



## TOWN BOARD WORK SESSION

April 12, 2021 - 6:00 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

Please click this URL to join. <https://windsorgov.zoom.us/j/91077260084>

OR join by telephone at (888) 788-0099 or (877) 853-5247

Webinar ID:910 7726 0084

***GOAL of this Work Session is to have the Town Board receive information on topics of Town business from the Town Manager, Town Attorney and Town staff in order to exchange ideas and opinions regarding these topics.***

Members of the Public in attendance virtually are asked to be recognized by the Mayor before participating in any discussions of the Town Board

### AGENDA

1. Town Board/Manager/Attorney Monthly Meeting
2. Code Amendments for Reimbursements - Ian D. McCargar, Town Attorney
3. Code Amendments to Allow Sidewalk Alcohol Service - Ian D. McCargar, Town Attorney
4. Future Meetings Agenda

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.



## MEMORANDUM

**Date:** April 12, 2021  
**To:** Mayor and Town Board  
**Via:** Shane Hale, Town Manager  
**From:** Ian D. McCargar, Town Attorney  
**Re:** Introduction to recommended Code amendments  
**Item #:** 2.

### **Background / Discussion:**

This work session will introduce the Town Board to recommended Code amendments to better-refine the Town's policies for developer reimbursements.

The Windsor Municipal Code contains provisions for Town reimbursements to developers who build infrastructure at capacities greater than those strictly required by the development. These "oversizing" agreements apply to water, sewer, storm drainage and roadway improvements. The reasoning behind these arrangements is built on efficiency - - while the developer's crew is building development-driven improvements, we can achieve cost savings, convenience and reduced disruption to the public by having the developer's crew build the additional capacity while on-site. The attached Memorandum provides further detail and examples.

The Road Impact Fee ordinance is the most-refined of these provisions, although experience suggests it could use a tune-up when it comes to submittal requirements, cost verification and reimbursement approvals. The Code amendment effort would begin with recommended updates to the Road Impact Fee ordinance's reimbursement requirements.

The Code contains other reimbursement references that are less-refined, and could benefit from incorporation of the updated Road Impact Fee reimbursement principles. If we can first update the Road Impact Fee ordinance reimbursement language in key areas, those updates can be surgically grafted into reimbursements for other types of infrastructure.

Please note that these changes will not affect the fee structure, but only the method by which reimbursements are pre-approved, processed and paid where appropriate.

This work session will serve as an introduction only, so that Town Board understands the "why" before it sees the "what".

### **Financial Impact:**

None

### **Relationship to Strategic Plan:**

Fiscal Responsibility

### **Recommendation:**

Consider recommendations, suggested approach. Direct staff accordingly.

### **CC:**

Shane Hale  
John Thornhill

### **ATTACHMENTS:**

- Topic overview memo



INTRODUCTION TO SUGGESTED REVISIONS  
TO  
TOWN OF WINDSOR INFRASTRUCTURE REIMBURSEMENTS  
April 12, 2021

- I. THE PROBLEM.** The Code does not fully address the process for reimbursements when the development community seeks reimbursement for infrastructure that benefits either the Town or another property owner.

**(A) Examples.** Reimbursements occur in a number of circumstances.

- 1. Reimbursement of Developer costs under the Road Impact Fee Ordinance.** The work is done while the Developer's crew is on-site; saves on mobilization costs, assures continuity of design/materials, prevents serial traffic interruption.

During the infrastructure phase of development and in addition to development-related improvements, Developer designs and installs improvements to the Town's roadway system.

- 2. Reimbursement of Developer costs for "oversizing".** The work is done when the Developer's crew is on-site; saves mobilization costs, prevents later damage to pavement and other surface improvements, prevents serial traffic interruption.

During infrastructure phase of development and in addition to development-related improvements, the Town authorizes the Developer to add capacity to the Town's sanitary sewer system.

Current Code: "front-ending" agreements expressly authorized for storm drainage oversizing; Town may pay "a percentage of the cost" for water mains over 8"; no reference to oversizing sanitary sewer lines, lift stations, etc.

- 3. Reimbursement of Developer #1's costs for improvements that benefit Developer #2 under former Code § 17-17-10.**

During infrastructure phase of Developer #1's development, infrastructure improvements are installed that serve future development on Developer #2's property. Code allows for reimbursement, but contains no method or formula(s).

**QUESTION:** IF THESE REIMBURSEMENTS SAVE TIME, MONEY AND PUBLIC CONVENIENCE, WHAT'S THE PROBLEM?

**ANSWER:** With the exception of Road Impact Fee reimbursements, the Code is inconsistent and unclear on how these reimbursements should be reviewed, approved and appealed.

