
Agenda Location: Consent Calendar  
Work Plan #:  
Legal Review:  

Subject: An Ordinance adopting the first amendment to the 2014 Budget amending section one of Ordinance 3267, making appropriations for the City of Thornton, Colorado for the fiscal year 2014 for all funds except that appropriations for certain individual projects shall not lapse at year end but continue until the project is completed or cancelled.

Recommended by: Robb Kolstad  
Approved by: Jack Ethredge  
Ordinance previously introduced by: Martinez Humenik  
Presenter(s): Robb Kolstad, Management and Budget Director

SYNOPSIS:

This ordinance is for the first amendment to the 2014 Budget and authorizes funding for City operation of Thorn creek Golf Course.

RECOMMENDATION:

The 2014 Budget, which authorizes expenditures of $198,183,702, is proposed to increase by $768,336. The amended budget will be $198,952,038. This amendment will accomplish the following:

1. Appropriate $110,452 in the Golf Course Fund for additional salary and benefit costs. The seven existing contract employees will be converted to regular full-time status, reflecting City operation of the golf course. The positions will also be reviewed to align with prevailing wages of other municipally operated golf courses. This will result in an additional 7.0 regular full-time equivalent (FTE) positions.

2. Appropriate $127,000 in the Golf Course Fund for the lease of maintenance equipment. Equipment to be leased includes various mowers and utility vehicles. The leased equipment will be used for daily operations such as mowing, sand trap raking, and ongoing irrigation maintenance. The majority of the equipment to be leased will replace existing aged or nonfunctional pieces.

3. Appropriate $280,884 in the Golf Course Fund for the purchase of maintenance equipment. Equipment to be purchased includes two tractors, two aerators, two blowers, one sweeper, one sprayer, and a number of smaller pieces. The purchased equipment will be used for periodic operations such as aerating, top dressing, and major course maintenance. While much of the equipment to be purchased will replace existing aged or nonfunctional pieces, a number of additional pieces will be acquired to perform ongoing golf course maintenance.

4. Appropriate $250,000 in the Parks Fund for the design of golf course improvements. Potential improvements include replacement of the current irrigation system, shortening and softening the golf course design, construction of on-course restrooms, and reversing the order of the current front nine and back nine. Construction of these improvements will be considered as part of the 2015 Budget.
BUDGET/STAFF IMPLICATIONS:

The source of funding for the staffing and equipment will come from unappropriated fund balance in the Golf Course Fund. The source of funding for the design of golf course improvements will come from unappropriated fund balance in the Parks Fund. The budget amendment will result in an additional 7.0 regular full-time equivalent (FTE) positions, increasing the authorized staffing level in the 2014 Budget from 822.0 FTE positions to 829.0 FTE positions.

ALTERNATIVES:

1. Approve the ordinance amending the 2014 Budget.
2. Do not approve the ordinance amending the 2014 Budget.

BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY):

City Council approved Ordinance 3267, making appropriations for the 2014 Budget, on September 24, 2013.
INTRODUCED BY: Martinez Humenik

AN ORDINANCE ADOPTING THE FIRST AMENDMENT TO THE 2014 BUDGET AMENDING SECTION ONE OF ORDINANCE 3267, MAKING APPROPRIATIONS FOR THE CITY OF THORNTON, COLORADO FOR THE FISCAL YEAR 2014 FOR ALL FUNDS EXCEPT THAT APPROPRIATIONS FOR CERTAIN INDIVIDUAL PROJECTS SHALL NOT LAPSE AT YEAR END BUT CONTINUE UNTIL THE PROJECT IS COMPLETED OR CANCELLED.

WHEREAS, the City Council is required to adopt a budget for fiscal year 2014; and

WHEREAS, the City Council has adopted a budget for fiscal year 2014 and desires to amend the budget to appropriate additional funds.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. That Section 1 of Ordinance 3267 is hereby amended as follows:

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<th>2014 Amended Budget</th>
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<td>$198,952,038</td>
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2. If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.

3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

4. The repeal or amendment of any provision of the Code by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

5. This ordinance shall take effect upon final passage.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on January 14, 2014.

PASSED AND ADOPTED on second and final reading on __________, 2014.

CITY OF THORNTON, COLORADO

Heidi K. Williams, Mayor

ATTEST:

Nancy A. Vincent, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.
APPROVED AS TO LEGAL FORM:

______________________________
Margaret Emerich, City Attorney

PUBLICATION:

Posted in six (6) public places after first and second readings.

