



**Agenda for the
Regular Meeting of the
Englewood City Council
Tuesday, September 6, 2011
7:30 pm**

Englewood Civic Center – Council Chambers
1000 Englewood Parkway
Englewood, CO 80110

1. Call to Order.
2. Invocation.
3. Pledge of Allegiance.
4. Roll Call.
5. Consideration of Minutes of Previous Session.
 - a. Minutes from the Regular City Council Meeting of August 15, 2011.
 - b. Minutes from the Special City Council Meeting of August 22, 2011.
6. Recognition of Scheduled Public Comment. (This is an opportunity for the public to address City Council. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to five minutes.)
7. Recognition of Unscheduled Public Comment. (This is an opportunity for the public to address City Council. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to three minutes. Time for unscheduled public comment may be limited to 45 minutes, and if limited, shall be continued to General Discussion.)

Council Response to Public Comment.
8. Communications, Proclamations, and Appointments.
 - a. A proclamation declaring September 17 through 23, 2011 as Constitution Week.
 - b. Resignation from A. Gray Clark from the Water and Sewer Board.

Please note: If you have a disability and need auxiliary aids or services, please notify the City of Englewood (303-762-2405) at least 48 hours in advance of when services are needed.

9. Consent Agenda Items.

- a. Approval of Ordinances on First Reading.
- b. Approval of Ordinances on Second Reading.
 - i. Council Bill No. 47, accepting an Emergency Medical and Trauma Services Provider Grant from the State of Colorado.
- c. Resolutions and Motions.
 - i. Recommendation from the Community Development Department to adopt a resolution authorizing assignment of Englewood's 2011 Private Activity Bond Cap allocation to the Colorado Department of Local Affairs. **Staff Source: Darren Hollingsworth, Economic Development Coordinator.**
 - ii. Recommendation from the Department of Public Works to approve, by motion, a construction contract to rebuild the traffic signal at Broadway and Quincy. Staff recommends awarding the contract to the lowest responsible bidder, W. L. Contractors, Inc., in the amount of \$57,885. **Staff Sources: Ladd Vostry, Traffic Engineer and Rick Kahm, Director of Public Works.**

10. Public Hearing Items.

- a. A Public Hearing to gather input on the proposed 2012 Budget for the City of Englewood.

11. Ordinances, Resolutions and Motions

- a. Approval of Ordinances on First Reading.
 - i. Council Bill No. 54 - Recommendation from the Community Development Department to adopt a bill for an ordinance approving amendments to Title 16: Unified Development Code regarding requirements for mailed public notices. Staff also requests that City Council schedule a Public Hearing on September 19, 2011 to gather public input on the proposed amendments. **Staff Source: Alan White, Director of Community Development.**
 - ii. Council Bill No. 48 – Recommendation from the Police Department to adopt a bill for an ordinance approving amendments to the Englewood Municipal Code pertaining to sight triangles. Staff also requests that City Council schedule a Public Hearing on September 19, 2011 to gather public input on the proposed amendments. **Staff Source: Gary Condrey, Neighborhood Services Commander.**

- iii. Council Bill No. 49 – Recommendation from the Police Department to adopt a bill for an ordinance approving amendments to the Englewood Municipal Code pertaining to allowance for storage of Off Road Vehicles and Trailers in the front yard for properties that have no access to rear and side yards. Staff also requests that City Council schedule a Public Hearing on September 19, 2011 to gather public input on the proposed amendments. **Staff Source: Gary Condrey, Neighborhood Services Commander.**
 - iv. Council Bill No. 50 – Recommendation from the Police Department to adopt a bill for an ordinance approving amendments to the Englewood Municipal Code pertaining to vehicle weights. Staff also requests that City Council schedule a Public Hearing on September 19, 2011 to gather public input on the proposed amendments. **Staff Source: Gary Condrey, Neighborhood Services Commander.**
 - v. Council Bill No. 51 – Recommendation from the Police Department to adopt a bill for an ordinance approving amendments to the Englewood Municipal Code pertaining to recreational vehicle parking. Staff also requests that City Council schedule a Public Hearing on September 19, 2011 to gather public input on the proposed amendments. **Staff Source: Gary Condrey, Neighborhood Services Commander.**
 - vi. Council Bill No. 52 – Recommendation from the Police Department to adopt a bill for an ordinance approving amendments to the Englewood Municipal Code pertaining to 72-Hour Parking. Staff also requests that City Council schedule a Public Hearing on September 19, 2011 to gather public input on the proposed amendments. **Staff Source: Gary Condrey, Neighborhood Services Commander.**
 - vii. Council Bill No. 53 – Recommendation from the Police Department to adopt a bill for an ordinance approving amendments to the Englewood Municipal Code pertaining to the definition of hard surfaces. Staff also requests that City Council schedule a Public Hearing on September 19, 2011 to gather public input on the proposed amendments. **Staff Source: Gary Condrey, Neighborhood Services Commander.**
- b. Approval of Ordinances on Second Reading.
 - i. Council Bill No. 36, as amended, approving a power line easement on the Byers Biosolids Farm for BP Wind Energy North America, Inc.
 - c. Resolutions and Motions.

12. General Discussion.
 - a. Mayor's Choice.
 - b. Council Members' Choice.
 - i. Resolution of Support for the Denver Region's application to the U.S. Department of Housing and Urban Development's Sustainable Communities Regional Planning Grant Program.
13. City Manager's Report.
14. City Attorney's Report.
15. Adjournment.

ENGLEWOOD CITY COUNCIL
ENGLEWOOD, ARAPAHOE COUNTY, COLORADO

Regular Session
August 15, 2011

A permanent set of these minutes and the audio are maintained in the City Clerk's Office.
Minutes and streaming audios are also available on the web at:
<http://www.englewoodgov.org/Index.aspx?page=999>

1. **Call to Order**

The regular meeting of the Englewood City Council was called to order by Mayor Woodward at 7:45 p.m.

2. **Invocation**

The invocation was given by Council Member McCaslin.

3. **Pledge of Allegiance**

The Pledge of Allegiance was led by Council Member McCaslin.

4. **Roll Call**

Present: Council Members Jefferson, Olson, Penn, Gillit, McCaslin, Wilson, Woodward
Absent: None

A quorum was present.

Also present: City Manager Sears
City Attorney Brotzman
Deputy City Manager Flaherty
Deputy City Clerk Bush
Director Gryglewicz, Finance and Administrative Services
Director White, Community Development
Director Fonda, Utilities
Operations Division Manager Tallent, Wastewater Treatment Plant
Manager of Open Space Lee, Parks and Recreation
EMS Coordinator Green, Fire
Batallion Chief Petau, Fire
Streets Maintenance Manager Hagen, Public Works
Planner 1 Kirk, Community Development
Police Sergeant Englert

5. **Consideration of Minutes of Previous Session**

(a) **COUNCIL MEMBER GILLIT MOVED, AND COUNCIL MEMBER WILSON SECONDED, TO APPROVE THE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF AUGUST 1, 2011.**

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays: None

Motion carried.

6. **Recognition of Scheduled Public Comment**

There were no scheduled visitors.

7. **Recognition of Unscheduled Public Comment**

(a) Randy Egan, an Englewood resident, discussed protecting Cushing Park. He hopes that Council will rescind the 2008 resolution supporting the parking expansion and to seek other options.

(b) Pamela Beets, an Englewood resident, spoke about saving Cushing Park and asked City Council to be a buffer for the Englewood citizens' voices. She discussed how valuing parks also increases the values of the surrounding neighborhood.

Council Responded to Public Comment.

8. **Communications, Proclamations and Appointments**

(a) A proclamation declaring the month of September as National Recovery Month was considered.

COUNCIL MEMBER McCASLIN MOVED, AND COUNCIL MEMBER OLSON SECONDED, TO ACCEPT A PROCLAMATION DECLARING THE MONTH OF SEPTEMBER AS NATIONAL RECOVERY MONTH.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays: None

Motion carried.

9. **Consent Agenda**

(a) Approval of Ordinances on First Reading

There were no additional items submitted for approval on first reading. (See Agenda Item 11.)

COUNCIL MEMBER WILSON MOVED, AND COUNCIL MEMBER PENN SECONDED, TO APPROVE CONSENT AGENDA ITEMS 9 (b) (i), (ii), (iii), (iv), and 9 (c) (i).

(b) Approval of Ordinances on Second Reading

(i) ORDINANCE NO. 37, SERIES OF 2011 (COUNCIL BILL NO. 32, INTRODUCED BY COUNCIL MEMBER WILSON)

AN ORDINANCE AUTHORIZING A "COOPERATIVE AGREEMENT" BETWEEN THE CITY OF ENGLEWOOD SCHOOL DISTRICT NO. 1, ARAPAHOE COUNTY AND DENVER URBAN GARDENS FOR THE CONSTRUCTION AND MAINTENANCE OF TWO COMMUNITY GARDENS.

(ii) ORDINANCE NO. 38, SERIES OF 2011 (COUNCIL BILL NO. 41, INTRODUCED BY COUNCIL MEMBER WILSON)

AN ORDINANCE AUTHORIZING AN "INTERGOVERNMENTAL AGREEMENT REGARDING 2011 GRANT OF ARAPAHOE COUNTY OPEN SPACE PROGRAM FUNDS PROJECT NAME: RIVERSIDE PARK PLANNING GRANT" BETWEEN THE CITY OF ENGLEWOOD, COLORADO AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ARAPAHOE, STATE OF COLORADO.

(iii) ORDINANCE NO. 39, SERIES OF 2011 (COUNCIL BILL NO. 42, INTRODUCED BY COUNCIL MEMBER WILSON)

AN ORDINANCE AUTHORIZING AN "INTERGOVERNMENTAL AGREEMENT REGARDING 2011 GRANT OF ARAPAHOE COUNTY OPEN SPACE PROGRAM FUNDS PROJECT NAME: CENTENNIAL PARK TRAIL

LOOP RENOVATION" BETWEEN THE CITY OF ENGLEWOOD, COLORADO AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ARAPAHOE, STATE OF COLORADO.

(iv) ORDINANCE NO. 40, SERIES OF 2011 (COUNCIL BILL NO. 43, INTRODUCED BY COUNCIL MEMBER WILSON)

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN ARAPAHOE COUNTY AND THE CITY OF ENGLEWOOD, COLORADO REGARDING OVERLAY OF EAST HAMPDEN AVENUE BETWEEN SOUTH LAFAYETTE STREET AND HIGHWAY 285.

(c) Resolutions and Motions

(i) A Professional Services Agreement for the planning and design of Duncan Park, awarding the contract to the lowest acceptable bidder, Britina Design Group, in the amount of \$74,980.00.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays: None

Motion carried.

10. Public Hearing Items

No public hearing was scheduled before Council.

11. Ordinances, Resolution and Motions

(a) Approval of Ordinances on First Reading

(i) Director of Finance and Administration Gryglewicz presented a recommendation from the City Clerk's Office to adopt a bill for an ordinance submitting to a vote of the registered electors of the City of Englewood at the next scheduled Municipal Election a proposed ordinance amending the Englewood Municipal Code relating to service on Boards and Commissions.

COUNCIL MEMBER JEFFERSON MOVED, AND COUNCIL MEMBER PENN SECONDED, TO APPROVE AGENDA ITEM 11 (a) (i) - COUNCIL BILL NO. 44.

COUNCIL BILL NO. 44, INTRODUCED BY COUNCIL MEMBER JEFFERSON

A BILL FOR AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF ENGLEWOOD AT THE NEXT SCHEDULED MUNICIPAL ELECTION A PROPOSED ORDINANCE AMENDING THE ENGLEWOOD MUNICIPAL CODE RELATING TO SERVICE ON BOARDS AND COMMISSIONS.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays: None

Motion carried.

(ii) Director of Finance and Administration Gryglewicz presented a recommendation from the City Clerk's Office to adopt a bill for an ordinance submitting to a vote of the registered electors of the City of Englewood at the next scheduled Municipal Election a proposed ordinance amending the Englewood Municipal Code relating to the parking of vehicles on private property.

COUNCIL MEMBER GILLIT MOVED, AND COUNCIL MEMBER JEFFERSON SECONDED, TO APPROVE AGENDA ITEM 11 (a) (ii) - COUNCIL BILL NO. 45.

COUNCIL BILL NO. 45, INTRODUCED BY COUNCIL MEMBER GILLIT

A BILL FOR AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF ENGLEWOOD AT THE NEXT SCHEDULED MUNICIPAL ELECTION A PROPOSED ORDINANCE AMENDING THE ENGLEWOOD MUNICIPAL CODE RELATING TO THE PARKING OF VEHICLES ON PRIVATE PROPERTY.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays: None

Motion carried.

(iii) EMS Coordinator Green presented a recommendation from the Fire Department to adopt a bill for an ordinance accepting an Emergency Medical and Trauma Services Provider Grant from the State of Colorado.

COUNCIL MEMBER GILLIT MOVED, AND COUNCIL MEMBER McCASLIN SECONDED, TO APPROVE AGENDA ITEM 11 (a) (iii) - COUNCIL BILL NO. 47.

COUNCIL BILL NO. 47, INTRODUCED BY COUNCIL MEMBER GILLIT

A BILL FOR AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF AN EMTS PROVIDER GRANT 2012 AWARDED BY THE STATE OF COLORADO TO THE CITY OF ENGLEWOOD, COLORADO.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays: None

Motion carried.

(b) Approval of Ordinances on Second Reading

(i) Council Bill No. 36, approving a power line easement on the Byers Biosolids Farm for BP Wind Energy North America, Inc. was considered.

COUNCIL MEMBER PENN MOVED, AND COUNCIL MEMBER McCASLIN SECONDED, TO APPROVE AGENDA ITEM 11 (b) (i).

COUNCIL BILL NO. 36, INTRODUCED BY COUNCIL MEMBER OLSON

A BILL FOR AN ORDINANCE APPROVING THE GRANT OF AN EASEMENT TO B P WIND ENERGY NORTH AMERICA INC. FOR TRANSMISSION FACILITIES ON THE BYERS BIOSOLIDS FARM.

MAYOR WOODWARD MOVED, AND COUNCIL MEMBER JEFFERSON SECONDED, TO AMEND AGENDA ITEM 11 (b) (i), TO ACCEPT THE ANNUAL PAYMENT OPTION INSTEAD OF THE LUMP SUM PAYMENT OPTION.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays: None

Motion carried.

Vote results as on Council Bill No. 36 as amended:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays: None

Motion carried.

[Clerk's Note: Council Bill No. 36 was inadvertently assigned an ordinance number (Ordinance No. 41). Due to the amendment, it will go on final reading on September 6, 2011 and will be assigned an ordinance number after that meeting.]

(ii) Council Bill No. 39, authorizing Planned Unit Development Amendment #1 for the Shops at Hampden and Logan.

COUNCIL MEMBER WILSON MOVED, AND COUNCIL MEMBER GILLIT SECONDED, TO APPROVE AGENDA ITEM 11 (b) (ii) – ORDINANCE NO. 42.

ORDINANCE NO. 42, SERIES OF 2011 (COUNCIL BILL NO. 39, INTRODUCED BY COUNCIL MEMBER GILLIT)

AN ORDINANCE APPROVING AMENDMENT 1, TO THE PLANNED UNIT DEVELOPMENT FOR THE SHOPS AT HAMPDEN AND LOGAN TO ALLOW A DRIVE THRU AUTOMATIC TELLER MACHINE (ATM).

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays: None

Motion carried.

(c) Resolutions and Motions

There were no additional items submitted for approval. (See Consent Agenda Item 9 (c).)

12. General Discussion

(a) Mayor's Choice

(b) Council Members' Choice

(i) Motion seeking further alternatives for RTD parking.

COUNCIL MEMBER WILSON MOVED, AND COUNCIL MEMBER PENN SECONDED, TO APPROVE RESCINDING RESOLUTION NO. 86, SERIES OF 2008, AND SEEKING FURTHER ALTERNATIVES FOR RTD PARKING.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays: None

Motion carried.

13. City Manager's Report

14. City Attorney's Report

(a) Special Meeting August 22, 2011.

City Attorney Brotzman informed the Council of the Special (City Council) Meeting to be held next week, August 22, 2011, for the second reading of the two initiatives, at 5:00 p.m., prior to the budget Study Session. Mayor Woodward confirmed that the meeting will be held in Council Chambers and City Attorney Brotzman concurred.

COUNCIL MEMBER OLSON MOVED, AND MAYOR WOODWARD SECONDED, TO APPROVE THE PURCHASE OF A BRONZE PLAQUE, FOR \$350.00, TO COMMEMORATE THE NATIONAL HISTORIC DESIGNATION OF THE ENGLEWOOD POST OFFICE.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays: None

Motion carried.