**(B) Key areas of deficiency.**

- 1. Absence of clear cut-off's/windows for developer reimbursement requests.**

No cut-off under Road Impact Fee ordinance.

No cut-off under former Code § 17-17-10 (b) - - *Any developer* who constructs a street, water line, storm drainage line or sewer line as aforesaid *may enter into a reimbursement agreement* with the Town...

Result: Developer completes the infrastructure, but waits months or even years before requesting reimbursement. Town is committed by Code, but cannot budget for the expense.

**2. Absence of Town up-front supervisory authority for that portion of a developer-controlled project that is reimbursable by the Town.**

*Example:* Sanitary sewer line oversizing project. Developer hires and supervises the contractor. Developer and contractor get into a disagreement over costs. Developer demands the Town pay cost overruns that could have been addressed had the contractor been under the Town's control.

**3. Absence of a clear sequence for Town consideration of reimbursements, both in advance of a project and following completion of a project.**

*Example #1:* Developer *intends to* install future improvements with capacity in excess of what is necessary for Developer's site. Town approves improvement plans, but no clear understanding is reached in advance as to what components are and are not reimbursable. Town is committed by Code, but cannot budget for the expense.

*Example #2:* Developer seeks oversizing reimbursement *following* infrastructure completion. Town has approved the Developer's site improvement plans, but no clear understanding is reached in advance as to what project components are and are not reimbursable. Developer is already out the cost, Town is committed by Code, but cannot budget for the expense (other than through RIF reimbursement budget).

**4. Lack of clarity as to whether unspecified developer overhead costs are reimbursable.**

*Recent example:* Developer and Town agree to cooperatively design, bid and complete a roadway project. Developer includes a 5% or 10% mark-up for "developer overhead" or "management fee", which presumably covers general costs of doing business (and which admittedly position the developer to participate in the project). This cost is not specific to the project itself, yet the developer feels developer overhead and management is enabling the project.

**5. Lack of clarity as to the developer's appeal avenues in cases where reimbursements (in whole or in part) have been rejected by the Town.**

Code language regarding Town Board's role in appeals of RIF Administrator's reimbursement determinations should be refined. Currently TB has the final say as to what developer expenses

are and are not reimbursable, and we prohibit TB from re-setting the impact fee already prescribed by the Code. We need to tighten the language surrounding appeal processes.

6. **Lack of clarity as to how reimbursements are apportioned from third-party landowners under former Code § 17-17-10.** The Code allows for reimbursement through an agreement with Developer 1 that calls for Developer 2 to pay Developer 2's share when Developer 2 applies for development approval.

Former Code § 17-17-10 (b):

*Any developer who constructs a street, water line, storm drainage line or sewer line as aforesaid may enter into a reimbursement agreement with the Town, the terms of which are more fully described herein. In the event such an agreement is entered into, the Town is hereby authorized to assess a charge against each property owner specially benefited by the improvements for the cost of the improvements at the time access to the street is granted or a connection permit to the water line, storm drainage line or sewer line is issued.*

*Example.* Developer 1 owns land south, Developer 2 owns adjacent land north. Developer 1 builds a road and related improvements that benefits Developer 2's land. Code says Town can agree with Developer 1 to charge Developer 2 an amount that compensates Developer 1 for the benefit conferred on Developer 2's land.

Q: How do we measure the benefit? 50-50? By frontage? By square footage? Pay an expert?

## **II. SUGGESTED SOLUTIONS.**

### **(A) Start with revisions to the Road Impact Fee ordinance.**

1. The Road Impact Fee ordinance has the most-refined language for reimbursements for roadway improvements.
2. Thirteen-plus years of experience have revealed some areas for further refinement.
3. Discussion/decision point: Whether the RIF reimbursement "queue" should be replicated for other forms of infrastructure.

### **(B) Once the RIF model is refined, apply its principles and processes to water, sewer and storm drainage infrastructure reimbursements.**

1. Bring consistency to reimbursement processes.
2. Assure that reimbursements are accounted for at budget time.

### **(C) Outreach to development community.**

### **III. NEXT STEPS FOR TOWN BOARD.**

- (A) Further study.** Convene work session(s) focused on RIF Ordinance redlines/revisions. Don't tamper with the fee formula. Keep the basic RIF structure, but improve it to address the issues above.
- (B) RIF refinements first, then incorporate into other reimbursements.** Once we finalize RIF Ordinance refinements, set it aside and work on the water, sanitary sewer and storm drainage reimbursement language using the RIF model consistently throughout.
- (C) Adopt Ordinance.** Adopt all Code revisions in a single ordinance applicable to all affected Code provisions.