Published in the Northglenn-Thornton Sentinel after first reading on January 23, 2014, and after second and final reading on ________________, 2014.
COUNCIL COMMUNICATION

Meeting Date: January 28, 2014
Agenda Item: 8E
Agenda Location: Consent Calendar
Work Plan # Legal Review:

Subject: An ordinance amending Section 18-35, Appeals of Floodplain Interpretations, Section 18-48 Development Permit Review, repealing and reenacting Article V, Division 7 Floodplain Regulations to comply with the State of Colorado Rules and Regulations for Regulatory Floodplains and amending Section 18-901 Definitions, of the Thornton City Code.

Recommended by: Bud Elliot
Approved by: J[illegible]
Presenter(s): James W. Kaiser, CFM, Floodplain Administrator

SYNOPSIS:

This ordinance updates the portions of the City Code relevant to Floodplain Administration to bring the Code into compliance with the rules adopted by the Colorado Water Conservation Board (CWCB), as allowed under the Colorado Revised Statutes. The ordinance also updates terms in the Code to reflect current staff titles and responsibilities, and adopts by reference recent studies completed in partnership with the Urban Drainage and Flood Control District.

RECOMMENDATION:

Staff recommends Alternative No. 1, approval of the ordinance.

BUDGET/STAFF IMPLICATIONS:

No implications to the budget. Changes identify specific plan review and inspection procedures for all new and substantially improved structures within a Special Flood Hazard Area (SFHA).

ALTERNATIVES:

1. Approval of the ordinance will allow the City to maintain its current good standing status with the National Flood Insurance Program (NFIP) and the Community Rating System.

2. Denial of the ordinance may result in placing the City either on NFIP suspension or probation and possibly being removed from the Community Rating System Program. NFIP suspension would result in Thornton residents and property owners no longer being able to purchase new, or renew existing, flood insurance policies.

BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY): (includes previous City Council action)

The City of Thornton participates in the NFIP, which requires the City to adopt and enforce regulations designed to reduce or avoid future flood damages. The City also participates in the Community Rating System, which provides discounts to NFIP policy holders as a result of policies and actions above the minimum NFIP requirements.

The CWCB adopted new statewide “Rules and Regulations for Regulatory Floodplains in Colorado” on November 17, 2010; to be effective on January 14, 2011. All municipalities in Colorado, regardless of their participation in the NFIP and Community Rating System Program, are required to adopt a floodplain ordinance by January, 2014, which complies with the requirements of the January 14, 2011 rules.
The following changes are included in this ordinance:

- Additional floodplain studies are added to the Code; Sections 18-620(d). These studies are adopted by reference in the Code.
- Correcting the titles of responsible parties, to reflect the current functions of the Floodplain Administrator and the Development Engineering Manager; primarily Section 18-630(a).
- The new Code further describes the duties of the Floodplain Administrator; Section 18-630(b).
- Recognizing that property lines extend into the floodway and floodplain, establishes standards allowing fencing to be constructed in the floodplain that will allow passage of flood waters and debris; also allowing more secure fencing when a critical facility needs to be protected; Section 18-640(d).
- Codifies current development practice prohibiting platting of lots in the floodplain; Section 18-641(a)5.d.
- Establishes requirements for submission of an elevation certificate for any new construction or "substantial improvement" of a structure in the floodplain; Section 18-641(b). Substantial improvement is a defined term in the Building Code generally meaning repairs or additions to a structure greater than 50 percent of the pre-existing value of the structure. Submission of an elevation certificate in these circumstances has always been a FEMA requirement, and has been enforced by staff. The additional language codifies this requirement.
- Establishes definitions and requirements for "critical facilities" in accordance with the CWCB rules; Section 18-641(b)(5). Critical facilities, include essential services such as emergency response facilities, medical, and utility and transportation facilities; facilities that manufacture or store hazardous materials; facilities that serve "at risk" populations, including the elderly and school children; and facilities vital for restoring government operations such as public records storage, permitting, courts, administration, and maintenance centers.

There are two requirements for critical facilities above and beyond all other facilities located in the SFHA (floodplain):

- Elevation, 18-641(b)(5)(b)(2) critical facilities must be at least TWO feet above the Base Flood Elevation (BFE); all other new/substantially improved construction must be at least one foot above the BFE.
- Access, 18-641(b)(5)(c). Where practicable, they must have a route that provides continuous access during a "100-year" event.