15. **Adjournment**

MAYOR WOODWARD MOVED TO ADJOURN.—The meeting adjourned at 9:06 p.m.

 /s/ Kerry Bush, MMC
Deputy City Clerk

**ENGLEWOOD CITY COUNCIL
ENGLEWOOD, ARAPAHOE COUNTY, COLORADO**

**Special Meeting
August 22, 2011**

A permanent set of these minutes and the audio are maintained in the City Clerk's Office. Minutes and streaming audios are also available on the web at: <http://www.englewoodgov.org/Index.aspx?page=999>

1. Call to Order

The special meeting of the Englewood City Council was called to order by Mayor Woodward at 5:05 p.m.

2. Invocation

The invocation was given by Council Member Olson.

3. Pledge of Allegiance

The Pledge of Allegiance was led by Council Member Olson.

4. Roll Call

Present: Council Members Jefferson, Olson, Penn, Gillit, Wilson, Woodward
Absent: Council Member McCaslin

A quorum was present.

Also present: City Manager Sears
City Attorney Brotzman
Deputy City Manager Flaherty
Deputy City Clerk Bush
Deputy Chief Sanchez, Police

5. Ordinances

(a) Approval of Ordinances on Second Reading

(i) Council Bill 44, an ordinance submitting to a vote of the registered electors of the City of Englewood at the next scheduled Municipal Election a proposed ordinance amending the Englewood Municipal Code relating to service on Boards and Commissions was considered.

COUNCIL MEMBER GILLIT MOVED, AND COUNCIL MEMBER OLSON SECONDED, TO APPROVE AGENDA ITEM 11 (a) (i) – ORDINANCE NO. 43.

ORDINANCE NO. 43, SERIES OF 2011 (COUNCIL BILL NO. 44, INTRODUCED BY COUNCIL MEMBER JEFFERSON)

AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF ENGLEWOOD AT THE NEXT SCHEDULED MUNICIPAL ELECTION A PROPOSED ORDINANCE AMENDING THE ENGLEWOOD MUNICIPAL CODE RELATING TO SERVICE ON BOARDS AND COMMISSIONS.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays: None

Motion carried.

(ii) Council Bill No. 45, an ordinance submitting to a vote of the registered electors of the City of Englewood at the next scheduled Municipal Election a proposed ordinance amending the Englewood Municipal Code relating to the parking of vehicles on private property was considered.

COUNCIL MEMBER WILSON MOVED, AND COUNCIL MEMBER GILLIT SECONDED, TO APPROVE AGENDA ITEM 11 (a) (ii) – ORDINANCE NO. 44.

ORDINANCE NO. 44, SERIES of 2011 (COUNCIL BILL NO. 45, INTRODUCED BY COUNCIL MEMBER GILLIT)

AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF ENGLEWOOD AT THE NEXT SCHEDULED MUNICIPAL ELECTION A PROPOSED ORDINANCE AMENDING THE ENGLEWOOD MUNICIPAL CODE RELATING TO THE PARKING OF VEHICLES ON PRIVATE PROPERTY.

Vote results:

Ayes:	Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays:	None

Motion carried.

6. Adjournment

MAYOR WOODWARD MOVED TO ADJOURN. The meeting adjourned at 5:07 p.m.

 /s/ Kerry Bush, MMC
Deputy City Clerk



PROCLAMATION

WHEREAS, the Constitution of the United States of America, the guardian of our liberties, embodies the principles of limited government in a Republic dedicated to rule of law; and

WHEREAS, September 17, 2011 marks the two hundred and twenty-fourth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to officially recognize this magnificent document and its memorable anniversary; and

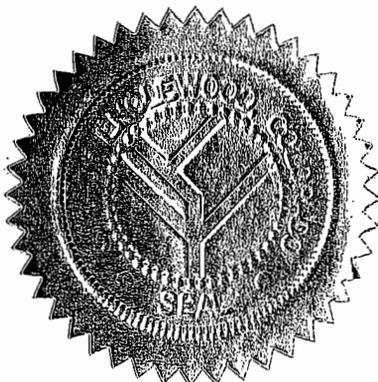
WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as *Constitution Week*.

NOW THEREFORE, I, James K. Woodward, Mayor of the City of Englewood, Colorado, hereby proclaim the week of **September 17 through September 23, 2011** as:

CONSTITUTION WEEK

and urge all citizens of Englewood, Colorado, to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties.

GIVEN under my hand and seal this 6th day of September, 2011.



James K. Woodward, Mayor

Sue Carlton-Smith

From: Cathy Burrage
Sent: Tuesday, August 30, 2011 11:18 AM
To: Sue Carlton-Smith; Leigh Ann Hoffhines
Subject: FW: Gray Clark Water and Sewer Board Resignation

From: A. Gray Clark
Sent: Tuesday, August 30, 2011 11:15 AM
To: Stu Fonda
Cc: Cathy Burrage; Jim Woodward
Subject: Gray Clark Water and Sewer Board Resignation

Stu,

I need to inform you that I will be resigning from the Englewood Water and Sewer Board effective September 19, 2011. On or soon after that date I will be moving out of the City of Englewood. I have truly enjoyed my time working with you, the entire Utilities Department and the other members of the board. I wish you and all of your staff the best as you all continue to serve the City of Englewood with incredible professionalism and integrity.

Thanks,

Gray

A. Gray Clark, P.E.

Chairman, Englewood Water and Sewer Board

3113 South Gaylord Street

Englewood, CO 80113

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2011

COUNCIL BILL NO. 47
INTRODUCED BY COUNCIL
MEMBER GILLIT

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF AN EMTS PROVIDER GRANT 2012 AWARDED BY THE STATE OF COLORADO TO THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, the Colorado Emergency Medical and Trauma Services (EMTS) Provider Grant program is intended to assist public and private organizations maintain, improve and expand the emergency medical and trauma services system in Colorado; and

WHEREAS, the City of Englewood Fire Department sought and was awarded a grant from the State of Colorado to help fund the purchase of a medic apparatus (ambulance) to replace the 2001 McCoy/Miller E450, Unit #6491; and

WHEREAS, the 2001 unit is overdue for replacement in accordance with the City's vehicle replacement schedule; and

WHEREAS, The Colorado State Grant is a 50% match, not to exceed \$72,000.00 with the City funding the remaining cost of approximately \$103,500;

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes the acceptance of the EMS Provider Grant 2012 and accompanying terms and conditions awarded by the State of Colorado to the City of Englewood for the purchase of a medic apparatus (ambulance), attached hereto as Exhibit A.

Introduced, read in full, and passed on first reading on the 15th day of August, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 19th day of August 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 17th day of August, 2011 for thirty (30) days.

Read by title and passed on final reading on the 6th day of September, 2011.

Published by title in the City's official newspaper as Ordinance No. ____, Series of 2011, on the 9th day of September, 2011.

Published by title on the City's official website beginning on the 7th day of September, 2011 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ____, Series of 2011.

Loucrishia A. Ellis

STATE OF COLORADO

John W. Hickenlooper, Governor
 Christopher E. Urbina, MD, MPH
 Executive Director and Chief Medical Officer

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Laboratory Services Division
 Denver, Colorado 80246-1530 8100 Lowry Blvd.
 Phone (303) 692-2000 Denver, Colorado 80230-6928
 Located in Glendale, Colorado (303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department
 of Public Health
 and Environment

July 13, 2011

City of Englewood
 1000 Englewood Parkway
 Englewood CO 80110

Dear Steve Green:

Congratulations, your EMTS grant application is approved for funding, up to the maximum funding guideline for a Type III 2 wd, which is \$72,000. Enclosed in this mailing please find:

- The fully executed purchase order or contract
- A copy of your grant application
- The Manage Grant Awards guide
- The FY 2012 Funding Guide

The fully executed purchase order or contract is your authorization to expend funds and complete your project. The deadline for completion is June 30, 2012. All goods and services must be purchased and delivered by this date. Please use the Manage Grant Awards guide to help ensure successful completion and cost reimbursement for your project. The guide outlines important deadlines for quarterly progress reporting, payment requests and completion of your project. You can also access this information at www.coems.info/grants.

Your application was reviewed by your Regional Emergency Medical and Trauma Advisory Council, the State Emergency Medical and Trauma Services Advisory Council and the department. The scoring process allows evaluators to provide feedback to applicants, and below are comments that were received from evaluators regarding your application.

Ambulance, Other Vehicle

- *This looks like a very valuable use of funds.*
- *Need appears to be justified with information given.*
- *Good justification for replacement of worn-out ambulance.*
- *Great proposal.*
- *The Ford calculation of hours to equal miles as my understanding is each hour equal 3 miles. At the same time, ambulance did not appear to have issues.*
- *Englewood Fire has a plan in place that seems to be working for extra coverage and does not have any data on missed calls.*

These comments are provided as additional information only. Some of the comments may actually reflect questions reviewers had prior to the grant hearings. If you attended the hearings, most likely these questions were answered there.

Thank you, and please contact me at jeanne.bakehouse@state.co.us with any questions.

Sincerely,

Jeanne-Marie Bakehouse
 EMTS Provider Grants Program Manager
 Health Facilities and Emergency Medical Services Division

PROPOSAL FORM



Proposal Number: _____

Date: 02-11-2011

ATTN: STEVE GREEN

Department Name: CITY OF ENGLEWOOD

Address: 3615 SOUTH ELATI STREET

City, State, Zip: ENGLEWOOD CO 80110

The undersigned is prepared to manufacturer for you the vehicle(s) and equipment herein named for the following prices:

One (1) Medtec Model M-170 Ambulance Conversion(s) on a
2011 FORD F-650 CHASSIS Chassis per Medtec Proposal Number: _____

ONE 2011 MEDTEC MODEL M-170" AMBULANCE CONVERSION TO BE BUILT ON A 2011 FORD F-650 4X2 CHASSIS.

UNIT WILL BE A DUPLICATE TO THE AMBULANCE CURRENTLY UNDER CONTRACT WITH MEDTEC.

PRICE IS FOB IN ENGLEWOOD, COLORADO \$175,500.00

PRICE INCLUDES ROAD SAFETY DATA RECORDER, LED LIGHTING, CHILD SAFETY SEAT.

Said vehicle and equipment are to be built and shipped in accordance with the specifications hereto attached, delays due to strikes, war or international conflict, failure to obtain chassis, materials or other causes beyond our control not preventing, within about **150 calendar days** after receipt of this order and acceptance thereof at our office in Goshen, Indiana, and to be picked up / delivered by you / to you by an authorized agent or employee at the Medtec Ambulance Facility / Department's Address located in Goshen, Indiana / Customer's City & State.

The specifications herein contained shall form a part of the final contract, and are subject to changes desired by the purchaser, provided such alterations are interlined prior to the acceptance by the company of the order to purchase, and provided such alterations do not materially affect the cost of the construction of the vehicle.

The proposal for ambulance(s) conforms to all Federal Department of Transportation (DOT) rules and regulations in effect at the time of the bid, and with all Federal KKK-A-1822E specifications as published at the time of bid, except as modified by customer specifications. Any increased costs incurred by the first party because of future changes in or additions to said DOT or KKK-A-1822 standards will be passed along to the customer as an addition to the price set forth above.

Unless accepted within 30 days from the bid date, the right is reserved to withdraw this proposition.

Medtec Ambulance Corporation

By: _____

CO DEPT OF PUBLIC HEALTH/ENV
 4300 CHERRY CREEK DRIVE SO
 DENVER CO 80246 1530

DATE: 07-05-11



**PURCHASE
 ORDER**
 STATE OF COLORADO

Buyer: SHARON HENDERSON
 Phone Number: 303-692-2073
 Agency Contact: MICHAEL SEIFFERTT
 Phone Number: 303 692 2862

IMPORTANT
 The PO# and Line # must
 appear on all invoices,
 packing slips, cartons
 and correspondence

P.O. # OE FMA EMS12000018 Page# 01

ACC: 07-01-11

State Award #

FEIN 846000583 Phone: - -
 Vendor Contact: STEVE GREEN 303-762-2476
 Purchase Requisition #:

BID #

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 R
 CITY OF ENGLEWOOD
 1000 ENGLEWOOD PARKWAY
 ENGLEWOOD CO 80110-2373

Invoice in Triplicate

To: CO PUBLIC HEALTH & ENVIRONMENT
 EMERGENCY MED SVCS-HPDP-EMS-A2
 4300 CHERRY CREEK DRIVE SO
 DENVER CO 80246-1530

Payment will be made by this agency

Ship To: CO PUBLIC HEALTH & ENVIRONMENT
 EMER MEDICAL SVC-HDPD-EMS-A2
 4300 CHERRY CREEK DRIVE SOUTH
 DENVER, CO 80246-1530

Delivery/Installation Date: 06-30-12
 F.O.B. DESTINATION STATE PAYS NO FREIGHT

INSTRUCTIONS TO VENDOR:

1. If for any reason, delivery of this order is delayed beyond the delivery/installation date shown, please notify the agency contact named at the top left. (Right of cancellation is reserved in instances in which timely delivery is not made.)
2. All chemicals, equipment and materials must conform to the standards required by OSHA.
3. NOTE: Additional terms and conditions on reverse side.

SPECIAL INSTRUCTIONS:

GOODS ARE NOT TO BE DELIVERED, OR SERVICES PERFORMED
 PRIOR TO 7/01/2011

LINE ITEM	COMMODITY/ITEM CODE	UNIT OF MEASUREMENT	QUANTITY	UNIT COST	TOTAL ITEM COST
001	94812000000				\$72,000.00
EMS FY12 GRANT - AMBULANCE TERM: DATE OF PO - 06 30 2012. THIS AWARD IS MADE IN ACCORDANCE WITH THE VENDOR'S FISCAL YEAR 2012 GRANT APPLICATION WHICH IS INCORPORATED HEREIN AS ATTACHMENT A. THE REQUIREMENTS IN THE ATTESTATION SECTION OF THE APPLICATION ARE PRESENTLY REAFFIRMED. THE STATE MUST BE INVOICED WITHIN 30 DAYS AFTER THE ENDING DATE OF THIS PO. THE STATE WILL FUND COSTS FOR EACH GRANT CATEGORY UP TO THE AMOUNTS SHOWN ABOVE. SHOULD THE GRANTEE REALIZE SAVINGS, IT WILL BE SHARED PROPORTIONATELY BETWEEN GRANTEE AND STATE PER ATTACHMENT A.					

THIS PO IS ISSUED IN ACCORDANCE WITH STATE AND FEDERAL REGULATIONS
 This PO is effective on the date signed by the authorized individual.
 EPSPO FAA

DOCUMENT TOTAL = \$72,000.00

FOR THE STATE OF COLORADO

[Handwritten Signature]
 Authorized Signature

7/5/11
 Date

COUNCIL COMMUNICATION

DATE: September 6, 2011	AGENDA ITEM 9 c i	SUBJECT: 2011 Private Activity Bond Cap Allocation
INITIATED BY Community Development Department		STAFF SOURCE: Darren Hollingsworth, Economic Development Coordinator

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION:

- Council discussed the annual Private Activity Bond (PAB) assignment at the August 15, 2011 Study Session.
- Council considers assigning the PAB allocation annually.

RECOMMENDED ACTION:

The attached Resolution authorizes Englewood's 2011 Private Activity Bond (PAB) Cap allocation to revert back to the Colorado Department of Local Affairs.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED:

The State of Colorado allocates Private Activity Bond Cap to jurisdictions eligible to receive more than \$1 million dollars of PAB. Englewood was allocated \$1,610,013 for 2011. Englewood first became an entitlement community for an allocation in 2002. Prior to that, Englewood was eligible to apply to the State of Colorado for PAB.

From 2002 through 2010, Englewood assigned its PAB allocation to the Colorado Housing Finance Authority (CHAFA) for home ownership programs. Prior to 2002 Englewood applied to the State to assign its share of PAB to the Metro Mayors Caucus mortgage bond program administered by the City of Denver, which also provided home loans.

This year, CHAFA and the Metro Mayor Caucus indicated that the market conditions are not favorable for tax exempt bond financing and they are, therefore, not interested in receiving PAB Cap assignments from municipalities. The City typically does not assign the PAB until mid-year, close to the State's September 15 deadline so that the PAB may be available for an eligible local project. This year, a PAB eligible project has not been proposed in Englewood and assignment to a local project is not practical.

FINANCIAL IMPACT:

The Resolution allows Englewood's entire 2011 \$1,610,013 PAB allocation to revert back to the Colorado Department of Local Affairs (DOLA) for assignment to eligible State agencies. If an eligible project comes forward in Englewood the City can always apply directly to the DOLA for PAB resources.