## MEMORANDUM

**Date:** April 12, 2021  
**To:** Mayor and Town Board  
**Via:** Shane Hale, Town Manager  
**From:** Ian D. McCargar, Town Attorney  
**Re:** Code amendments to allow for sidewalk alcohol consumption  
**Item #:** 3.

### **Background / Discussion:**

The Town Attorney's Office has been working with Planning and the Town Clerk's Office to develop a permit system that would allow restaurant service on Town-owned sidewalks and alleyways. The permit model and processes are still under construction, but a necessary Code amendment is the topic for discussion tonight.

You may recall that Ordinance No. 2018-1575 (copy attached) relaxed the former Code restrictions on consumption of beer and wine in public parks, but prohibited alcohol consumption "...on or in any street, parking lot, alley, ... or sidewalk...". The restriction on alleys and sidewalks conflicts with the current effort to allow restaurant service of alcohol within these locations.

The solution is a modification of Code Section 10-11-10 as set forth in the attached draft, which illustrates in redline text the specific language changes. The effect of these changes would be to allow alcohol consumption if otherwise permitted through action of the Town's Local Licensing Authority.

Assuming Town Board is comfortable with the concept, this Code change will be brought forward once we have finalized the forms and processes for sidewalk and alleyway restaurant service permits.

### **Financial Impact:**

None

### **Relationship to Strategic Plan:**

Quality of Life

### **Recommendation:**

Consider proposed Code amendment; provide staff direction

### **CC:**

Karen Frawley, Town Clerk  
Scott Ballstadt, Director of Planning

### **ATTACHMENTS:**

- ▢ Ordinance No. 2018-1575
- ▢ Draft Code amendment, Sec. 10-11-10

TOWN OF WINDSOR  
ORDINANCE NO. 2018 –1575

AN ORDINANCE ADOPTING ARTICLE XI OF CHAPTER 10 OF THE *WINDSOR MUNICIPAL CODE* CONCERNING THE PUBLIC CONSUMPTION OF ALCOHOL WITHIN THE TOWN OF WINDSOR

WHEREAS, the Town of Windsor (“Town”) is a Colorado home rule municipality, with all powers and authority vested under Colorado law; and

WHEREAS, Town policy currently allows the consumption of 3.2 percent alcoholic beverages in Town-owned parks, recreational facilities and trails; and

WHEREAS, recent amendments to the Colorado Revised Statutes eliminate 3.2 percent alcoholic beverages as a licensed classification, and is expected to virtually extinguish 3.2 percent alcohol availability; and

WHEREAS, in response to changes in state law, the Town has considered specific regulations regarding the consumption of beer and wine in certain public parks, and further desires to generally address public consumption of alcoholic beverages in conjunction therewith; and

WHEREAS, in order to comprehensively address the subject of alcohol consumption in public places, the Town desires to amend the *Windsor Municipal Code* to bring the Town’s alcohol regulations into alignment with Colorado law; and

WHEREAS, the Town Board finds that amendment of the *Windsor Municipal Code* as set forth herein is necessary to protect the public health, safety and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

**Section 1.** Chapter 10 of the *Windsor Municipal Code* is amended by the addition of a new Article XI, which shall read as follows:

**ARTICLE XI – PUBLIC CONSUMPTION OF ALCOHOL**

**Sec. 10-11-10. Public Consumption and Possession of Alcoholic Beverages Prohibited.**

- (a) Generally. It shall be unlawful for any person to drink or consume any alcohol beverage as defined by the *Colorado Liquor Code* and the *Colorado Beer Code*, and it shall be unlawful for any person to possess an unsealed container holding a measurable amount of an alcohol beverage, on or in any street, parking lot, alley, park, public place, or sidewalk, within the Town’s corporate limits.

- (b) Exception for Special Event Permits. This Section 10-11-10 shall not apply to the consumption or possession of alcohol beverages dispensed in accordance with any special event permit lawfully issued for the sale and consumption of alcohol beverages in any public place.
- (c) This Section shall not apply if the unsealed container has been removed from a licensed premise pursuant to and subject to the limitations set forth in Title 44, C.R.S.

**Sec. 10-11-20. Consumption and Possession of Alcoholic Beverages in Public Parks.**

- (a) Beer and Wine in Town Parks, Limitations. The consumption of fermented malt beverages (beer) and vinous liquors (wine) within Town-owned community parks and Town-owned neighborhood parks shall be permitted, subject to the following limitations:
- (1) There shall be no consumption and possession of alcoholic beverages in the Town's Chimney Park, unless in accordance with a special event permit or liquor license that has been lawfully issued for the sale and consumption of alcohol beverages in the Town's Chimney Park.
- (2) Notwithstanding the issuance of a valid special event permit, no alcohol beverage shall be dispensed in glass containers or consumed from glass containers.
- (b) Repealer. This Section 10-11-20 shall repeal at 12:01 a.m. on December 31, 2019 unless extended by prior official action of the Windsor Town Board.