The impact of these two requirements may mean additional fill must be placed if an agency proposes a critical facility in the floodplain. It also means that a new road or driveway may need to be constructed or an existing one raised above the BFE to provide the continuous access.

- Codifies current practice of requiring a Floodplain Development Permit for all construction activities in the SFHA, Section 18-642. This is implied in Section 18-630(b)(1), but not specifically required in the Code. The Floodplain Development Permit is approved administratively by the Floodplain Administrator.
- Code change includes redefined and new floodplain related definitions; Section 18-901.
- Code change to prohibit discharge of a "pollutant" into the storm water system Section18-658(a) and includes the definition of a "pollutant"; Section 18-901. 18-658(a) previously read "polluting material", with no definition of what this means. This will allow Code Enforcement to specifically cite the Code if persons are putting yard waste, leaves, and many other defined items into the storm sewer system.
AN ORDINANCE AMENDING SECTION 18-35, APPEALS OF FLOODPLAIN INTERPRETATIONS, SECTION 18-48 DEVELOPMENT PERMIT REVIEW, REPEALING AND REENACTING ARTICLE V, DIVISION 7 FLOODPLAIN REGULATIONS TO COMPLY WITH THE STATE OF COLORADO RULES AND REGULATIONS FOR REGULATORY FLOODPLAINS AND AMENDING SECTION 18-901 DEFINITIONS, OF THE THORNTON CITY CODE.

WHEREAS, Title 29, Section 20 of the Colorado Revised Statutes delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses; and

WHEREAS, the State of Colorado Water Conservation Board has adopted new floodplain rules and regulations; and

WHEREAS, in order to make the Thornton City Code ("Code") consistent with such rules and regulations, the Code needs to be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO:

1. Subsection 18-35 (a) of the Code is hereby amended by deletion of the words stricken and the addition of words double-underlined to read as follows:

Sec. 18-35. Appeals of floodplain interpretations.

(a) Council authority. The council shall hear appeals from interpretations of the city engineer floodplain administrator and requests for variances from the provisions of this division section.

2. Subsection 18-48(b)(8) of the Code is hereby amended by deletion of the words stricken and the addition of words double-underlined to read as follows:

Sec. 18-48(b)(8). Development permit review.

(8) A floodplain development permit is required before construction or development begins within any area of special flood hazard established in Section 18-620. In addition to the criteria in this section, the criteria contained in Division 7 of Article V of Section 18-642 of this chapter shall be used to review development proposals located within areas of special flood hazard.
The following additional information is required when an area of special flood hazard is involved:

1. The elevation, in relation to mean sea level of the lowest floor of all structures.
2. The elevation in relation to mean sea level to which any structure has been floodproofed.
3. Certification by a registered professional engineer in the state that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 18-641.
4. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
5. Evidence of permit approval from all necessary federal, state and regional agencies.

b. Use of other base flood data. When base flood elevation data is not available in accordance with Section 18-620(c) for establishing areas of special flood hazard, the applicant shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source as criteria for the administration of this division. Data obtained and utilized by the applicant shall be submitted to the city engineer.

3. Chapter 18, Article V, Division 7 Floodplain Regulations of the Code is hereby repealed in its entirety and reenacted to read as follows:

DIVISION 7. FLOODPLAIN REGULATIONS

Part 1. Generally

Sec. 18-618. Purpose.

(a) It is the purpose of this division to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health.
(2) Minimize expenditures of public money for costly flood control projects.
(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
(4) Minimize prolonged business interruptions.

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in areas of special flood hazard.

(6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blighted areas.

(7) Ensure that potential buyers are notified that property is in an area of special flood hazard.

(8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(9) Minimize damage to structures.

(10) Provide a method of reducing flood loss.

(b) In order to accomplish its purposes, this division includes methods and provisions for:

(1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion, flood heights, or velocities.

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers which help accommodate or channel floodwaters.

(4) Controlling filling, grading, dredging and other development activities, which may increase flood damage.

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazard in other areas.

Sec. 18-619. Applicability.

(a) This division shall apply to all areas of special flood hazard within the jurisdiction of the city.
(b) No structure shall be constructed, located, extended, converted or altered without full compliance with the provisions of this division.

(c) Except as expressly provided in this division, this division is not intended to repeal, abrogate or impair any existing ordinance, easement, covenants or deed restrictions. However, where this division and other ordinances, easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restriction shall prevail.