LIST OF ATTACHMENTS:

Resolution

RESOLUTION NO. _____
SERIES OF 2011

A RESOLUTION AUTHORIZING THE REVERSION OF THE CITY OF ENGLEWOOD,
COLORADO PRIVATE ACTIVITY BOND ALLOCATION TO THE COLORADO
DEPARTMENT OF LOCAL AFFAIRS.

WHEREAS, the State of Colorado allocates Private Activity Bond Cap to jurisdictions eligible to receive more than \$1 million dollars of Private Activity Bond (PAB); and

WHEREAS, the City of Englewood was allocated \$1,610,013 for the year 2011; and

WHEREAS, the City of Englewood first became an entitlement community for an allocation in 2002, prior to that Englewood was eligible to apply to the State of Colorado for PAB; and

WHEREAS, from 2002 through 2010, Englewood assigned its PAB allocation to the Colorado Housing Finance Authority (CHAFHA) for home ownership programs; and

WHEREAS, prior to 2002 Englewood applied to the State to assign its share of PAB to the Metro Mayors Caucus mortgage bond program administered by the City of Denver, which also provided home loans; and

WHEREAS, this year, CHAFHA and the Metro Mayor's Caucus indicated that the market conditions are not favorable for tax exempt bond financing and they are, therefore, not interested in receiving PAB Cap assignments from municipalities; and

WHEREAS, a PAB eligible project has not been proposed in Englewood and assignment to a local project is not practical for this year; and

WHEREAS, the passage of this Resolution allows Englewood's entire 2011 PAB allocation to revert to the Colorado Department of Local Affairs (DOLA) for assignment to eligible State agencies; and

WHEREAS, if an eligible project comes forward in the City of Englewood the City can apply directly to the DOLA for PAB resources;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
ENGLEWOOD, COLORADO, THAT:

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes Englewood's 2011 Private Activity Bond Cap Allocation of \$1,610,013 to revert to the Colorado Department of Local Affairs (DOLA) for assignment to eligible State agencies.

Section 2. This Resolution shall be in full force and effect upon its passage and approval or as otherwise required by the Englewood Home Rule Charter.

ADOPTED AND APPROVED this 6th day of September, 2011.

ATTEST:

James K. Woodward, Mayor

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. _____, Series of 2011.

Loucrishia A. Ellis, City Clerk

COUNCIL COMMUNICATION

Date: September 6, 2011	Agenda Item: 9 c ii	Subject: Award Broadway and Quincy Traffic Signal Construction Contract
Initiated By: Department of Public Works	Staff Source: Ladd Vostry, Traffic Engineer Rick Kahm, Director of Public Works	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Staff discussed the need for the Broadway and Quincy traffic signal upgrade at the May 23rd Study Session, as well as at the July 11th Study Session.

RECOMMENDED ACTION

Staff recommends Council approve, by motion, a contract for the construction of the Broadway and Quincy traffic signal. Staff recommends awarding the contract to the lowest responsible bidder, W.L. Contractors, Inc., in the amount of \$57,885.00, and authorizing the Director of Public Works to execute the contract.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The traffic signal at Quincy is one of two yet to be rebuilt along the Broadway corridor. This signal is obsolete, over 30 years old, with substandard poles and mast arms, and smaller signal heads. There are no pedestrian signal indications for crossing Quincy.

To keep traffic signal equipment and installation costs to a minimum, we have structured this work as a cooperative project between the Contractor and City forces. The Contractor will furnish and install poles and cabinet foundations, pull-boxes and conduits. The Contractor will also install the traffic signal poles and mast arms, along with removing the old signal poles. City forces will perform the remaining installation work, including all wiring, signal head installations, and other signal equipment. Signal poles, mast arms, controller cabinet, and UPS (battery backup) system were purchased in 2009; Ethernet traffic signal communication equipment, signal heads, video detection and wiring, were purchased in 2010. The controller cabinet, UPS system, and Ethernet communication equipment were purchased with federal funds through the Miscellaneous Equipment Purchase program administered by DRCOG.

FINANCIAL IMPACT

The lowest bid was received from W.L. Contractors, Inc. in the amount of \$57,885.00. Adequate funds are available in the Transportation System Upgrade account in the Public Improvement Fund.

LIST OF ATTACHMENTS

Bid Tabulation Sheet
Contract

City of Englewood Bid Tabulation Sheet

Bid Opening: August 2, 2011 P.M. MDT

ITEM: ITB-11-023 Broadway & Quincy Traffic Signal Upgrade

Contractor	Total Bid	Bid Bond Y/N	Exceptions:
Sturgeon Electric Company, Inc			
12150 E 112th Ave			
Henderson, CO 80640			
Jeff Waneka VP, 303-286-8000	\$ 72,270.00	Y	None Listed
W.L. Contractors, Inc			
5920 Lamar St			
Arvada, CO 80003			
Toni Ann Winkler President 303-422-7985	\$ 57,885.00	Y	None Listed

CONTRACT

CITY OF ENGLEWOOD, COLORADO

THIS CONTRACT and agreement, made and entered into this ____ day of _____, 20__, by and between the City of Englewood, a municipal corporation of the State of Colorado hereinafter referred to as the "City", and **W.L. Contractors, Inc.**, whose address is **5920 Lamar St. Arvada, CO 80003**, ("Contractor"), commencing on the day of July 14, 2011, and continuing for at least ten (10) days thereafter the City advertised that sealed proposals would be received for furnishing all labor, tools, supplies, equipment, materials and everything necessary and required for the following:

PROJECT: BROADWAY AND QUINCY TRAFFIC SIGNAL UPGRADE

WHEREAS, proposals pursuant to said advertisement have been received by the Mayor and City Council and have been certified by the Director of Public Works to the Mayor and City Council with a recommendation that a contract for work be awarded to the above named Contractor who was the lowest reliable and responsible bidder therefore, and

WHEREAS, pursuant to said recommendation, the Contract has been awarded to the above named Contractor by the Mayor and City Council and said Contractor is now willing and able to perform all of said work in accordance with said advertisement and his proposal.

NOW THEREFORE, in consideration of the compensation to be paid and the work to be performed under this contract, the parties mutually agree as follows:

- A. Contract Documents: It is agreed by the parties hereto that the following list of instruments, drawings and documents which are attached or incorporated by reference constitute and shall be referred to either as the Contract Documents or the Contract and all of said instruments, drawings, and documents taken together as a whole constitute the Contract between the parties hereto and they are as fully a part of this agreement as if they were set out verbatim and in full:

Invitation to Bid (page 1-3)
Contract (this instrument)
Insurance
Special Provisions (page 4-9)
Drawing (by Lantz Associates 5/11/09)

- B. Scope of Work: The Contractor agrees to and shall furnish all labor, tools, supplies, equipment, materials and everything necessary for and required to do, perform and complete all the work described, drawn, set forth, shown and included in said Contract Documents.

- C. Terms of Performance: The Contractor agrees to undertake the performance of the work under this Contract within **ten (10) days** from being notified to commence work by the Director of Public Works and agrees to fully complete said work by **thirty (30) calendar days**, plus such extension or extensions of time as may be granted by the Director of Public Works in accordance with the provisions of the Contract Documents and Specifications.
- D. Indemnification: The City cannot and by this Agreement/Contract does not agree to indemnify, hold harmless, exonerate or assume the defense of the Contractor or any other person or entity, for any purpose. The Contractor shall defend, indemnify and save harmless the City, its officers, agents and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature including Worker's Compensation claims, in any way resulting from or arising out of this Agreement/Contract: provided, however, that the Contractor need not indemnify or save harmless the City, its officers, agents and employees from damages resulting from the sole negligence of the City's officers, agents and Employees.
- E. Termination of Award for Convenience: The City may terminate the award at any time by giving written notice to the Contractor of such termination and specifying the effective date of such termination, at least thirty (30) days before the effective date of such termination. In that event all finished or unfinished service, reports, material (s) prepared or furnished by the Contractor after the award shall, at the option of the City, become its property. If the award is terminated by the City as provided herein, the Contractor will be paid that amount which bears the same ratio to the total compensation as the services actually performed or material furnished bear to the total services/materials the successful firm agreed to perform under this award, less payments of compensation previously made. If the award is terminated due to the fault of the Contractor the clause relating to termination of the award for cause shall apply.
- F. Termination of Award for Cause: If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations or if the Contractor shall violate any of the covenants, agreements or stipulations of the award, the City shall have the right to terminate the award by giving written notice to the Contractor of such termination and specifying the effective date of termination. In that event, all furnished or unfinished services, at the option of the City, become its property, and the Contractor shall be entitled to receive just, equitable compensation for any satisfactory work documents, prepared completed or materials as furnished.

Notwithstanding the above, the Contractor shall not be relieved of the liability to the City for damages sustained by the City by virtue of breach of the award by the Contractor and the City may withhold any payments to the Contractor for the purpose of set off until such time as the exact amount of damages due the City from the Contractor is determined.

- G. Terms of Payment: The City agrees to pay the Contractor for the performance of all the work required under this contract, and the Contractor agrees to accept as his full and only compensation therefore, such sum or sums of money as may be proper in accordance with the price or prices set forth in the

Contractor's proposal attached and made a part hereof, the total estimated cost thereof being Fifty-seven thousand eight hundred eighty-five dollars and 00 cents (\$57,885.00)

- H. Appropriation of Funds: At present, **\$57,885.00** has been appropriated for the project. Notwithstanding anything contained in this Agreement to the contrary, the parties understand and acknowledge that each party is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, notwithstanding anything in this Agreement/Contract to the contrary, all payment obligations of the City are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the City's current fiscal period ending upon the next succeeding December 31. Financial obligations of the City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the City and applicable law. Upon the failure to appropriate such funds, this Agreement shall be deemed terminated. The City shall immediately notify the Contractor or its assignee of such occurrence in the event of such termination.
- I. Assignment: Contractor shall not, at any time, assign any interest in this Agreement or the other Contract Documents to any person or entity without the prior written consent of the City specifically including, but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law). Any attempted assignment which is not in compliance with the terms hereof shall be null and void. Unless specifically stated to the contrary in any written consent to an Assignment, no Assignment will release or discharge the Assignor from any duty or responsibility under the Contract Documents.
- J. Contract Binding: It is agreed that this Contract shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, assigns, and successors.
- K. Contractors Guarantee: The Contractor shall guarantee that work and associated incidentals shall remain in good order and repair for a period of one (1) year from all causes arising from defective workmanship and materials, and to make all repairs arising from said causes during such period without further compensation. The determination of the necessity for the repair or replacement of said project, and associated incidentals or any portion thereof, shall rest entirely with the Director of Public Works whose decision upon the matter shall be final and obligatory upon the Contractor.

**VERIFICATION OF COMPLIANCE WITH C.R.S. 8-17.5-101 ET.SEQ. REGARDING
HIRING OF ILLEGAL ALIENS**

(a) Employees, Contractors and Subcontractors: Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor shall not contract with a subcontractor that fails to certify to the Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Contract. [CRS 8-17.5-102(2)(a)(I) & (II).]

(b) Verification: Contractor will participate in either the E-Verify program or the Department program, as defined in C.R.S. 8-17.5-101 (3.3) and 8-17.5-101 (3.7) respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this public contract. Contractor is prohibited from using the E-Verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

(c) Duty to Terminate a Subcontract: If Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Contractor shall:

(1) notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(2) terminate the sub-contract with the subcontractor if, within three days of receiving notice required pursuant to this paragraph the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with the illegal alien.

(d) Duty to Comply with State Investigation: Contractor shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation by that the Department is undertaking pursuant to C.R.S. 8-17.5-102 (5).

(e) Damages for Breach of Contract: The City may terminate this contract for a breach of contract, in whole or in part, due to Contractor's breach of any section of this paragraph or provisions required pursuant to C.R.S. 8-17.5-102. Contractor shall be liable for actual and consequential damages to the City in addition to any other legal or equitable remedy the City may be entitled to for a breach of this Contract under this Paragraph.

**IN WITNESS WHEREOF, the parties hereto have executed this Contract the day
and year first written above.**

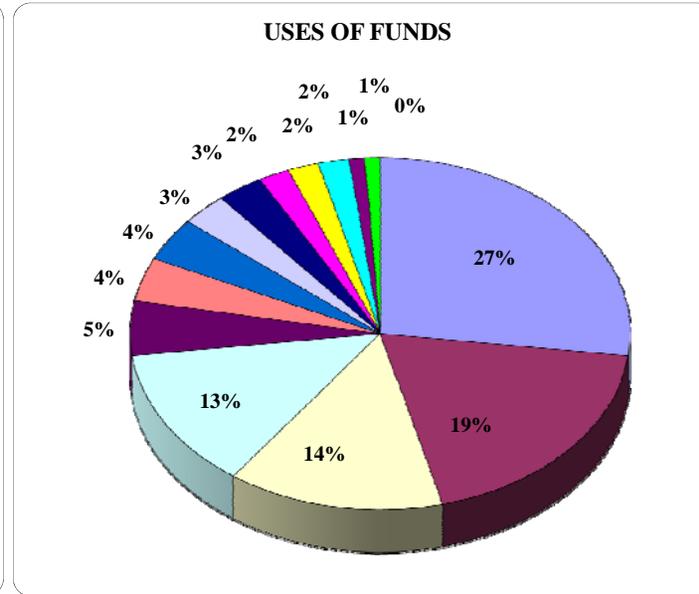
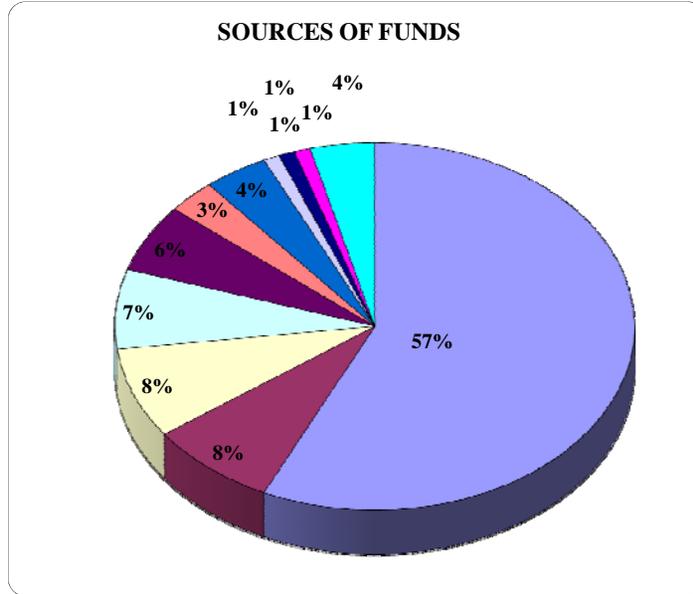
CITY OF ENGLEWOOD

By: _____ Date: _____

1000 Englewood Parkway, Englewood, Colorado 80110-2373 Ph (303)762-2412 Fax (303)783-6951

www.englewoodgov.org

General Fund



General Fund Sources		\$	%
<u>Revenue</u>			
Sales & Use Taxes		\$ 22,115,126	57%
Charges for Services		3,392,567	8%
Property Tax		3,017,000	8%
Franchise Fees		2,974,938	7%
Cultural & Recreation Program Fees		2,599,668	6%
Fines & Forfeitures		1,318,450	3%
Intergovernmental Revenue		1,552,315	4%
Specific Ownership & Cigarette Taxes		440,000	1%
Licenses & Permits		574,025	1%
Other		427,866	1%
Interest		100,000	0%
Total Revenue		38,511,955	
Other Financing Sources		1,549,785	4%
Total Sources of Funds		\$ 40,061,740	100%

General Fund Uses		\$	%
<u>Expenditure</u>			
Police Services		\$ 10,873,315	27%
Fire Services		7,667,953	19%
Parks & Recreation Services		5,818,361	14%
Public Works		5,416,001	13%
Debt Service		2,060,739	5%
Finance & Administrative Services		1,531,813	4%
Community Development		1,471,376	4%
Information Technology		1,353,543	3%
Library Services		1,242,472	3%
Municipal Court		969,655	2%
City Attorney's Office		742,645	2%
City Manager's Office		667,887	2%
Human Resources		469,194	1%
Legislation-City Council & Boards		328,343	1%
Contingencies		150,000	0%
Total Expenditure		40,763,297	
Other Financing Uses		-	
Total Uses of Funds		\$ 40,763,297	100%

Net Sources (Uses) of Funds	\$ (701,557)
Estimated Fund Balance - January 1, 2012	8,753,654
Estimated Fund Balance Before Reserves	8,052,097
Reserves	(4,161,979)
Estimated <u>Unreserved</u> Fund Balance - December 31, 2012	<u>\$ 3,890,118</u>



GOVERNMENTAL FUND TYPES

General Fund is the operating fund of the City. It is used to account for all financial resources except for those required to be accounted in another fund.