**Section 2.** This Ordinance shall take effect at 12:01 a.m. on January 1, 2019.

Introduced, passed on first reading, and ordered published this 22nd day of October, 2018.

TOWN OF WINDSOR, COLORADO

By Kristie Melendez  
Kristie Melendez, Mayor

ATTEST:

Krystal Eucker  
Krystal Eucker, Town Clerk



Introduced, passed on second reading, and ordered published this 26<sup>th</sup> day of November, 2018.

TOWN OF WINDSOR, COLORADO

By Kristie Melendez  
Kristie Melendez, Mayor

ATTEST:

Krystal Eucker  
Krystal Eucker, Town Clerk



**DRAFT BARE-BONES CODE AMENDMENT** to allow consumption/possession of alcoholic beverages on sidewalks included in liquor licensed establishments

**Sec. 10-11-10. - Public consumption and possession of alcoholic beverages prohibited.**

- (a) Generally. It shall be unlawful for any person to drink or consume any alcohol beverage as defined by the Colorado Liquor Code and the Colorado Beer Code, and it shall be unlawful for any person to possess an unsealed container holding a measurable amount of an alcohol beverage, on or in any street, parking lot, alley, park, public place, or sidewalk, within the Town's corporate limits.
- (b) Exception for Liquor-licensed Occupancy. This Section 10-11-10 shall not apply to the consumption or possession of alcohol beverages under the following circumstances:
  - (1) Consumption or possession of alcoholic beverages dispensed in accordance with any special event permit lawfully issued for the sale and consumption of alcohol beverages in any public place.
  - (2) Consumption or possession of alcoholic beverages within any portion of a sidewalk or alley which is included within any liquor-licensed premises in accordance with a liquor license approved by the Town's Local Licensing Authority pursuant to the powers delegated under Section 6-1-10 of this Code.
- (c) This Section shall not apply if the unsealed container has been removed from a licensed premise pursuant to and subject to the limitations set forth in Title 44, C.R.S.



## MEMORANDUM

**Date:** April 12, 2021  
**To:** Mayor and Town Board  
**Via:** Shane Hale, Town Manager  
**From:** Karen Frawley, Town Clerk  
**Re:** Future Meeting Agenda  
**Item #:** 4.

### ATTACHMENTS:

- Future Meetings Agenda



## FUTURE TOWN BOARD MEETINGS

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April 19, 2021 6:00 p.m.	Town Board Work Session Wastewater Treatment Plant Expansion Discussion Financing Options Sidewalk Food/Beverage Permit Public Consumption Code Update
April 26, 2021 5:15 p.m.	Town Board Work Session Eastman Park Site Visit and Over view Comprehensive Plan Review
April 26, 2021 7:00 p.m.	Town Board Regular Meeting
May 3, 2021 5:30 p.m.	Town Board Work Session Wastewater Treatment Plant Site Visit and Bio Solid Project Update
May 10, 2021 5:30 p.m.	Town Board Work Session Board-Manager-Attorney Monthly Meeting Park Fee Study Public Art Commission NISP IGA Eastman Park
May 10, 2021 7:00 p.m.	Town Board Regular Meeting
May 17, 2021 5:30 p.m.	Town Board Work Session Tree/Town Board Poster Contest Winners Recognition Urban3 Analysis Preview Presentation
May 24, 2021 5:30 p.m.	Town Board Work Session 7 <sup>th</sup> Street Multimodal and Walnut Street Bikeway Check in Terry Ranch Greeley Update
May 24, 2021 7:00 p.m.	Town Board Regular Meeting
May 31, 2021	Cancelled – Memorial Day Holiday
June 7, 2021 6:00 p.m.	Town Board Work Session Katy Press – Retail Review: Development Opportunity Matches
June 14, 2021 5:30 p.m.	Town Board Work Session Presentation of COGCC Rulemaking Changes

June 14, 2021 7:00 p.m.	Town Board Regular Meeting
June 21, 2021 6:00 p.m.	Town Board Work Session Larimer County Ranch Master Plan Update
June 28, 2021 6:00 p.m.	Town Board Work Session Downtown Parking Study Update
June 28, 2021 7:00 p.m.	Town Board Regular Meeting

**Future Work Session Topics**

- Joint Meeting with Town of Windsor, Town of Severance, Fire District and School District – Tentative for Spring of 2021
- Telecom Code (Pending FCC Rules)
- Regional Water Treatment Plant Site
- Proportional services and amenities for planned population
- Economic development/retail needs based on population levels (following retail assessment)
- Body Cam Recommendations (July)
- Water Attorney Update