(d) In the interpretation and application of this division, all provisions shall be considered as minimum requirements, liberally construed in favor of the city and deemed neither to limit nor repeal any other powers granted under state statutes.

(e) The degree of flood protection required under this division is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This division does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This division shall not create liability on the part of the city, any officer or employee thereof or the Federal Emergency Management Agency (FEMA) for any flood damage that results from reliance on this division or any administrative decision lawfully made thereunder.
Sec. 18-620. Establishing areas of special flood hazard.

(a) Areas of special flood hazard are determined by the application of standard and acceptable scientific and engineering procedures used in the study of rainfall potential and its effect on a given drainage basin in the form of flooding.

(b) When two or more studies have been completed and accepted by the city for the same drainage basin, the most recently accepted study shall be the basis for regulation under this division.

(c) When the most recently accepted study and a current Flood Insurance Rate Map (FIRM) cover the same area, the more restrictive shall be the basis for regulation under this division.

(d) The following studies and reports are accepted as an accurate delineation of the areas of special flood hazard within the portion of the city which they cover, and are adopted by reference and declared to be a part of this division:

(1) Flood Insurance Study for the City of Thornton, Colorado dated March 5, 2007, with accompanying FIRM, or latest revision by FEMA;

(2) Grange Hall Creek Watershed; Major Drainageway Planning Study, February 1997 or latest revision;

(3) Major Drainageway Planning Study, South Platte River in Adams County, 2005 or latest revision;

(4) Flood Hazard Area Delineation - South Platte River, April 2005 or latest version;

(5) Niver Creek Watershed Major Drainageway Planning Study, September 1997 or latest revision;

(6) Flood Hazard Area Delineation - Direct Flow Area 0054, October 1980 or latest revision;

(7) Major Drainageway Planning, Direct Flow Area 0054, October 1980 or latest version;

(8) Flood Hazard Area Delineation - Brantner Gulch and Tributaries, January 1983 or latest revision;

(9) Brantner Gulch North Tributaries Major Drainageway Planning Study, Hydrology Report, January 2006 or latest revision;
Secs. 18-621 - 18-629. Reserved.

Part 2. Administration

Sec. 18-630. Duties and responsibilities of floodplain administrator.

(a) Designation of floodplain administrator. The floodplain administrator is responsible for administering and implementing the requirements of this division. The development engineering manager shall see that all applications that involve areas of special flood hazard are reviewed by the floodplain administrator.

(b) Duties. The duties of the floodplain administrator shall include but not be limited to the following:
(1) Review, approve or deny all floodplain development permits. If the proposed development is located in the floodway, ensure that the encroachment provisions in this division are met;

(2) Ensure that all necessary permits from federal, state, or local governmental agencies have been approved as required;

(3) For those areas that do not have base flood elevations delineated, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from federal, state or other sources in order to determine if the proposed development adversely affects the flood carrying capacity of the areas of special flood hazard;

(4) Obtain and record the actual elevation, in relation to the North American Vertical Datum (NAVD) of 1988 or other applicable datum, of the lowest floor, including the basement, of all new or substantially improved structures. Actual elevations may be obtained by requiring all floodplain development permit holders to submit verification of actual elevations, which shall be approved prior to the issuance of any Certificate of Occupancy;

(5) For all new or substantially improved floodproofed structures:
   a. Verify and record the actual elevation, in relation to the NAVD of 1988 or other applicable datum, to which the structure has been floodproofed. The floodplain administrator may require all floodplain development permit holders to submit verification of actual elevations which shall be submitted prior to the issuance of any certificate of occupancy.
   
   b. Maintain the floodproofing certifications required in Subsection 18-641(b).

(6) Maintain for public inspection all records pertaining to the provisions of this division.

(7) Notify adjacent communities, the Urban Drainage and Flood Control District and the State Water Conservation Board prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(8) Require that maintenance is provided within the altered or relocated portion of watercourses so that the flood-carrying capacity is not diminished.
(9) The floodplain administrator shall make interpretations, in the development process where needed, as to the exact location of the boundaries of the areas of special flood hazard; for example, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Subsection (c) below.

(c) Appeals

Any aggrieved person or an officer, or department of the city may appeal a denial of a floodplain development permit or an interpretation, exception, or variance request from this section of code according to the conditions and rules specified in Section 18-35.

Secs. 18-631 - 18-639. Reserved.

Part 3. Development Standards

Sec. 18-640. Floodways.