General Fund	8,753,654	40,061,740	40,763,297	8,052,097
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Special Revenue Funds account for the proceeds of specific revenue sources that are legally restricted to expenditure for specified purposes.

Conservation Trust	98,916	327,000	403,500	22,416
Community Development	-	290,000	290,000	-
Donor's	101,072	96,500	172,780	24,792
Malley Center Trust	291,667	15,000	15,000	291,667
Parks and Recreation Trust	449,303	20,000	20,000	449,303
Open Space	190,551	645,000	772,000	63,551
Neighborhood Stabilization Program	526,386	1,488,436	2,014,822	-

Debt Service Fund accounts for the accumulation and payment of long-term debt principal and interest other than long-term debt accounted for in enterprise funds.

General Obligation Bond Fund	164,656	853,500	959,200	58,956
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Capital Project Funds account for financial resources to be used for the acquisition and/or construction of major capital facilities (other than those financed by proprietary funds or special revenue funds).

Public Improvement	329,782	1,761,570	2,000,739	90,613
Capital Projects	(42,239)	407,500	274,781	90,480

PROPRIETARY FUND TYPES

Enterprise Funds account for operations financed and operated in a manner similar to private business enterprises.

Water	6,818,223	11,832,380	13,034,322	5,616,281
Sewer	3,644,933	25,984,080	18,887,528	10,741,485
Storm Drainage	749,062	331,232	348,017	732,277
Golf Course	538,560	2,312,426	2,157,553	693,433
Concrete Utility	294,204	711,200	695,067	310,337
Housing Rehabilitation	909,889	1,000,000	1,000,000	909,889

Internal Service Funds account for the financing of goods or services provided by one department or agency to other departments or agencies of the government, and to other governmental units, on a cost reimbursement basis.

Central Services	107,882	353,400	352,963	108,319
ServiCenter	950,990	2,273,080	2,155,343	1,068,727
Capital Equipment Replacement	1,430,499	825,915	1,264,936	991,478
Risk Management	720,040	1,187,027	1,548,228	358,839
Employee Benefits Fund	611	5,337,426	5,284,930	53,107

COUNCIL COMMUNICATION

Date: September 6, 2011	Agenda Item: 11 a i	Subject: Amendments to Title 16: Mailed Public Notices
Initiated By: Community Development Department		Staff Source: Tricia Langon, Senior Planner

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council discussed current Unified Development Code (UDC) mailed notice requirements for rezoning applications (including PUD applications), major subdivisions, and telecommunication conditional uses at the May 23, 2011 study session. Council provided direction to staff to prepare UDC amendments to increase the notification area to one thousand feet (1,000') for certain required meetings and public hearings and to establish a maximum time between a pre-application neighborhood meeting and a public hearing.

PREVIOUS PLANNING COMMISSION ACTION

The Planning and Zoning Commission conducted a public hearing on August 2, 2011, to consider the proposed amendments to Title 16: Unified Development Code. No members of the public were present to provide testimony. Following discussion the Commission voted 4 to 2 to forward to City Council amendments to mailed notice requirements for rezonings, major subdivisions, and telecommunication conditional uses as proposed but maintain the notification radius at five hundred feet (500') as presented in the attached Bill for an Ordinance.

RECOMMENDED ACTION

Recommendation from the Community Development Department to adopt a Bill for an Ordinance authorizing amendments to Title 16: Unified Development Code regarding requirements for mailed public notices on First Reading and to set September 19, 2011 as the date for Public Hearing to consider testimony on the proposed amendments.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

This issue arose regarding the mailed public notice process for a recent rezoning application. Concerns were expressed that the notification area did not extend far enough and that the time between the required pre-application neighborhood meeting and the Planning and Zoning Commission public hearing was too long.

Table 16-2-2.1: *Summary of Development Review and Decision-Making Procedures* lists all UDC development procedures and identifies their public notice requirements. The UDC provides three methods of public notice:

1. Published (official City newspaper and website),
2. Posted (sign on subject property), and
3. Mailed (sent via first class mail).

Mailed public notices are required by Table 16-2-3.1 *Summary of Mailed Notice Requirements* for any rezoning, major subdivision, or telecommunication conditional use. In each case the applicant is required to mail the notice via First Class Mail to property owners of record. However the development applications differ in the timeframe in which the notice must be mailed, for what type of meeting the notice is required, and the size of the notification area.

ANALYSIS:

Mailed public notices required by the UDC are sent via first class U.S mail at the applicant's expense. The proposed amendments are intended to standardize the mailed public notice requirements for proposed rezonings, major subdivisions, and telecommunication conditionals uses. The proposed amendments recommended by the Commission are:

1. Standardize the minimum deadline by which a notice must be mailed to 10 days.
Under current UDC regulations the mailed notice for a telecommunication conditional use is sent 15 days prior to the hearing. As proposed it would be reduced to 10 days to be consistent with rezonings and major subdivisions requirements. The ten day requirement also is consistent with other UDC notices that are mailed, posted or published.
2. Standardize the required notification area based on radius from the subject property.
Under current UDC regulations the mailed notice for a major subdivision is sent only to property owners that abut the property being subdivided. As proposed the notification area is consistent among the three application types (rezoning, major subdivision, and telecommunication conditional use).
3. Retain the required notification area radius of five hundred feet (500').
Under current UDC regulations the mailed notice radius for rezonings and telecommunication conditional uses is five hundred feet (500'), while a major subdivision's notification area is simply abutting properties. As proposed the notification radius is the same among the three application types and is five hundred feet (500') measured from the boundary lines of the subject parcel.

During discussion the Planning and Zoning Commission stated they understood the intent of increasing the notification radius to one thousand feet (1,000') was to involve the public more and to bring more people to public hearings. Conversely the Commission felt that:

- Besides the mailed notice, notices of a meeting or hearing are currently placed on the City's website, in the *Englewood Herald* and posted on the subject property. Citizens who are interested have at least four methods to be informed. In addition citizens can subscribe to the City's E-Notifier to learn of upcoming meetings and hearings.
- Increasing the mailing radius will not bring in more people; rarely does anyone who lives adjacent to a subject property show up for hearings. It is doubtful that people who are further away will attend.
- Doubling the notification radius mathematically quadruples the size of the notification area (πr^2), thus increasing costs to the applicant for research time to create the mailing list, paper and postage. In the case of a rezoning, an applicant would bear this cost twice for the pre-application neighborhood meeting and the Commission public hearing.
- The potential quadrupling of costs is a burden to an applicant that could be seen as anti-development.

- Doubling the notification radius theoretically has the potential of notifying four times the property owners, if the area is uniformly divided into lots. However a number of factors affect the number of properties within the notification area, thus affecting the number of people actually notified. Factors include:
 - The size and configuration of properties: Areas with small lots yield more notices than areas with large properties.
 - Public right-of-way: The more public right-of-way (streets and alleys) within the area, the fewer properties to be notified.
 - Multiple versus individual properties: When a single entity owns multiple properties within an area fewer people are notified.

Based on the above the Commission perceived no added benefit to the public hearing process from increasing the notification radius to one thousand feet (1,000') from the current of five hundred feet (500') radius.

It should be noted that though the UDC sets a minimum notice area, Community Development staff often recommends to applicants that notices also be sent to: building managers requesting the notice be provided to tenants, all properties on a block when the notice area includes only part of the block, and occupants of rental properties. This is a recommendation only and done at the applicant's discretion; however many applicants send to more property owners than required by the UDC.

4. Require a mailed notice for the Planning and Zoning Commission public hearing for all rezonings.

This new requirement affects only rezoning applications. It would be in addition to mailed notices for the required pre-application neighborhood meeting, meaning that property owners would receive a notice of the neighborhood meeting and the Planning and Zoning Commission public hearing.

5. Require a maximum of 180 days between a required neighborhood meeting and the Planning and Zoning Commission public hearing for all rezonings.

This new requirement affects only rezoning applications. It limits the time between the pre-application neighborhood input meeting and the Planning and Zoning Commission public hearing to 180 days. A shorter time period, for example 90 days does not provide enough time to:

- Adjust plans based on neighborhood input (if necessary),
- Submit application,
- Review by Development Review Team and outside agencies,
- Adjust plans based on Development Review Team comments (if necessary), and
- Schedule the public hearing to meet posting and publication requirements.

Limiting the time between the meeting and hearing keeps the issue current, aids in moving the application forward, and avoids a drawn-out process.

6. Require another neighborhood meeting if the time between the original neighborhood meeting and Commission public hearing exceeds 180 days.

This new requirement affects only rezoning applications. It keeps the issue current, aids in moving the application forward, and avoids a drawn-out process.

7. Correct typos and use consistent language among subsections.

FINANCIAL IMPACT

No financial impacts are anticipated from the adoption of the proposed amendments.

LIST OF ATTACHMENTS

Planning and Zoning Commission Staff Report – August 2, 2011

Planning and Zoning Commission Minutes – August 2, 2011

Planning and Zoning Commission Findings of Fact - Case No. 2011-07

Bill for an Ordinance



CITY OF ENGLEWOOD
COMMUNITY DEVELOPMENT

TO: Planning and Zoning Commission
FROM: Alan White, Community Development Director ✓
Tricia Langon, Senior Planner ✓
DATE: August 2, 2011
SUBJECT: Case # 2011-07: Mailed Public Notice Amendments

RECOMMENDATION:

The Community Development Department requests that the Planning and Zoning Commission review, take public testimony, and forward to City Council a recommendation for adoption of proposed amendments to Title 16: Unified Development Code (UDC) related to requirements for mailed public notices for certain neighborhood meetings and public hearings.

BACKGROUND:

The proposed amendments are based on Council directives provided during the May 23, 2011 study session on public notice requirements. Concern was expressed that public notice for a recent rezoning did not extend far enough to properly inform potentially affected landowners.

Section 1-10-2-6: *Public Notice* of the Englewood Municipal Code states: "If required, public notice of the date, time and place of the public hearing shall be given in the manner provided by the Charter, statute or ordinance pursuant to which said hearing is to be held." To that end, the UDC's Table 16-2-2.1: *Summary of Development Review and Decision-Making Procedures* lists all UDC development procedures and identifies their public notice requirements. The UDC provides for three methods of public notice: Published (official City newspaper and website), Posted (sign on subject property), and Mailed (sent via first class mail). Council's concern focused on the requirements for mailed notices.

UDC requirements for mailed public notices are provided in Table 16-2-3.1 *Summary of Mailed Notice Requirements* for development applications for any rezoning, major subdivision, or telecommunication conditional use. In each case the applicant is required to mail the notice via First Class Mail to property owners of record. However the development applications differ in the timeframe in which the notice must be mailed, under what condition the notice is mailed, and the size of the notification area.

ANALYSIS:

The proposed amendments are intended to standardize the mailed public notice requirements and extend the notification area for the purpose of informing citizens of certain major developments and potential effects to their neighborhood.

PROPOSED AMENDMENTS:

The proposed amendments apply only to mailed notices for rezonings, major subdivisions, and telecommunication conditional use applications. The following is an overview of the proposed amendments by section (Please note that minor typographical and formatting changes are not summarized here):

UDC Section	Subsection	Proposed Amendment	Result
Table 16-2-2.1	Notice Required: "Mail"	Insert ✓ under column for Major Subdivision – Preliminary Plat, Official Zoning Map Amendment (Rezonings), and PUD and TSA Rezonings	Identifies which development procedures require mailed notices
		Insert footnote: ¹ Notice Required:	Refers to Table 16-2-3.1: Summary of Mailed Notice Requirements
16-2-3:G3c	Mailed Notice for Neighborhood Meeting	Insert reference to "certain public hearings" and same amendment as in Table 16-2-3.1	Written text consistent with Table
16-2-3:G3d	Mailed Notice for TeleComm Cond. Use	Same amendment as in Table 16-2-3.1 and amend data information	Written text consistent with Table and wording in previous subsection
Table 16-2-3.1	PUD, TSA, other Rezonings	Delete: Neighborhood Meeting	Clarifies that mailed notice is required for the neighborhood meeting <u>and</u> the Commission hearing
		Insert: prior to neighborhood meeting and Planning and Zoning Commission public hearing	
		Increase notification area to 1,000 ft.	
	Major Subdivision	Insert: prior to Planning and Zoning Commission public hearing	Clarifies that mailed notice is required only for the Commission hearing
		Delete: "abutting properties ..." Insert 1,000 ft. requirement	Standardizes notification area with the other two application types
	Conditional Use for Tele-communication Facility	Reduce mailing timeframe from 15 to 10 days	Standardizes timeframe for all applications. Ten (10) day notice is used by Council, the Board of Adjustment and Appeals, and all other Planning and Zoning Commission notice requirements
		Increase notification area to 1,000 ft.	Doubles the notice radius
		Delete 60 days and insert 30 days	Standardizes timeframe for available data to 30 days
Notes to Table	Insert: the required date	Clarifies that data must be accurate within 30 days of the mailing date	
16-6-7:C3		Insert: Maximum 180 days between the pre-application neighborhood meeting and P&Z hearing	Identifies maximum elapsed time and states that if the time is exceeded a new neighborhood meeting is required.

SUMMARY:

The proposed amendments for all mailed public notices for any rezoning, major subdivision, or telecommunication conditional use are:

1. Standardize the required notification area based on radius from the subject property.
2. Increase the required notification area radius from 500 to 1,000 feet.
3. Standardize the minimum deadline by which a notice must be mailed to 10 days.
4. Require a mailed notice for the Planning and Zoning Commission public hearing for all rezonings.
5. Require a maximum of 180 days between a required neighborhood meeting and the Planning and Zoning Commission public hearing.
6. Require another neighborhood meeting if the time between the original neighborhood meeting and Commission public hearing exceeds 180 days.
7. Correct typos and use consistent language among subsections.

The proposed UDC amendments are shown in the following "black line" version. Please note that new text is double underlined and deleted text is ~~struck through~~.

16-2-2: Summary Table of Administrative and Review Roles.

The following table summarizes the review and decision-making responsibilities of the entities that have specific roles in the administration of the procedures set forth in this Chapter. For purposes of this table, an "(Approval) Lapsing Period" refers to the total time from the application's approval that an applicant has to proceed with, and often complete, the approved action. Failure to take the required action within the specified "lapsing period" will automatically void the approval. See Section 16-2-3.L EMC, "Lapse of Approval," below.

TABLE 16-2-2.1: SUMMARY OF DEVELOPMENT REVIEW AND DECISION-MAKING PROCEDURES

Procedure	Section Ref.	Pre-App. Mtg. Req'd	Review (R) Decision-Making (D) or Appeal (A) Bodies				Notice Required ¹			Lapsing Period
			CM/D	PC	CC	BAA	Pub	Mail	Post	
Adaptive Reuse of Designated Historical Buildings	16-5-3	✓	R	R	D		✓		✓	None
Administrative Adjustments	16-2-17	✓	D			A				None
Administrative Land Review Permit	16-2-11	✓	D	A						60 days to record
Amendments to the Text of this Title	16-2-6		R	R	D		✓			None
Annexation Petitions	16-2-5	✓	R	R	D		✓		✓	None
Appeals to Board	16-2-18	✓				D	✓			None
Comprehensive Plan Amendments	16-2-4		R	R	D		✓			None
Conditional Use Permits	16-2-12	✓	R	D	A		✓		✓	1 year
Conditional Use – Telecommunication	16-7	✓	R	D	A		✓	✓	✓	None
Development Agreements	16-2-15		R		D					As stated in Agreement
Flood Plain Dev't. Permit and Flood Plain Variances	See Chapter 16-4 for applicable procedures and standards									
Historic Preservation	16-6-11	✓	R	R	D		✓		✓	None
Limited Review Use Permits	16-2-13	✓	D	A						1 year
Major Subdivisions	16-2-10									
Preliminary Plat		✓	R	R	D		✓	✓	✓	6 months to submit Final Plat
Final Plat			R	R	D		✓	✓	✓	60 days to record
Simultaneous Review Preliminary Plat/Final Plat		✓	R	R	D		✓	✓	✓	60 days to record
Recorded Final Plat										None
Minor Subdivision	16-2-11									
Preliminary Plat		✓	D	A						6 months to submit Final Plat
Final Plat			D	A						60 days to record
Recorded Final Plat										None
Official Zoning Map Amendments (Rezoning)	16-2-7	✓	R	R	D		✓	✓	✓	None
PUD and TSA Rezoning	16-2-7	✓	R	R	D		✓	✓	✓	None
Temporary Use Permits	16-2-14	✓	D	A						As stated in Permit
Unlisted Use Classifications	16-5-1.B	✓	D	A						None
Zoning Site Plan	16-2-9		D	A						3 years
Zoning Variances	16-2-16	✓	R			D	✓		✓	180 days

CM/D = City Manager or Designee (Including the Development Review Team)

PC = Planning and Zoning Commission

CC = City Council

BAA = Board of Adjustment and Appeals

¹Notice Required: See Table 16-2-3.1 Summary of Mailed Notice Requirements

16-2-3: Development Application Procedures.

G. Notice Requirements.

1. **Published Notice.** Notice shall be by one publication on the City's official website or in the newspaper designated by City Council as the City's official newspaper at least ten (10) days before any hearing before the Council, the Commission, or the Board. The City shall be responsible for all required published notices, and for providing evidence of timely published notice at the time of the hearing or consideration.
2. **Posted Notice.** The property shall be advertised by posting for not less than ten (10) consecutive days prior to a hearing before the Council, the Commission, or the Board; provided, however, that where the case does not involve a specific property, no posted notice shall be required. A posted notice shall consist of a sign not less than twenty-two inches (22") by twenty-eight inches (28") in size, located not less than four feet (4') above ground level in a conspicuous place, with letters not less than one inch (1") in height in black paint, which letters can be read from the adjoining street right-of-way. The applicant shall be responsible for complying with posted notice provisions and for providing evidence of timely posted notice at the time of the hearing or consideration. All required posted notices shall remain in place until after the date of the hearing or consideration, and shall be removed by the applicant within seven (7) days after the hearing or consideration.
3. **Mailed Notice.**
 - a. *Mailed Notice to Applicant.* The City shall give written notice of the date, time, and place of any scheduled hearing to the applicant in person or by first class mail.
 - b. *Summary of Mailed Notice Requirements.* Table 16-2-3.1 below summarizes the mailed notice requirements of this subsection, and includes requirements for: Responsible party for mailing notice, the minimum deadline by which notice must be mailed, the intended recipients and the geographic scope of mailed notice, whether the applicant must provide a mailing list and receipt, and the type of mail service required.
 - c. *Mailed Notice of Neighborhood Meeting and Certain Public Hearings.* Whenever ~~this Title requires a neighborhood meeting~~ a mailed notice is required by Table 16-2-3.1, the applicant shall mail written notification of the neighborhood meeting or hearing at least ten (10) days prior to the meeting or hearing to property owners within ~~five hundred~~ one thousand feet (~~500'~~) (1,000') of the perimeter of the proposed development. Notification shall be sent to property owners of record from data available within thirty (30) days before the required mailing date from the Arapahoe County Clerk and Recorder's office.
 - d. *Mailed Notice for Conditional Use Telecommunications Towers and Antenna(s).* At least ~~fifteen (15)~~ ten (10) days prior to the first Commission public hearing on any request for a conditional use permit for a telecommunications tower or antenna(s), the applicant shall provide written notice to all property owners within ~~five hundred~~ one thousand feet (~~500'~~) (1,000') of the property boundary of the site upon which the tower or antenna(s)

are proposed to be located. Notification shall be sent to property owners of record at the Arapahoe County Clerk and Recorder's Office from data available within sixty (60) days before mailing from data available within thirty (30) days before the required mailing date from the Arapahoe County Clerk and Recorder's office.

- e. *Proof of Mailing Required.* Whenever mailed notice is required according to this subsection, the applicant shall provide a mailing list to staff and certify that letters were mailed via the U.S. Postal Service to the listed addresses within the time frame specified in Table 16-2-3.1 below prior to the meeting or hearing. A USPS receipt shall be attached to the certification.

TABLE 16-2-3.1: SUMMARY OF MAILED NOTICE REQUIREMENTS						
Type of Application	Notice Mailed by:	When Mailing Must Occur - # of Calendar Days Prior to Meeting or Hearing:	Notice Shall be Mailed to:	Notification Area for Receipt of Mailed Notice	Mailing List and Mailing Receipt Required?	Type of Mailing
PUD, TSA, other Rezoning Neighborhood Meeting	Applicant	10 <u>(prior to neighborhood meeting and Planning and Zoning Commission public hearing)</u>	Property Owners of Record [1]	500 1,000 feet radius measured from boundary lines of subject parcel	Yes	1 st Class Mail
Major Subdivision	Applicant	10 <u>(prior to Planning and Zoning Commission public hearing)</u>	Property owners of record [1]	Abutting properties, including properties separated only by a street or public lands <u>1,000 feet radius measured from boundary lines of subject parcel</u>	Yes	1 st Class Mail
Conditional Use for Telecommunication Facility	Applicant	45 10 <u>(prior to Planning and Zoning Commission public hearing)</u>	Property owners of record [1]	500 1,000 feet radius measured from boundary lines of subject parcel	Yes	1st Class Mail

Notes to Table: [1] Property owners of record at the Arapahoe County Clerk and Recorder's office from data available within thirty (30) days (30) before the required mailing date.

4. Contents. Unless otherwise stated above, each required published, posted, or mailed notice shall contain:

- a. The name of the applicant;

- b. The date, time and location of the public hearing or consideration; or alternately, the date of the proposed decision by the City Manager or designee;
 - c. A brief summary of the proposed action;
 - d. A statement as to where the application and accompanying material may be reviewed;
 - e. Any other information required pursuant to this Title for a specific type of application; and
 - f. To assist in reaching any non-literate or non-English speaking populations, all posted and mailed notices shall include a prominent question mark symbol followed by the telephone number of the City.
5. Errors in Notice. If there has been a failure to comply with any applicable notice requirement, the public hearing or consideration may be continued and/or action on the application may be postponed until such time as the notice requirements are fulfilled.

16-2-7: Official Zoning Map Amendments (Rezoning).

C. Pre-Application Review and Neighborhood Meeting.

1. Pre-Application Conference. All applicants for rezoning shall be required to participate in a pre-application conference pursuant to Section 16-2-3.F EMC.
2. Pre-Application Neighborhood Meeting Rezoning. Following the pre-application conference, each applicant for a rezoning shall hold a neighborhood meeting in accordance with City procedures to describe their proposal before an application for rezoning can be accepted by the City. The neighborhood meeting is an opportunity for the applicant to describe the proposal as well as for area residents and property owners to offer input about the proposal at an early stage. The applicant shall hold the meeting at a time and location accessible and convenient for the public. The City shall be represented at the meeting. The City representative shall prepare a written report of the neighborhood meeting and make copies available to the City staff, the applicant, and the public.
3. The maximum time between a required neighborhood meeting and a public hearing before the Commission shall not be more than one hundred eighty (180) days. In the event the public hearing is not held within 180 days, the applicant shall be required to hold another neighborhood meeting with public notification.

**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION
REGULAR MEETING
August 2, 2011**

Minutes and audio are available at:
<http://www.englewoodgov.org/Index.aspx?page=152>

I. CALL TO ORDER



The regular meeting of the City Planning and Zoning Commission was called to order at 7:03 p.m. in the City Council Chambers of the Englewood Civic Center, Chair Knoth presiding.

Present: Bleile, Roth, King, Knoth, Fish, Brick, Calonder (entered 7:45)

Absent: Harbaugh (alternate), Welker, Kinton

Staff: Tricia Langon, Senior Planner
Nancy Reid, Assistant City Attorney

II. APPROVAL OF MINUTES

July 6, 2011



Bleile moved:

Fish seconded: TO APPROVE THE JULY 6, 2011 MINUTES

Chair Knoth asked if there were any modifications or corrections.

There were none.

AYES: Bleile, Roth, Knoth, Fish, Brick

NAYS: None

ABSTAIN: King

ABSENT: Welker, Kinton, Calonder

Motion carried.

III. PUBLIC HEARING



CASE #2011-07, Unified Development Code Mailed Public Notice Amendments

Fish moved:

Bleile seconded: TO OPEN THE PUBLIC HEARING ON CASE #2011-07

AYES: Roth, Knoth, King, Brick, Bleile, Fish
NAYS: None
ABSTAIN: None
ABSENT: Calonder, Welker, Kinton

Motion carried.

Ms. Langon, Senior Planner, was sworn in and presented the case.

A summary of the proposed amendments for all mailed public notices for any rezoning, major subdivision, or telecommunication conditional use is as follows:

1. Standardize the required notification area based on radius from the subject property.
2. Increase the required notification area radius from 500 to 1,000 feet.
3. Standardize the minimum deadline by which a notice must be mailed to 10 days.
4. Require a mailed notice for the Planning and Zoning Commission public hearing for all rezonings.
5. Require a maximum of 180 days between a required neighborhood meeting and the Planning and Zoning Commission public hearing.
6. Require another neighborhood meeting if the time between the original neighborhood meeting and Commission public hearing exceeds 180 days.
7. Correct typos and use consistent language among subsections.



Bleile moved:

Fish seconded: TO CLOSE THE PUBLIC HEARING ON CASE #2011-07

AYES: Roth, Knoth, King, Brick, Bleile, Fish
NAYS: None
ABSTAIN: None
ABSENT: Calonder, Welker, Kinton

Motion carried.

Brick moved:

Roth seconded: *CASE #2011-07, AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE RELATED TO REQUIREMENTS FOR MAILED PUBLIC NOTICES FOR CERTAIN NEIGHBORHOOD MEETINGS AND PUBLIC HEARINGS AS STATED BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION.*

Commission discussion:

- Like all amendments except widening the mailing area radius.
- Enlarging the mailing area radius is an attempt to bring in more people, but would increase cost and make it harder for the applicant.
- Believe the issue is an attempt to involve the public more.
- Notices are currently placed on the City's website, in the *Englewood Herald* and the subject property is posted. Do not see the benefit in widening the mailing area radius and increased cost to applicant.
- Don't believe the extra cost of the mailing would be a deal breaker.
- Don't believe widening the mailing radius will bring in people; rarely does anyone who lives adjacent to subject property show up for hearings. Doubtful people who are further away will attend.

Mr. Bleile asked Mr. Brick if he would accept a friendly amendment. Mr. Brick and Mr. Roth stated they would.

Bleile moved:

King Seconded: *CASE #2011-07, AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE RELATED TO REQUIREMENTS FOR MAILED PUBLIC NOTICES FOR CERTAIN NEIGHBORHOOD MEETINGS AND PUBLIC HEARINGS AS STATED BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING CHANGE:*

- *To standardize the required notification area radius to 500 feet for any rezoning, major subdivision or telecommunication conditional use.*

AYES: King, Bleile, Fish, Knoth
NAYS: Brick, Roth
ABSTAIN: None
ABSENT: Calonder, Welker, Kinton

Motion carried.



Brick moved:

Roth seconded: *CASE #2011-07, AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE RELATED TO REQUIREMENTS FOR MAILED PUBLIC NOTICES FOR CERTAIN NEIGHBORHOOD MEETINGS AND PUBLIC HEARINGS AS STATED BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING CHANGE:*

- *To standardize the required notification area radius to 500 feet for any rezoning, major subdivision or telecommunication conditional use.*

AYES: Roth, King, Bleile, Fish
NAYS: Brick, Knoth
ABSTAIN: None
ABSENT: Calonder, Welker, Kinton

Motion carried.

IV. PUBLIC FORUM



There was no public present.

V. DIRECTOR'S CHOICE



Director White was not present.

VI. STAFF'S CHOICE



Ms. Langon provided an update on the Medical District Phase II. Work will continue on Sub-areas 3 and 5 followed by Sub-area 2. City Council has requested Staff prepare a process timeline for Sub-area 2.

She reminded all of the annual Board and Commission Appreciation Night at Pirate's Cove on Monday, August 8th.

Ms. Langon provided an update on future meetings:

August 16: Study Session, Hard Surface amendments or Sign Code amendments
September 7 (Wednesday): Tentative Public Hearing – Hard Surface amendments

VII. ATTORNEY'S CHOICE



Ms. Reid had nothing further to report.

VIII. COMMISSIONER'S CHOICE



Mr. Bleile congratulated Mr. Brick for sticking to his principles on the public hearing vote and allowing the friendly amendment. He said at the joint meeting with City Council on July 18th he felt there was one comment that was very accusatory to the Planning and Zoning

Commission and found it disheartening. The accusation was that this Board said "it would be better off if people scrape their house".

As a side note to the public notice discussion, Chair Knoth said neighborhood groups in Aurora are allowed to sign off on submittals to the City. He noted he was not in favor of the practice. Mr. King asked if that was Aurora City or Unincorporated Arapahoe County. Chair Knoth said he did not know. Mr. King said Arapahoe County does the same thing. Chair Knoth said on one side there are more people there, but on the other side you just added another layer to the process.

Mr. Roth said Code Enforcement looked at hard surface issues in 1997, 2000 and 2002 that he knows of as he was involved in the process during that time. Mr. Bleile said when he served on Code Enforcement it was also discussed. It is a recurring issue. Mr. Roth said he did attend the Sub-area 2 meeting held in July. In the future he said it would helpful for the Commission members to attend neighborhood meetings. Ms. Reid provided the legal requirements for members attending such meetings.

Mr. Calonder apologized for being late to the meeting.

Mr. Fish said he appreciated the comments from the Commission and City Council at the joint meeting. He said he feels Staff, City Council and the public have all done their job...it's done what it is suppose to be doing...getting everybody's opinion out there. He said he doesn't see anything broken at all.

The meeting adjourned at 7:52 p.m.

Barbara Krecklow, Recording Secretary

5. **THAT** the Unified Development Code provides for three methods of public notice. Council's concern focused only on the requirements for mailed notices.
6. **THAT** the requirements for mailed notices for development applications differ in the timeframe in which the notice must be mailed, under what condition the notice is mailed, and the size of the notification area.
7. **THAT** the amendments are designed to standardize notice requirements for required neighborhood meetings and public hearings for any rezoning, major subdivisions and telecommunications conditional use, and to provide consistent language throughout the subsections of the Unified Development Code.

CONCLUSIONS

1. **THAT** the Public Hearing on the Unified Development Code Mailed Public Notice Amendments was brought before the Planning Commission by the Department of Community Development, a department of the City of Englewood.
2. **THAT** notice of the Public Hearing was published in the *Englewood Herald* on July 15, 2011 and was on the City of Englewood website from July 7, 2011 through August 2, 2011.
3. **THAT** the amendments apply only to mailed notices for rezonings, major subdivisions, and telecommunication conditional use applications.
4. **THAT** the amendments are designed to standardize notice requirements for required neighborhood meetings and public hearings for any rezoning, major subdivisions and telecommunications conditional use, and to provide consistent language throughout the subsections of the Unified Development Code.
5. **THAT** the previously discussed amendments be forwarded to City Council.

DECISION

THEREFORE, it is the decision of the City Planning and Zoning Commission that Case #2011-07 Unified Development Code Mailed Public Notice Amendments should be referred to the City Council with a favorable recommendation.

The decision was reached upon a vote on a motion made at the meeting of the City Planning and Zoning Commission on August 2, 2011, by Mr. Brick, seconded by Mr. Roth, which motion states:

CASE#2011-07, AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE RELATED TO REQUIREMENTS FOR MAILED PUBLIC NOTICES FOR CERTAIN NEIGHBORHOOD MEETINGS AND PUBLIC HEARINGS AS STATED BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING CHANGE:

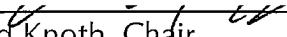
- *To standardize the required notification area radius to 500 feet for any rezoning, major subdivision or telecommunication conditional use.*

AYES: Bleile, Roth, King, Fish
NAYS: Brick, Knoth
ABSTAIN: None
ABSENT: Welker, Calonder, Kinton

Motion carried.

These Findings and Conclusions are effective as of the meeting on August 2, 2011.

BY ORDER OF THE CITY PLANNING & ZONING COMMISSION



Chad Knoth, Chair

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2011

COUNCIL BILL NO. 54
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 16, CHAPTER 2, SECTIONS 2, 3, AND 7, OF THE ENGLEWOOD MUNICIPAL CODE 2000, PERTAINING TO PUBLIC NOTICE REQUIRED FOR PLANNED UNIT DEVELOPMENTS.

WHEREAS, City Council wished to review the required notification area for Planned Unit Developments (PUDs) and the time between the required pre-application neighborhood meeting and the Englewood Planning and Zoning Commission public hearing; and

WHEREAS, the Englewood Planning and Zoning Commission reviewed the issues and made recommendations which shorten the notification date, clarify that the notice is to be sent to the owner of record but keep the current 500 foot notification radius at their August 2, 2011 meeting;

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 2, Section 2, of the Englewood Municipal Code 2000, to read as follows:

16-2-2: Summary Table of Administrative and Review Roles.

The following table summarizes the review and decision-making responsibilities of the entities that have specific roles in the administration of the procedures set forth in this Chapter. For purposes of this table, an "(Approval) Lapsing Period" refers to the total time from the application's approval that an applicant has to proceed with, and often complete, the approved action. Failure to take the required action within the specified "lapsing period" will automatically void the approval. See Section 16-2-3.L EMC, "Lapse of Approval," below.