Located within areas of special flood hazard are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

(1) No new construction or substantial improvement to a structure shall be permitted in the floodway.

(2) Encroachments, including fill, shall be prohibited unless certification by a Colorado registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis based on a standard step backwater computer model performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(3) If (1) and (2) of this subsection are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions in this division.

(4) Fences with any mesh pattern (for example chain link or chicken wire, among others) are prohibited in the floodplain. Fences may have boards or wires parallel with the ground with a minimum open space of eight inches between each, and a minimum open space of ten feet between vertical poles or pilasters, and a total open space of at least 60 percent of
the face area of the fence. Pilasters that are more than two feet in cross sections are prohibited. The floodplain administrator may allow chain link fences to secure a critical facility on a case by case basis.

Sec. 18-641. Areas outside floodways.

(a) General standards. General standards for areas outside floodways are as follows:

(1) Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.

b. All manufactured homes shall be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors or according to manufacturer’s recommendation. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:

   1. Over-the-top ties to be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations. Manufactured homes less than 50 feet in length only require one additional tie per side.

   2. Frame ties to be provided at each corner of the manufactured home with five additional ties per side at intermediate locations. Manufactured homes less than 50 feet in length only require four additional ties per side.

   3. All components of the anchoring system to be capable of carrying a force of 4,800 pounds.

   4. Any additions to the manufactured home to be similarly anchored.

(2) Construction materials and methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

b. New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and the discharge from systems into the floodwater.

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

d. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) Fences. Fences in the floodplain shall meet the requirements of 18-640(4).

(5) Subdivision proposals.

a. All subdivisions shall be consistent with the need to minimize flood damage.

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

d. Base flood elevation data shall be provided for subdivision proposals and other proposed development projects, which contain at least 50 lots or five acres, whichever is less.

Platted lots.

2. Exceptions may be granted on a lot by lot basis if the entire buildable area of the lot, less setbacks and easements, is at least one foot above the base flood elevation. Such restriction shall be noted on the Plat.

3. Upon issuance of a Conditional Letter of Map Revision by FEMA, lots may be platted in the Special Flood Hazard Area (SFHA), which are in the area shown to be removed from the SFHA in the Conditional Letter of Map Revision.

4. On a case by case basis, the development engineering manager, with the concurrence of the floodplain administrator may approve platting of lots in the SFHA without a Conditional Letter of Map Revision if the applicant can demonstrate a sound engineering basis that lots will be removed from the floodplain based on approved grading plans.

5. For all platted lots in the SFHA allowed by [3] or [4], above, restrictions shall be placed on the plat prohibiting issuance of any building permit for these lots, prior to final approval of a Letter of Map Revision which removes the entire lot from the SFHA.

(b) Specific standards.

(1) Residential construction.

a. All new construction and substantial improvement of any residential structure shall have the lowest floor, including any basement, elevated at least one foot above the base flood elevation. Upon completion of the structure, a registered Colorado professional engineer, architect or land surveyor shall provide an elevation certificate for review and approval by the floodplain administrator.

b. Substantial improvement, renovation or repair of residential structures that are in the floodplain of the base flood shall:

1. Be floodproofed so that below and at least one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
3. Be certified by a registered professional engineer in the state that the standards of this subsection are satisfied. The certification shall verify and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed.

c. All new construction or substantial improvement of residential structures within any AO and AH zone on the FIRM shall be required to have the lowest floor elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, or at least two feet, if no depth number is specified.

d. Substantial improvement, renovation or repair of residential structures that are within any AO and AH zone on the FIRM shall be required to be completely floodproofed to that level to meet the floodproofing standards in subsection (b)(1)b of this division.

e. Within zones AO and AH, adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures shall be required.

(2) Nonresidential construction.

a. New construction or substantial improvement of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall have the lowest floor elevated one foot above the base flood. Upon completion of the structure, a registered Colorado professional engineer, architect or land surveyor shall provide an elevation certificate for review and approval by the floodplain administrator.

b. Substantial improvement, renovation or repair of any commercial, industrial or other nonresidential structures that are in the floodplain of the base flood shall:

1. Be floodproofed so that below and at least one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. Be certified by a registered professional engineer in the state that the standards of this subsection are satisfied. The certification shall verify and record the actual elevation, in
relation to the NAVD of 1988 or other applicable datum, to which the structure has been floodproofed.

c. All new construction or substantial improvement of nonresidential structures within any AO and AH zone on the FIRM shall be required to have the lowest floor elevated at least one foot above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, or at least two feet, if no depth number is specified.

d. Substantial improvement, renovation or repair of residential structures that are within any AO and AH zone on the FIRM shall be required to be completely floodproofed to that level to meet the floodproofing standards in subsection (b)(2)b of this division.

e. Within zones AO and AH, adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures shall be required.