TABLE 16-2-2.1: SUMMARY OF DEVELOPMENT REVIEW AND DECISION-MAKING PROCEDURES										
Procedure	Section Ref.	Pre-App. Mtg. Req'd	Review (R) Decision-Making (D) or Appeal (A) Bodies				Notice Required ¹			Lapsing Period
			CM/D	PC	CC	BAA	Pub	Mail	Post	
Adaptive Reuse of Designated Historical Buildings	16-5-3	✓	R	R	D		✓		✓	None
Administrative Adjustments	16-2-17	✓	D			A				None
Administrative Land Review Permit	16-2-11	✓	D	A						60 days to record
Amendments to the Text	16-2-6		R	R	D		✓			None

TABLE 16-2-2.1: SUMMARY OF DEVELOPMENT REVIEW AND DECISION-MAKING PROCEDURES

Procedure	Section Ref.	Pre-App. Mtg. Req'd	Review (R) Decision-Making (D) or Appeal (A) Bodies				Notice Required ¹			Lapsing Period
			CM/D	PC	CC	BAA	Pub	Mail	Post	
of this Title										
Annexation Petitions	16-2-5	✓	R	R	D		✓		✓	None
Appeals to Board	16-2-18	✓				D	✓			None
Comprehensive Plan Amendments	16-2-4		R	R	D		✓			None
Conditional Use Permits	16-2-12	✓	R	D	A		✓		✓	1 year
Conditional Use – Telecommunication	16-7	✓	R	D	A		✓	✓	✓	None
Development Agreements	16-2-15		R		D					As stated in Agreement
Flood Plain Dev't. Permit and Flood Plain Variances	See Chapter 16-4 for applicable procedures and standards									
Historic Preservation	16-6-11	✓	R	R	D		✓		✓	None
Limited Review Use Permits	16-2-13	✓	D	A						1 year
Major Subdivisions	16-2-10									
Preliminary Plat		✓	R	R	D		✓	✓	✓	6 months to submit Final Plat
Final Plat			R	R	D		✓	✓	✓	60 days to record
Simultaneous Review Preliminary Plat/Final Plat Recorded Final Plat		✓	R	R	D		✓	✓	✓	60 days to record
Minor Subdivision	16-2-11									
Preliminary Plat		✓	D	A						6 months to submit Final Plat
Final Plat			D	A						60 days to record
Recorded Final Plat										None
Official Zoning Map Amendments (Rezoning)	16-2-7	✓	R	R	D		✓	✓	✓	None
PUD and TSA Rezoning	16-2-7	✓	R	R	D		✓	✓	✓	None
Temporary Use Permits	16-2-14	✓	D	A						As stated in Permit
Unlisted Use Classifications	16-5-1.B	✓	D	A						None
Zoning Site Plan	16-2-9		D	A						3 years

TABLE 16-2-2.1: SUMMARY OF DEVELOPMENT REVIEW AND DECISION-MAKING PROCEDURES										
Procedure	Section Ref.	Pre-App. Mtg. Req'd	Review (R) Decision-Making (D) or Appeal (A) Bodies				Notice Required ¹			Lapsing Period
			CM/D	PC	CC	BAA	Pub	Mail	Post	
Zoning Variances	16-2-16	✓	R			D	✓		✓	180 days
CM/D = City Manager or Designee (Including the Development Review Team) PC = Planning and Zoning Commission CC = City Council BAA = Board of Adjustment and Appeals										
¹Notice Required: See Table 16-2-3.1 Summary of Mailed Notice Requirements										

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 2 Section 3, Subsection G, "Development Application Procedures" [No changes are being made to Subsections A through F nor Subsections H through K, these Subsections remain unchanged] of the Englewood Municipal Code 2000, to read as follows:

16-2-3: Development Application Procedures.

G. Notice Requirements.

1. **Published Notice.** Notice shall be by one publication on the City's official website or in the newspaper designated by City Council as the City's official newspaper at least ten (10) days before any hearing before the Council, the Commission, or the Board. The City shall be responsible for all required published notices, and for providing evidence of timely published notice at the time of the hearing or consideration.
2. **Posted Notice.** The property shall be advertised by posting for not less than ten (10) consecutive days prior to a hearing before the Council, the Commission, or the Board; provided, however, that where the case does not involve a specific property, no posted notice shall be required. A posted notice shall consist of a sign not less than twenty-two inches (22") by twenty-eight inches (28") in size, located not less than four feet (4') above ground level in a conspicuous place, with letters not less than one inch (1") in height in black paint, which letters can be read from the adjoining street right-of-way. The applicant shall be responsible for complying with posted notice provisions and for providing evidence of timely posted notice at the time of the hearing or consideration. All required posted notices shall remain in place until after the date of the hearing or consideration, and shall be removed by the applicant within seven (7) days after the hearing or consideration.
3. **Mailed Notice.**
 - a. **Mailed Notice to Applicant.** The City shall give written notice of the date, time, and place of any scheduled hearing to the applicant in person or by first class mail.
 - b. **Summary of Mailed Notice Requirements.** Table 16-2-3.1 below summarizes the mailed notice requirements of this subsection, and includes requirements for: Responsible

party for mailing notice, the minimum deadline by which notice must be mailed, the intended recipients and the geographic scope of mailed notice, whether the applicant must provide a mailing list and receipt, and the type of mail service required.

- c. *Mailed Notice of Neighborhood Meeting and Certain Public Hearings.* Whenever ~~this Title requires a neighborhood meeting~~ a mailed notice is required by Table 16-2-3.1, the applicant shall mail written notification of the neighborhood meeting or hearing at least ten (10) days prior to the meeting or hearing to property owners within five hundred feet (500') of the perimeter of the proposed development. Notification shall be sent to property owners of record from data available within thirty (30) days before the required mailing date from the Arapahoe County Clerk and Recorder's office.
- d. *Mailed Notice for Conditional Use Telecommunications Towers and Antenna(s).* At least ~~fifteen (15)~~ ten (10) days prior to the first public hearing on any request for a conditional use permit for a telecommunications tower or antenna(s), the applicant shall provide written notice to all property owners within five hundred feet (500') of the property boundary of the site upon which the tower or antenna(s) are proposed to be located. Notification shall be sent to property owners of record ~~at the Arapahoe County Clerk and Recorder's Office from data available within sixty (60) days before mailing~~ from data available within thirty (30) days before the required mailing date from the Arapahoe County Clerk and Recorder's office.
- e. *Proof of Mailing Required.* Whenever mailed notice is required according to this subsection, the applicant shall provide a mailing list to staff and certify that letters were mailed via the U.S. Postal Service to the listed addresses within the time frame specified in Table 16-2-3.1 below prior to the meeting or hearing. A USPS receipt shall be attached to the certification.

TABLE 16-2-3.1: SUMMARY OF MAILED NOTICE REQUIREMENTS

Type of Application	Notice Mailed by:	When Mailing Must Occur - # of Calendar Days Prior to Meeting or Hearing:	Notice Shall be Mailed to:	Notification Area for Receipt of Mailed Notice	Mailing List and Mailing Receipt Required?	Type of Mailing
PUD, TSA, other Rezoning Neighborhood Meeting	Applicant	10 <u>(prior to neighborhood meeting and Planning and Zoning Commission hearing)</u>	Property Owners of Record [1]	500 feet radius measured from boundary lines of subject parcel	Yes	1 st Class Mail

Major Subdivision	Applicant	10 (prior to Planning and Zoning Commission hearing)	Property owners of record [1]	Abutting properties, including properties separated only by a street or public lands 500 feet radius measured from boundary lines of subject parcel	Yes	1 st Class Mail
Conditional Use for Telecommunication Facility	Applicant	15 10 (prior to Planning and Zoning Commission hearing)	Property owners of record [1]	500 feet radius measured from boundary lines of subject parcel	Yes	1st Class Mail

Notes to Table: [1] Property owners of record at the Arapahoe County Clerk and Recorder's office from data available within thirty (30) days (30) before the required mailing date.

4. Contents. Unless otherwise stated above, each required published, posted, or mailed notice shall contain:
 - a. The name of the applicant;
 - b. The date, time and location of the public hearing or consideration; or alternately, the date of the proposed decision by the City Manager or designee;
 - c. A brief summary of the proposed action;
 - d. A statement as to where the application and accompanying material may be reviewed;
 - e. Any other information required pursuant to this Title for a specific type of application; and
 - f. To assist in reaching any non-literate or non-English speaking populations, all posted and mailed notices shall include a prominent question mark symbol followed by the telephone number of the City.
5. Errors in Notice. If there has been a failure to comply with any applicable notice requirement, the public hearing or consideration may be continued and/or action on the application may be postponed until such time as the notice requirements are fulfilled.

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 2 Section 7, Subsection C, "Official Zoning Map Amendments (Rezoning)" [No changes are being made to Subsections A through B nor Subsections D through I, these Subsections remain unchanged] of the Englewood Municipal Code 2000, to read as follows:

16-2-7: Official Zoning Map Amendments (Rezoning).

C. Pre-Application Review and Neighborhood Meeting.

1. **Pre-Application Conference.** All applicants for rezoning shall be required to participate in a pre-application conference pursuant to Section 16-2-3.F EMC.
2. **Pre-Application Neighborhood Meeting Rezonings.** Following the pre-application conference, each applicant for a rezoning shall hold a neighborhood meeting in accordance with City procedures to describe their proposal before an application for rezoning can be accepted by the City. The neighborhood meeting is an opportunity for the applicant to describe the proposal as well as for area residents and property owners to offer input about the proposal at an early stage. The applicant shall hold the meeting at a time and location accessible and convenient for the public. The City shall be represented at the meeting. The City representative shall prepare a written report of the neighborhood meeting and make copies available to the City staff, the applicant, and the public.
3. The maximum time between a required neighborhood meeting and a public hearing before the Commission shall not be more than one hundred eighty (180) days. In the event the public hearing is not held within 180 days, the applicant shall be required to hold another neighborhood meeting.

D. **Notice.** The City Manager or designee shall require that notice of required public hearings be given in accordance with Section 16-2-3.G EMC.

Section 4. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 5. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 6. Inconsistent Ordinances. 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.

Section 7. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood 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 purposes 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.

Section 8. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of September, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of September, 2011 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date: September 6, 2011	Agenda Item: 11 a ii	Subject: Proposed Amendment to the Englewood Municipal Code pertaining to Sight Triangle
Initiated By: Police Department	Staff Source: Gary Condreay, Commander	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

At the July 25, 2011 Study Session, City Council reviewed recommendations from the Code Enforcement Advisory Committee regarding proposed changes to the Englewood Municipal Code pertaining to hard surfaces, recreational vehicle parking, vehicle storage on properties without access to rear and side yards, sight triangles, vehicle weight limitations, and 72-hour parking.

RECOMMENDED ACTION

The Police Department recommends City Council approval of a bill for an ordinance authorizing proposed amendments to sections of the Englewood Municipal Code pertaining to Sight Triangle. Staff also requests that Council schedule a Public Hearing for Monday, September 19, 2011 to gather input on these proposed amendments.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In July of 2010 the Englewood Municipal Code sections related to hard surfaces, recreational vehicle parking, vehicle storage on properties without access to rear and side yards, sight triangles, vehicle weight limitations, and 72-hour parking were referred to the Code Enforcement Advisory Committee (CEAC) for recommendations. The CEAC spent several months discussing proposed amendments, and on July 25, 2011, the Committee met with City Council to discuss their recommendations.

The recommended amendments pertaining to Sight Triangles adjust the required minimum distance from the sidewalk, curb, or travelway.

FINANCIAL IMPACT

There are no financial impacts foreseen as a result of adoption of these proposed amendments.

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2011

COUNCIL BILL NO. 48
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 15, CHAPTER 9, SECTION 2, OF THE ENGLEWOOD MUNICIPAL CODE 2000, PERTAINING TO **SIGHT TRIANGLE**.

WHEREAS, in July of 2010 this issue was referred to the Code Enforcement Advisory Committee (CEAC) for recommendations; and

WHEREAS, on July 25, 2011, the CEAC met with City Council and discussed their recommendations; and

WHEREAS, these ordinance amendments were sent to Planning and Zoning Commission (P&Z) for review of the amendments to Title 16;

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 15, Chapter 9, Section 2, Subsection A, of the Englewood Municipal Code 2000, to read as follows:

15-9-2: - Vehicles: Off-Road (ORV) and Trailers.

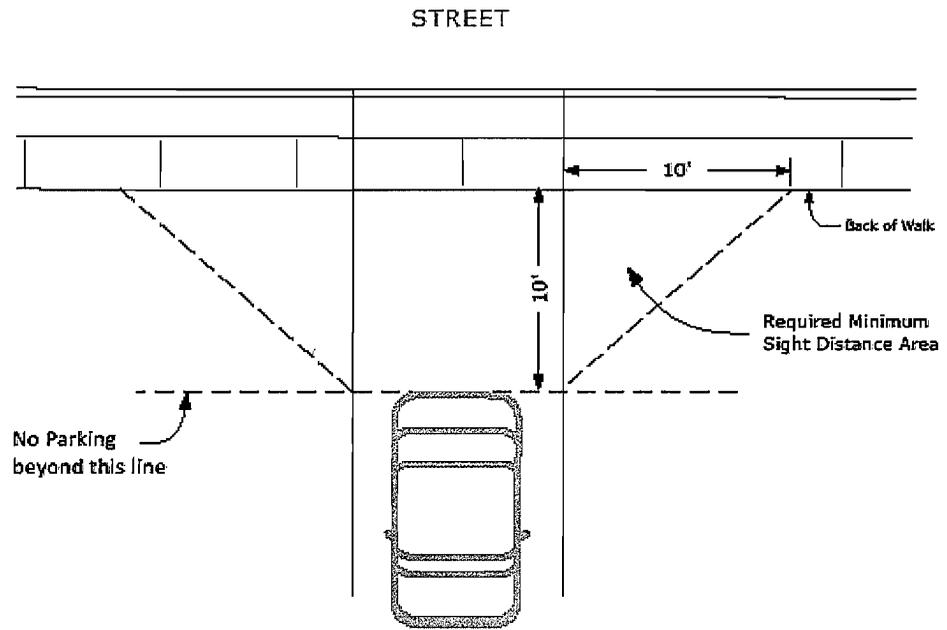
A. Off-Road Vehicles (ORV) and Trailers in All Residential Zone Districts.

1. No ORV or any type of trailer shall be stored within the front yard.
2. No person shall store or work on any ORV or any type of trailer within the front yard or in or on any public right-of-way, except that such vehicles may be temporarily maintained in the front yard, on a hard surface, for the purposes of transport, loading, unloading, or other temporary activities. Such transport, loading, unloading, or other temporary activities shall not exceed eight (8) hours per day.
3. One (1) ORV or trailer under three thousand five hundred (3,500) pounds, may be stored in a carport or a rear or side yard if it is on a hard surface. Any additional ORV or trailer under five thousand (5,000) pounds may be stored in the rear or side yard if it is on a hard surface and screened from view of adjacent properties and public rights-of-way.
4. No vehicle may block visibility of pedestrians or other vehicles on a public street or alley. All vehicles must comply with an approved site distance triangle.

- a. The City Traffic Engineer shall determine compliance with sight distance triangle standards in connection with this Title and shall be authorized to vary these standards depending on site conditions.
- b. No parked vehicle or trailer over three feet (3') in height above the grade of the adjacent street, alley or driveway shall be parked in a manner that obstructs the view of pedestrians on the sidewalk or obstructs the traffic vision at the intersections of streets, alleys or driveway.
- c. Figure 15-9-2 should be used as a guide to determine sight distance requirements at streets/driveways access (Typical). Vehicles should be parked/stored at least ten feet (10') from back edge of the sidewalk or fifteen feet (15') from the curb where there is no sidewalk. For properties where there is no sidewalk or curb, vehicles should be parked/stored fifteen feet (15') from the travel way. All other instances shall be determined by the City Traffic Engineer.
- d. The reasonableness of the Traffic Engineer's decision is appealable to the Board of Adjustment and Appeals as provided in 16-2-1(C) EMC.

Figure 15-9-2

Driveway/Street Sight Distance (Typical)



DATE: 2011-07-21 10:01 AM

Section 2. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 4. Inconsistent Ordinances. 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.

Section 5. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood 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 purposes 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.

Section 6. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of September, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of September, 2011 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date: September 6, 2011	Agenda Item: 11 a iii	Subject: Proposed Amendment to the Englewood Municipal Code pertaining to vehicle storage on properties without access to rear and side yards
Initiated By: Police Department	Staff Source: Gary Condreay, Commander	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

At the July 25, 2011 Study Session, City Council reviewed recommendations from the Code Enforcement Advisory Committee regarding proposed changes to the Englewood Municipal Code pertaining to hard surfaces, recreational vehicle parking, vehicle storage on properties without access to rear and side yards, sight triangles, vehicle weight limitations, and 72-hour parking.

RECOMMENDED ACTION

The Police Department recommends City Council approval of a bill for an ordinance authorizing proposed amendments to sections of the Englewood Municipal Code pertaining to storage of off-road vehicles and trailers for properties without access to rear and side yards. Staff also requests that Council schedule a Public Hearing for Monday, September 19, 2011 to gather input on these proposed amendments.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In July of 2010 the Englewood Municipal Code sections related to hard surfaces, recreational vehicle parking, vehicle storage on properties without access to rear and side yards, sight triangles, vehicle weight limitations, and 72-hour parking were referred to the Code Enforcement Advisory Committee (CEAC) for recommendations. The CEAC spent several months discussing proposed amendments, and on July 25, 2011, the Committee met with City Council to discuss their recommendations.

The proposed amendments were sent to Planning and Zoning Commission for a review of the amendments to Title 16. The Commission held a Public Hearing on August 16, 2011 and made subsequent recommendations to City Council.

The recommended amendments offer provisions for storage of off-road vehicles and trailers on properties without access to rear and side yards.

FINANCIAL IMPACT

There are no financial impacts foreseen as a result of adoption of these proposed amendments.

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2011

COUNCIL BILL NO. 49
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 15, CHAPTER 9, SECTION 2 AND TITLE 16, CHAPTER 2, SECTION 1, OF THE ENGLEWOOD MUNICIPAL CODE 2000 PERTAINING TO PROPERTIES WITHOUT ACCESS TO REAR AND SIDE YARDS.

WHEREAS, in July of 2010 this issue was referred to the Code Enforcement Advisory Committee (CEAC) for recommendations; and

WHEREAS, on July 25, 2011, CEAC met with City Council and discussed their recommendations; and

WHEREAS, these ordinance amendments were sent to Planning and Zoning Commission (P&Z) for review of the amendments to Title 16;

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 15, Chapter 9, Section 2, of the Englewood Municipal Code 2000, to read as follows:

15-9-2: - Vehicles: Off-Road (ORV) and Trailers.

A. Off-Road Vehicles (ORV) and Trailers in All Residential Zone Districts.

1. No ORV or any type of trailer shall be stored within the front yard.
2. No person shall store or work on any ORV or any type of trailer within the front yard or in or on any public right-of-way, except that such vehicles may be temporarily maintained in the front yard, on a hard surface, for the purposes of transport, loading, unloading, or other temporary activities. Such transport, loading, unloading, or other temporary activities shall not exceed eight (8) hours per day.
3. One (1) ORV or trailer under three thousand five hundred (3,500) pounds, may be stored in a carport or a rear or side yard if it is on a hard surface. Any additional ORV or trailer under five thousand (5,000) pounds may be stored in the rear or side yard if it is on a hard surface and screened from view of adjacent properties and public rights-of-way.
4. Reserved for Sight Triangle.
5. An exception to the requirement that these items located above must be stored in the rear or side yard may be made for those properties where there is no reasonable access, as defined, from public property to the rear yard.

a. For purposes of this Title, a lack of reasonable access shall be determined by the City Manager or designee on a case by case basis as to whether the obstruction which prevents access to the rear yard makes it physically impossible to access the rear yard without extensive construction or site modification.

(1) by way of example but not limitation, a solid privacy or chain link fence, small trees; small shrubs; flowers, etc. which are removable will not be considered a lack of "reasonable access" to the rear or side yard. Masonry walls; large trees or permanent structures may be considered an obstruction to "reasonable access."

(a) Small trees shall be defined as deciduous or evergreen trees with a caliper measurement of six inches (6") or less. The caliper shall be measured at a point four feet (4') above the grade.

b. The reasonableness of the City Manager or designee's decision is appealable to the Board of Adjustment and Appeals as provided in 16-2-1(C) EMC.

c. The property must have a legal curb cut and driveway from the public street.

6. The exception listed in paragraph 5 above shall not apply to properties located in the Arapahoe Acres or Hampden Hills subdivisions.

B. Off-Road Vehicles (ORV) and Trailers in Zone Districts Other Than Residential (including TSA Districts and PUDs).

1. No off-road vehicle or trailer shall be stored unless it is on a hard surface, screened from view of adjacent properties and public rights-of-way or in a fully enclosed structure.
2. The provisions of this Section shall not apply to permitted and/or licensed ORV and trailer uses.

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 2, Section 1, Subsection C, Paragraph 1, of the Englewood Municipal Code 2000, to read as follows:

16-2-1: Administrative and Review Roles.

The following entities comprise the review and decision-making bodies with respect to administering this Title. The roles and functions of these bodies are described in this Section and summarized in the table contained in Section 16-2-2 EMC below.

C. Board of Adjustment and Appeals.

1. Administrative and Review Roles Under this Title. The Board of Adjustment and Appeals ("Board") shall have the following responsibilities in administering this Title:
 - a. *Appeals from Building Permit Denials.* The Board shall have power to hear and determine appeals from refusal of building permits.

- b. *Administrative Appeals.* In addition to such other jurisdiction as authorized by law, the Board shall have the jurisdiction and power:
- (1) To hear and decide appeals from and to review any order, requirement, decision, or determination by the Chief Building Official or any employee in the enforcement of this Title; similar Uniform Codes adopted by the City, except the Model Traffic Code; or by the City Manager, designee or Traffic Engineer under 15-9-2 (A)(4) EMC and to hear and decide all matters referred to it, or upon which it is required to pass under this Title or any amendment hereto.
 - (2) In deciding upon appeals, the Board may reverse or affirm, wholly or partly, or modify any notice, order, requirement, decision, or determination of any employee of the City in the enforcement of this Title, and to make such order, requirement, decision or determination as in its opinion ought to be made and, to that end, shall have all the powers of the enforcing agent.
- c. *Zoning Variances.* The Board shall have the jurisdiction and power in specific cases to make specific exceptions to the terms, or modify the strict application of the provisions of this Title, according to the procedures within and consistent with the general purpose of this Title.

Section 3. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 4. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 5. Inconsistent Ordinances. 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.

Section 6. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood 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 purposes 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.

Section 7. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of September, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of September, 2011 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date: September 6, 2011	Agenda Item: 11 a iv	Subject: Proposed Amendment to the Englewood Municipal Code pertaining to Vehicle Weight Limits
Initiated By: Police Department		Staff Source: Gary Condreay, Commander

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

At the July 25, 2011 Study Session, City Council reviewed recommendations from the Code Enforcement Advisory Committee regarding proposed changes to the Englewood Municipal Code pertaining to hard surfaces, recreational vehicle parking, vehicle storage on properties without access to rear and side yards, sight triangles, vehicle weight limitations, and 72-hour parking.

RECOMMENDED ACTION

The Police Department recommends City Council approval of a bill for an ordinance authorizing proposed amendments to sections of the Englewood Municipal Code pertaining to Vehicle Weight Limits. Staff also requests that Council schedule a Public Hearing for Monday, September 19, 2011 to gather input on these proposed amendments.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In July of 2010 the Englewood Municipal Code sections related to hard surfaces, recreational vehicle parking, vehicle storage on properties without access to rear and side yards, sight triangles, vehicle weight limitations, and 72-hour parking were referred to the Code Enforcement Advisory Committee (CEAC) for recommendations. The CEAC spent several months discussing proposed amendments, and on July 25, 2011, the Committee met with City Council to discuss their recommendations.

The proposed amendments were sent to Planning and Zoning Commission for a review of the amendments to Title 16. The Commission held a Public Hearing on August 16, 2011 and made subsequent recommendations to City Council.

The recommended amendments pertaining to Vehicle Weight Limits increase the allowed weight limit from 7,000 to 10,000 pounds to maintain consistency with Titles 11 and 15.

FINANCIAL IMPACT

There are no financial impacts foreseen as a result of adoption of these proposed amendments.

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2011

COUNCIL BILL NO. 50
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 11, CHAPTER 6, SECTIONS 1 AND 2, AND TITLE 16, CHAPTER 5, SECTION 4, OF THE ENGLEWOOD MUNICIPAL CODE 2000, PERTAINING TO **VEHICLE WEIGHT LIMITATIONS**.

WHEREAS, in July of 2010 this issue was referred to the Code Enforcement Advisory Committee (CEAC) for recommendations; and

WHEREAS, on July 25, 2011, CEAC met with City Council and discussed their recommendations; and

WHEREAS, these ordinance amendments were sent to Planning and Zoning Commission (P&Z) for review of the amendments to Title 16; and

WHEREAS, P&Z reviewed these amendments at a Public Hearing held on August 16, 2011 and made **recommendations** to City Council.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 11, Chapter 6, Section 1, of the Englewood Municipal Code 2000, to read as follows:

11-6-1: - Parking/Storage Regulations in All Districts.

- A. It shall be unlawful for the operator or owner of an automobile transport trailer, road tractor, truck tractor, moving van, transit-mix concrete truck, trailer, semi-trailer or truck with an empty weight in excess of ~~seven ten thousand (7,000 10,000)~~ pounds (~~70 C.W.T.~~) or special mobile equipment to stop, stand or park such vehicle or cause such vehicle to be stopped, stood or parked on any street or highway, alley or other public way within the City for a period in excess of four (4) hours at any time, except when such vehicle is being expeditiously loaded or unloaded or such mobile equipment is being used to perform the special operations for which it was designed.
- B. No person(s) shall park any tank truck(s), tank trailer(s), tank semi-trailer(s) or other truck(s) used to transport hazardous substances or materials upon the streets, alleys or public or private places within the City except when entirely empty and then only for a period not exceeding one hour. No person shall repair any cargo area or tank of such vehicles within this City except when such cargo area or tank of such vehicles are completely empty of flammable liquids, vapors, or hazardous substances or materials, and only after being thoroughly steamed or washed to remove all explosive vapors. No person shall park or allow to remain on this City's streets, alleys, or public property, or private property any tank truck,

tank semi-trailer or tank trailer used for transporting liquefied petroleum or gas, whether loaded or empty, or any truck carrying hazardous substances, except when actually engaged in filling storage tanks or while under repair.

- C. No person shall park any motor vehicle or vehicle in excess of twenty-two feet (22') in length, or eight feet (8') in width, in the public right-of-way except when such motor vehicle is being expeditiously loaded or unloaded.
- D. No person shall park or permit to stand in any public right-of-way or on public property, any trailer or small trailer unless the trailer is connected to or attached to a motor vehicle in a manner to be towed. The vehicle and connected trailer shall not be parked in the public right-of-way for more than seventy-two (72) hours within any one week.
- E. No person shall permit any snowplow designed to be truck mounted which is not hooked up or otherwise attached to a motor vehicle in a manner to be used for its intended purpose, to be stored or parked on public streets or rights-of-way. All owners and/or operators of vehicles with snowplows attached shall not store them on public streets.
- F. No person shall store any truck or other vehicle loaded with trash, junk, weeds, tree branches or limbs in a public right-of-way.
- G. No person shall park or store any motor vehicle in a manner so as to obstruct the public sidewalk or right-of-way.
- H. No person shall park a vehicle in excess of any time limit established for parking at that location, which shall be the time limit for that day and that block.

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 11, Chapter 6, Section 2, of the Englewood Municipal Code 2000, to read as follows:

11-6-2: - Parking/Storage Regulations for Residential Districts.

- A. It shall be unlawful for any person to store a vehicle designed and used for recreation purposes, including, but not limited to, one or more motor homes, boats, campers, trailers used for carrying boats, hobby or derelict vehicles or racing cars, motorcycles and other equipment or motor vehicles upon the public right-of-way.

The vehicle may be parked in the right-of-way for no more than seventy-two (72) hours within any one week while being expeditiously loaded or unloaded.

- B. No person shall park the following described vehicles on public or private property in residential areas except while making normal deliveries or being used to perform the special operations for which it is designed:
 - 1. Any vehicle with an empty weight in excess of ~~seven ten thousand (7,000 10,000)~~ pounds (70-C.W.T.). This limitation shall not apply to recreational vehicles.
 - 2. A road tractor, truck tractor or semi-trailer.
 - 3. A truck constructed or adapted for the purpose of transporting or delivery of bulk gasoline, petroleum products, or hazardous substances or materials.

4. A tow truck or automobile wrecker.
 5. A church bus or school bus not used for school or church purposes.
- C. No person shall park or store any vehicle on private property in violation of the following restrictions:
1. No vehicle shall be parked in such a way as to block the sidewalk or any portion of the public sidewalk.
 2. No vehicle shall be parked in front of the front setback of the principal structure unless located on a concrete, brick paver, asphalt surface, gravel or other similarly finished hardened or dust free surface.
 3. In no case shall more than one commercial vehicle be parked or stored on property in any residential zone district, whether in a private garage or carport, in an off-street parking space or in an open-space area, and the size of said commercial vehicle shall not exceed empty vehicle weight of ~~seven ten thousand~~ (7,000 10,000) pounds (~~70 C.W.T.~~).
 4. Detached campers shall be stored in the area identified as the rear or side yard and shall be stored on blocks or supports not more than six inches (6") in height, or on its loading jacks or apparatus at their lowest limits. All loading equipment shall be in good repair.
 5. No person shall occupy any vehicle in violation of the following:
 - a. No motor vehicle or vehicles shall be occupied or used for living or housekeeping or sleeping purposes or for the housing and keeping of animals, except as provided in subsection b below;
 - b. Upon the application of a resident of the City, a special permit may be issued by the City for a nonresident journeying in a recreational vehicle used for housekeeping purposes and who is visiting at the residence of the applicant, to occupy the recreational vehicle at the applicant's residence for not more than seven (7) days. The special permit shall specify the location of the applicant's property or adjacent right-of-way in which the recreational vehicle will be parked while occupied.

This shall not be deemed to permit the parking or storage of a detached camper, trailer or small trailer in any public street or right-of-way of any street designated as an arterial or collector street.

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 5, Section 4, Subsection C, Paragraph 2, Subparagraph a, of the Englewood Municipal Code 2000, to read as follows:

16-5-4: Accessory Uses.

2. Parking Area, Surface.
 - a. *Parking Area, Surface (R-2-B District Only).* When an R-2-B district abuts or is adjacent to a MU-B-2 district, the portion of the lot adjacent to the business district

may be used as a parking area by any commercial establishment to a depth of twenty-five feet (25') if the following conditions are met:

- (1) The parking area must be screened from the residential portion of the lot by a six foot (6') opaque fence. Side yard fences must also be provided to screen adjacent property. These fences shall also be six feet (6') in height except that, within ten feet (10') of the rear property line, the fences cannot exceed thirty inches (30") in height or be less than fifty percent (50%) open.
- (2) The paved parking area must be of hard surface to prevent the movement of dirt and debris from the parking area onto the public right-of-way.
- (3) Parking stops or other devices allowing snowfall maintenance must be placed in the parking area to prevent damage to the fence by vehicles.
- (4) Provisions must be made for the collection of trash as per City ordinance.
- (5) The final design of the parking area must be approved by the City Manager or designee.
- (6) No storage of vehicles is permitted and the lot is to be used solely for the parking of employees or customers.
- (7) No vehicles in excess of ~~seven~~ ten thousand (~~7,000~~ 10,000) pounds may be parked in the parking area.
- (8) The minimum width of the parking area shall be fifty feet (50').
- (9) The City Manager or designee may deny the use of any lot as a parking area if the above provisions are not met or if conditions are unsafe. The ruling may be appealed to the Board.

Section 4. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 5, Section 4, Subsection D, of the Englewood Municipal Code 2000, to read as follows:

D. Prohibited Accessory Uses.

1. Prohibited in All Zoning Districts. The following activities shall not be regarded as accessory to a principal use on any site and are prohibited in all zoning districts:
 - a. *Use of Travel Trailer or Recreational Vehicle (RV) as a Residence.* The use of a travel trailer as a residence, permanent or temporary, with the exception of a trailer approved as a temporary use for security under Section 16-5-5 EMC, shall be prohibited in all zoning districts.
 - b. *Use of Motor Vehicle or Trailer for Sales, Service, Storage, or Other Business.* The use of any motor vehicle, trailer, mini-mobile storage container, or shipping container as a structure in which, out of which, or from which any goods are sold or stored, any services performed, or other businesses conducted, shall be prohibited in all zoning districts. However, this subsection shall not prohibit the following:

- (1) The sale of goods or merchandise at a City-approved or sponsored event; or
 - (2) Use of a motor vehicle, trailer, or shipping or storage container in connection with an approved recycling operation; or
 - (3) Use of a trailer or shipping or storage container in conjunction with construction authorized by a valid building permit; or
 - (4) Use of a trailer, shipping, or storage container for the temporary loading and unloading of goods, provided that no individual trailer or container is in place longer than forty-eight (48) hours.
2. Prohibited in Residential Zoning Districts. The following activities shall not be regarded as accessory to a residential principal use and are prohibited in all residential (R) districts:
- a. *Automotive Repair.* Automotive repair, including engine, body, or other repair or repainting of more than one (1) vehicle at any one time owned by a person not residing at that address, regardless of whether compensation was paid for the service.
 - b. *Outdoor Storage of Inoperative Vehicles.* The outdoor storage of inoperable vehicles shall comply with Title 15 EMC.