(3) Manufactured homes.

a. Manufactured homes shall be anchored as provided in Section 18-641(a)(1).

b. All manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on sites:

1. Outside of a manufactured home park or subdivision;

2. In a new manufactured home park or subdivision;

3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as a result of a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system as provided in this division to resist flotation, collapse and lateral movement.

c. All manufactured homes that are placed or substantially improved on sites within an existing manufactured home park or subdivision within zones A1-30, AH, and AE that are not subject to the
provisions of this division shall be elevated so that either the lowest floor of the manufactured home is at least one foot above the base flood level or the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than three feet in height above grade and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(4) Enclosures.

a. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

b. Designs for meeting this requirement must be certified by either a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

2. The bottom of all openings shall be no higher than one foot above grade.

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(5) Critical facilities.

a. Classification of critical facilities

It is the responsibility of the city to identify and confirm that specific structures in their community meet the following criteria:

1. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines. These facilities consist of:
i. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);

ii. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors’ offices, and non-urgent care medical structures that do not provide these functions);

iii. Designated emergency shelters;

iv. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);

v. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and

vi. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

2. Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

3. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the city that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-Year floodplain or are compliant with the...
provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the city on an as-needed basis upon request.

4. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include;

i. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);

ii. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;

iii. Refineries;

iv. Hazardous waste storage and disposal sites; and

v. Above ground gasoline or propane storage or sales centers.

5. Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is either 500 pounds or the TPQ listed (whichever is lower) for extremely hazardous chemicals listed under 40 C.F.R. ss 302 (2010) and subsequent amendments; or 10,000 pounds for any other chemical. Specific exemptions to this category include:

i. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.

ii. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by
hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.

iii. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

iv. These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this Article.

6. At-risk population facilities include medical care, congregate care, and schools. These facilities may include;

i. Elder care (nursing homes);

ii. Congregate care serving 12 or more individuals (day care and assisted living);

iii. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

7. Facilities vital to restoring normal services including government operations. These facilities may include;

i. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);

ii. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

iii. These facilities may be exempted if it is demonstrated to the city that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities
are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the city on an as-needed basis upon request.

b. Protection for critical facilities.

All new and substantially improved critical facilities and new additions to critical facilities located within the SFHA shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this ordinance, protection shall include one of the following:

1. Location outside the SFHA; or
2. Elevation or flood proofing of the structure to at least two feet above the base flood elevation.

c. Ingress and egress for new critical facilities.

New critical facilities shall, when practicable as determined by the city, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

Sec. 18-642. Floodplain development permit required.

(a) A floodplain development permit is required before construction or development begins within any area of special flood hazard established under Section 18-620. In addition, any application for a floodplain development permit shall be evaluated to determine whether it involves an area of special flood hazard, and if so, it shall be reviewed under the provisions of this division.

(b) The development permit review process established in Section 18-48, as amended by the provisions of this division, shall be used to review construction and development proposals located within areas of special flood hazard.

(c) In addition to the submission requirements for a development permit as required by Section 18-48, the following information is required when an area of special flood hazard is involved:
(1) The elevation, in relation to the NAVD of 1988 or other applicable datum of the lowest floor (including basements) of all new and substantially improved structures.

(2) The elevation in relation to the NAVD of 1988 or other applicable datum to which any nonresidential structure has been floodproofed.

(3) Certification by a registered professional engineer in the state that the floodproofing methods for any nonresidential structure meet the floodproofing criteria. The appropriate FEMA forms shall be used for certification of floodproofing methods.

(4) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed construction or development.

(5) Evidence of permit approval from all necessary federal, state and regional agencies.

(d) When base flood elevation data is not available for areas established under Section 18-620, the applicant shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source as criteria for the administration of this division. Data obtained and utilized by the applicant shall be submitted to the development engineering manager.

Secs. 18-643 - 18-649. Reserved.
Part 4. Storm Water Runoff and Flood Control Requirements

Sec. 18-650. Adoption of Storm Drainage Master Plans and Drainage Criteria Manuals.

(a) All master plans, reports, studies, and manuals regarding storm water drainage and/or storm water quality on file with the floodplain administrator prepared on behalf of the city are adopted by reference and incorporated in this Code. All storm water quantity and storm water quality facilities constructed in the city shall comply with the Standards and Specifications for the city and all documents adopted by reference. The floodplain administrator has the authority to permit variances to any adopted drainage Standards and Specifications provided in this division, when in the best interests of the city, and such variance shall be in accordance with sound engineering practices.

(b) The UDFCD Urban Storm Drainage Criteria Manual Volumes 1, 2, and 3, as amended is accepted and adopted by reference and declared to be a part of this division.

(c) In areas where the criteria manuals and Standards and Specifications conflict, the Standards and Specifications shall govern.

Sec. 18-651. Storm detention, channelization and outfall storm sewer requirements.

Historic flow patterns, runoff amounts, and runoff duration shall be maintained in such a manner that will preserve the natural character of the area and prevent property damage of the type usually attributed to runoff rates and velocity increase, diversions, concentration and/or the unplanned ponding of storm runoff. All new development, expansion, or redevelopment shall provide detention pursuant to this division. The minimum detention volume and maximum release rates shall be calculated based on the Standards and Specifications. Where the historical amounts of runoff cannot be maintained by detention storage or other devices, suitable channelization with erosion protection or an outfall storm sewer leading to a suitable discharge point or both as approved by the development engineering manager shall be provided. Detention storage shall be provided by any method approved by the development engineering manager and as specified in the Standards and Specifications for the city or other detention storage criteria and regulations adopted by the city.

Sec. 18-652. Irrigation facilities limited for storm water conveyance.

Storm water discharges and runoff shall be designed to discharge into city approved drainageways and facilities and shall, to the maximum extent possible, avoid conveying storm water discharges in irrigation ditches or facilities. The development engineering manager may approve storm water discharges into irrigation ditches and facilities that are maintained by the developer and homeowners' association, and where
the ditch company or owner approves of the discharge. The development engineering manager may require the dedication of drainage easements, or other evidence to establish the right to discharge storm waters, as is necessary to provide for continuous conveyance of storm water. This provision shall in no way give a ditch company or owner of any irrigation ditch rights to preclude discharge of drainage if otherwise required by law, including discharges established by historical use.

**Sec. 18-653. Storm water management plan.**

Temporary sedimentation and erosion control measures are required for all development within the city, in addition to permanent sedimentation and erosion control measures required by this Code, Standards and Specifications for the city or other regulations. This requirement shall apply to existing development and to development already under construction where the city deems such temporary and permanent facilities are necessary to protect the public health, safety, and welfare. No grading, construction or building permit shall be issued by the city until the applicant has submitted proof of filing an application with the state for a CDPS-Storm Water discharge permit for storm water discharges associated with a construction activity, a Rainfall Erosivity Waiver, or proof that such a permit is not required. Temporary and permanent sedimentation and erosion control measures are required for all construction projects, and shall conform with the requirements of this Code. The developer, builder, contractor, and/or property owner shall be responsible for the protection and maintenance of all existing or new drainage and storm water quality facilities, including streets, storm sewer, and detention facilities until a project is completed and accepted. The property owner shall be responsible for private drainage improvements once a project is completed. Construction schedules shall be programmed to permit installation of required temporary and permanent sedimentation and erosion control structures as soon as possible. Drainage facilities and structures are to be protected from erosion and sedimentation. All disturbed areas where natural vegetation has been removed shall be protected and stabilized with a vegetative cover, riprap or by other suitable means as approved by the development engineering manager. The developer's performance guarantee shall include provisions for maintenance of both the temporary and permanent sedimentation and erosion control facilities.

**Sec. 18-654. Compliance with state and federal storm water quality control measures.**

Any grading, construction or building permit issued by the city is contingent upon conformance with State Regulation 61. When a CDPS-storm water discharge permit is issued by the state, a copy shall be provided to the city.

**Sec. 18-655. Capacity in public storm water facilities.**

The city does not reserve any capacity in any storm water facility or improvement for specific parcels of land, regardless of who installed the storm water facility or improvement.
Sec. 18-656. Approval of foundation drainage system.

Any foundation drainage system, sump pump or similar device to remove subsurface groundwater or other accumulated storm water or groundwater discharges from a property shall not discharge into public storm water facilities or improvements without the prior written approval of the development engineering manager. To prevent damage to facilities or improvements and to protect the public health, safety, and welfare, the city will have the right to enter the premises in order to conduct testing to determine the quality of the discharge and determine compliance with city, state and federal regulations. The development engineering manager may inspect such facilities or improvements at all reasonable times to determine compliance with this chapter.

Sec. 18-657. Prohibition on change of storm water flows after installation of approved grading and drainage plan.

No person shall change, modify, impede, or otherwise block the flow of storm water on or across any private property where it would cause damage to upstream, downstream or adjacent properties, or where there is an approved grading or drainage plan for the properties, without the prior written approval of the public works director.

Sec. 18-658. Unauthorized use of storm water system.

(a) It shall be unlawful for any person to discharge or cause to be discharged into the storm drainage system of the city any pollutant or any other material which is not composed entirely of storm water, except for items listed in subsection (c) below.

(b) It shall be a complete defense to the application of this division that such discharge was made pursuant to the Colorado Water Quality Control Act and the Colorado Discharge Permit Regulations or resulted from emergency firefighting activities.

(c) Unless the city identifies any of the following categories of non-storm water discharges or any of the discharges addressed by the Low Risk Policy, WQP-27 issued or as revised by the Colorado Water Quality Control Division, as significant contributors of pollution to the city’s municipal separate storm sewer system, these categories do not need to be addressed:

(1) Landscape irrigation.
(2) Lawn watering.
(3) Diverted stream flows.
(4) Irrigation return flows.
(5) Rising ground water.
(6) Uncontaminated ground water infiltration.
(7) Uncontaminated pumped ground water.
(8) Flows from riparian habitats and wetlands.
(9) Water line flushing.
(10) Discharges from potable water sources.
(11) Foundation drains.
(12) Air conditioning condensation.
(13) Water from crawl space pumps.
(14) Footing drains.
(15) Individual residential car washing.
(16) Dechlorinated swimming pool discharges.
(17) Water incidental to street sweeping.

Secs. 18-659 - 18-669. Reserved.

4. Section 18-901 Definitions, is hereby amended by the addition of words double- underlined to read as follows:

100-year flood means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (one-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

100-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

Addition means any activity for the purposes of floodplain regulations in Article V, Division 7 that expands the enclosed footprint or increases the square footage of an existing structure.

Base flood elevation (BFE) means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AR, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Channel means the physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

Channelization means the artificial creation, enlargement or realignment of a stream channel.
Critical facility means a structure or related infrastructure, but not the land on which it is situated, as specified in Section 18-641(b)(5), that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. Critical facilities are classified under the following categories: essential services, hazardous materials, at-risk populations, and vital to restoring normal services.

Floodplain development permit means a permit required before construction or development begins within any Special Flood Hazard Area (SFHA). Permits are required to ensure that proposed development projects meet the requirements of the National Flood Insurance Program and this floodplain management ordinance.

Floodproofing means any combination of structural and/or non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Pollutant means any substance that is harmful to humans, animals, public health, the environment, or that can degrade the quality of receiving waters, cause the receiving waters to violate the stream standards established by the State of Colorado, or affect beneficial uses of water. The term includes, but is not limited to, sediment, dredged spoil, rock, sand, silt, incinerator residue, ash; solid waste; sewage; wastes from industrial, commercial, domestic, or agricultural sources; trash, litter, garbage or food waste; landscaping materials, lawn clippings, leaves, branches or other landscaping and yard debris; medical waste; wrecked or discarded equipment; radioactive materials; wastes that contain bacteria, viruses and other pathogens that pose a threat to human health; pet wastes; heat, surfactants, soaps, and cleaning products and wastes and residues from washing operations, including those that are biodegradable; oil and grease, petroleum hydrocarbons and antifreeze; metals; and toxic or hazardous wastes as defined by federal, state, or local laws and regulations, including biocides and pesticides.

5. If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.

6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

7. The repeal or amendment of any provision of the Code by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty,
forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

8. This ordinance shall take effect upon final passage.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on January 14, 2014.

PASSED AND ADOPTED on second and final reading on ____________, 2014.

CITY OF THORNTON, COLORADO

Heidi K. Williams, Mayor

ATTEST:

Nancy A. Vincent, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO LEGAL FORM:

Margaret Emerich, City Attorney

PUBLICATION:

Posted in six (6) public places after first and second readings.

Published in the Northglenn-Thornton Sentinel after first reading on January 23, 2014, and after second and final reading on ________________, 2014.