~~e. *Parking of Commercial Vehicles.*~~

- ~~(1) In no event shall more than one (1) commercial vehicle be stored on property in any residential zone district, whether in a private garage or carport, in an off street parking space, or in an open space area. The size of such commercial vehicles shall not exceed vehicle weight of six ten thousand (6,000-10,000) pounds (60 C.W.T).~~
- ~~(2) For the purpose of this Section, a road tractor or truck tractor shall not be deemed a commercial vehicle, and no road tractor or truck tractor shall be parked or stored in any residential zone district.~~
- ~~(3) No commercial vehicle shall be stored on public property or in the public right of way.~~

Section 5. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 6. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 7. Inconsistent Ordinances. 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.

Section 8. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood 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 purposes 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.

Section 9. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of September, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of September, 2011 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date: September 6, 2011	Agenda Item: 11 a v	Subject: Proposed Amendment to the Englewood Municipal Code pertaining to Parking for Recreational Vehicles
Initiated By: Police Department	Staff Source: Gary Condrey, Commander	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

At the July 25, 2011 Study Session, City Council reviewed recommendations from the Code Enforcement Advisory Committee regarding proposed changes to the Englewood Municipal Code pertaining to hard surfaces, recreational vehicle parking, vehicle storage on properties without access to rear and side yards, sight triangles, vehicle weight limitations, and 72-hour parking.

RECOMMENDED ACTION

The Police Department recommends City Council approval of a bill for an ordinance authorizing proposed amendments to sections of the Englewood Municipal Code pertaining to Parking for Recreational Vehicles. Staff also requests that Council schedule a Public Hearing for Monday, September 19, 2011 to gather input on these proposed amendments.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In July of 2010 the Englewood Municipal Code sections related to hard surfaces, recreational vehicle parking, vehicle storage on properties without access to rear and side yards, sight triangles, vehicle weight limitations, and 72-hour parking were referred to the Code Enforcement Advisory Committee (CEAC) for recommendations. The CEAC spent several months discussing proposed amendments, and on July 25, 2011, the Committee met with City Council to discuss their recommendations.

The recommended amendments pertaining to Parking of Recreational Vehicles removes references to RV parking regulations from Title 16. These regulations are contained in Title 11; removing them from Title 16 will simplify enforcement and do away with redundant language in the Code.

FINANCIAL IMPACT

There are no financial impacts foreseen as a result of adoption of these proposed amendments.

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2011

COUNCIL BILL NO. 51
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 11, CHAPTER 6, SECTIONS 1 AND 2,; TITLE 15, CHAPTER 1, SECTION 2; AND TITLE 16, CHAPTER 11, SECTION 2, OF THE ENGLEWOOD MUNICIPAL CODE 2000 PERTAINING TO **PARKING FOR RECREATIONAL VEHICLES.**

WHEREAS, in July of 2010 this issue was referred to the Code Enforcement Advisory Committee (CEAC) for recommendations; and

WHEREAS, on July 25, 2011, CEAC met with City Council and discussed their recommendations; and

WHEREAS, these ordinance amendments were sent to Planning and Zoning Commission (P&Z) for review of the amendments to Title 16;

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 15, Chapter 1, Section 2, and Title 16, Chapter 11, Section 2(B), of the Englewood Municipal Code 2000, by inserting in alphabetical order to read as follows:

15-1-2: Definitions.

and

16-11-2: Definition of Words, Terms, and Phrases.

B. Definition of words, Terms, and Phrases.

Recreational Vehicle

A vehicular-type, portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 11, Chapter 6, Section 1, of the Englewood Municipal Code 2000, to read as follows:

11-6-1: - Parking/Storage Regulations in All Districts.

A. It shall be unlawful for the operator or owner of an automobile transport trailer, road tractor, truck tractor, moving van, transit-mix concrete truck, trailer, semi-trailer, recreational vehicle

or truck with an empty weight in excess of seven thousand (7,000) pounds (70 C.W.T.) or special mobile equipment to stop, stand or park such vehicle or cause such vehicle to be stopped, stood or parked on any street or highway, alley or other public way within the City for a period in excess of four (4) hours at any time, except when such vehicle is being expeditiously loaded or unloaded or such mobile equipment is being used to perform the special operations for which it was designed.

- B. No person(s) shall park any tank truck(s), tank trailer(s), tank semi-trailer(s) or other truck(s) used to transport hazardous substances or materials upon the streets, alleys or public or private places within the City except when entirely empty and then only for a period not exceeding one hour. No person shall repair any cargo area or tank of such vehicles within this City except when such cargo area or tank of such vehicles are completely empty of flammable liquids, vapors, or hazardous substances or materials, and only after being thoroughly steamed or washed to remove all explosive vapors. No person shall park or allow to remain on this City's streets, alleys, or public property, or private property any tank truck, tank semi-trailer or tank trailer used for transporting liquefied petroleum or gas, whether loaded or empty, or any truck carrying hazardous substances, except when actually engaged in filling storage tanks or while under repair.
- C. No person shall park any motor vehicle or vehicle in excess of twenty-two feet (22') in length, or eight feet (8') in width, in the public right-of-way except when such motor vehicle is being expeditiously loaded or unloaded.
- D. No person shall park or permit to stand in any public right-of-way or on public property, any trailer or small trailer unless the trailer is connected to or attached to a motor vehicle in a manner to be towed. The vehicle and connected trailer shall not be parked in the public right-of-way for more than seventy-two (72) hours within any one week.
- E. No person shall permit any snowplow designed to be truck mounted which is not hooked up or otherwise attached to a motor vehicle in a manner to be used for its intended purpose, to be stored or parked on public streets or rights-of-way. All owners and/or operators of vehicles with snowplows attached shall not store them on public streets.
- F. No person shall store any truck or other vehicle loaded with trash, junk, weeds, tree branches or limbs in a public right-of-way.
- G. No person shall park or store any motor vehicle in a manner so as to obstruct the public sidewalk or right-of-way.
- H. No person shall park a vehicle in excess of any time limit established for parking at that location, which shall be the time limit for that day and that block.
- I. The owner of an inoperable motor vehicle, off-road vehicle, recreational vehicle or trailer, as well as the occupant and owner of the property where such a vehicle or any trailer is stored, shall be responsible for compliance with this Chapter.

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 11, Chapter 6, Section 2, of the Englewood Municipal Code 2000, to read as follows:

11-6-2: - Parking/Storage Regulations for Residential Districts.

- A. It shall be unlawful for any person to store a vehicle designed and used for recreation purposes, including, but not limited to, one or more recreational vehicles, motor homes, boats, campers, trailers used for carrying boats, hobby or derelict vehicles or racing cars, motorcycles and other equipment or motor vehicles upon the public right-of-way. The vehicle may be parked in the right-of-way for no more than seventy-two (72) hours within any one week while being expeditiously loaded or unloaded.
- B. No person shall park the following described vehicles on public or private property in residential areas except while making normal deliveries or being used to perform the special operations for which it is designed:
1. Any vehicle with an empty weight in excess of seven thousand (7,000) pounds (70 C.W.T.) excluding recreational vehicles.
 2. A road tractor, truck tractor or semi-trailer.
 3. A truck constructed or adapted for the purpose of transporting or delivery of bulk gasoline, petroleum products, or hazardous substances or materials.
 4. A tow truck or automobile wrecker.
 5. A church bus or school bus not used for school or church purposes.
- C. No person shall park or store any vehicle on private property in violation of the following restrictions:
1. No vehicle shall be parked in such a way as to block the sidewalk or any portion of the public sidewalk.
 2. No vehicle shall be parked in front of the front setback of the principal structure unless located on a concrete, brick paver, asphalt surface, gravel or other similarly finished hardened or dust free surface.
 3. In no case shall more than one commercial vehicle or recreational vehicle be parked or stored on property in any residential zone district, whether in a private garage or carport, in an off-street parking space or in an open-space area, and the size of said commercial vehicle shall not exceed empty vehicle weight of seven thousand (7,000) pounds (70 C.W.T.).
 4. Detached campers shall be stored in the area identified as the rear or side yard and shall be stored on blocks or supports not more than six inches (6") in height, or on its loading jacks or apparatus at their lowest limits. All loading equipment shall be in good repair.
 5. No person shall occupy any vehicle in violation of the following:
 - a. No motor vehicle or vehicles shall be occupied or used for living or housekeeping or sleeping purposes or for the housing and keeping of animals, except as provided in subsection (b) below;
 - b. Upon the application of a resident of the City, a special permit may be issued by the City for a nonresident journeying in a recreational vehicle used for housekeeping

purposes and who is visiting at the residence of the applicant, to occupy the recreational vehicle at the applicant's residence for not more than seven (7) days. The special permit shall specify the location of the applicant's property or adjacent right-of-way in which the recreational vehicle will be parked while occupied.

This shall not be deemed to permit the parking or storage of a detached camper, recreational vehicle, trailer or small trailer in any public street or right-of-way of any street designated as an arterial or collector street.

Section 4. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 15, Chapter 9, Section 2, of the Englewood Municipal Code 2000, to read as follows:

15-9-2: - Vehicles: Off-Road (ORV) and Trailers.

A. Recreational Vehicles, Off-Road Vehicles (ORV) and Trailers in All Residential Zone Districts.

1. No Recreational Vehicle, ORV or any type of trailer shall be stored within the front yard.
2. No person shall store or work on any Recreational Vehicle, ORV or any type of trailer within the front yard or in or on any public right-of-way, except that such vehicles may be temporarily maintained in the front yard, on a hard surface, for the purposes of transport, loading, unloading, or other temporary activities. Such transport, loading, unloading, or other temporary activities shall not exceed eight (8) hours per day.
3. One (1) ORV or trailer under three thousand five hundred (3,500) pounds, may be stored in a carport or a rear or side yard if it is on a hard surface. Any additional ORV or trailer under five thousand (5,000) pounds may be stored in the rear or side yard if it is on a hard surface and screened from view of adjacent properties and public rights-of-way.

B. Recreational Vehicles, Off-Road Vehicles (ORV) and Trailers in Zone Districts Other Than Residential (including TSA Districts and PUDs).

1. No Recreational Vehicle, off-road vehicle or trailer shall be stored unless it is on a hard surface, screened from view of adjacent properties and public rights-of-way or in a fully enclosed structure.
2. The provisions of this Section shall not apply to permitted and/or licensed Recreational Vehicle, ORV and trailer uses.

Section 5. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 6. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 7. Inconsistent Ordinances. 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.

Section 8. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood 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 purposes 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.

Section 9. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of September, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of September, 2011 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date: September 6, 2011	Agenda Item: 11 a vi	Subject: Proposed Amendment to the Englewood Municipal Code pertaining to 72-Hour Parking
Initiated By: Police Department	Staff Source: Gary Condreay, Commander	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

At the July 25, 2011 Study Session, City Council reviewed recommendations from the Code Enforcement Advisory Committee regarding proposed changes to the Englewood Municipal Code pertaining to hard surfaces, recreational vehicle parking, vehicle storage on properties without access to rear and side yards, sight triangles, vehicle weight limitations, and 72-hour parking.

RECOMMENDED ACTION

The Police Department recommends City Council approval of a bill for an ordinance authorizing proposed amendments to sections of the Englewood Municipal Code pertaining to 72-Hour Parking. Staff also requests that Council schedule a Public Hearing for Monday, September 19, 2011 to gather input on these proposed amendments.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In July of 2010 the Englewood Municipal Code sections related to hard surfaces, recreational vehicle parking, vehicle storage on properties without access to rear and side yards, sight triangles, vehicle weight limitations, and 72-hour parking were referred to the Code Enforcement Advisory Committee (CEAC) for recommendations. The CEAC spent several months discussing proposed amendments, and on July 25, 2011, the Committee met with City Council to discuss their recommendations.

The recommended amendments pertaining to 72-Hour Parking modify the regulations for recreational vehicles and trailers so that these vehicles can only be parked in the right-of-way for 72 hours within a two-week period rather than a one-week period.

FINANCIAL IMPACT

There are no financial impacts foreseen as a result of adoption of these proposed amendments.

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2011

COUNCIL BILL NO. 52
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 11, CHAPTER 6, SECTIONS 1 AND 2, OF THE ENGLEWOOD MUNICIPAL CODE 2000 PERTAINING TO 72 HOUR PARKING.

WHEREAS, in July of 2010 this issue was referred to the Code Enforcement Advisory Committee (CEAC) for recommendations; and

WHEREAS, on July 25, 2011, CEAC met with City Council and discussed their recommendations; and

WHEREAS, these ordinance amendments were sent to Planning and Zoning Commission (P&Z) for review of the amendments;

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 11, Chapter 6, Section 1, of the Englewood Municipal Code 2000, to read as follows:

11-6-1: - Parking/Storage Regulations in All Districts.

- A. It shall be unlawful for the operator or owner of an automobile transport trailer, road tractor, truck tractor, moving van, transit-mix concrete truck, trailer, semi-trailer or truck with an empty weight in excess of seven thousand (7,000) pounds (70 C.W.T.) or special mobile equipment to stop, stand or park such vehicle or cause such vehicle to be stopped, stood or parked on any street or highway, alley or other public way within the City for a period in excess of four (4) hours at any time, except when such vehicle is being expeditiously loaded or unloaded or such mobile equipment is being used to perform the special operations for which it was designed.
- B. No person(s) shall park any tank truck(s), tank trailer(s), tank semi-trailer(s) or other truck(s) used to transport hazardous substances or materials upon the streets, alleys or public or private places within the City except when entirely empty and then only for a period not exceeding one hour. No person shall repair any cargo area or tank of such vehicles within this City except when such cargo area or tank of such vehicles are completely empty of flammable liquids, vapors, or hazardous substances or materials, and only after being thoroughly steamed or washed to remove all explosive vapors. No person shall park or allow to remain on this City's streets, alleys, or public property, or private property any tank truck, tank semi-trailer or tank trailer used for transporting liquefied petroleum or gas, whether loaded or empty, or any truck carrying hazardous substances, except when actually engaged in filling storage tanks or while under repair.

- C. No person shall park any motor vehicle or vehicle in excess of twenty-two feet (22') in length, or eight feet (8') in width, in the public right-of-way except when such motor vehicle is being expeditiously loaded or unloaded.
- D. No person shall park or permit to stand in any public right-of-way or on public property, any trailer or small trailer unless the trailer is connected to or attached to a motor vehicle in a manner to be towed. The vehicle and connected trailer shall not be parked in the public right-of-way for more than seventy-two (72) hours ~~within any one week~~ within any consecutive fourteen (14) day period.
- E. No person shall permit any snowplow designed to be truck mounted which is not hooked up or otherwise attached to a motor vehicle in a manner to be used for its intended purpose, to be stored or parked on public streets or rights-of-way. All owners and/or operators of vehicles with snowplows attached shall not store them on public streets.
- F. No person shall store any truck or other vehicle loaded with trash, junk, weeds, tree branches or limbs in a public right-of-way.
- G. No person shall park or store any motor vehicle in a manner so as to obstruct the public sidewalk or right-of-way.
- H. No person shall park a vehicle in excess of any time limit established for parking at that location, which shall be the time limit for that day and that block.

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 11, Chapter 6, Section 2, of the Englewood Municipal Code 2000, to read as follows:

11-6-2: - Parking/Storage Regulations for Residential Districts.

- A. It shall be unlawful for any person to store a vehicle designed and used for recreation purposes, including, but not limited to, one or more motor homes, boats, campers, trailers used for carrying boats, hobby or derelict vehicles or racing cars, motorcycles and other equipment or motor vehicles upon the public right-of-way.
The vehicle may be parked in the right-of-way for no more than seventy-two (72) hours ~~within any one week~~ within any consecutive fourteen (14) day period while being expeditiously loaded or unloaded unless a permit is obtained under C(5)(b).
- B. No person shall park the following described vehicles on public or private property in residential areas except while making normal deliveries or being used to perform the special operations for which it is designed:
 1. Any vehicle with an empty weight in excess of seven thousand (7,000) pounds (70 C.W.T.).
 2. A road tractor, truck tractor or semi-trailer.
 3. A truck constructed or adapted for the purpose of transporting or delivery of bulk gasoline, petroleum products, or hazardous substances or materials.
 4. A tow truck or automobile wrecker.
 5. A church bus or school bus not used for school or church purposes.

- C. No person shall park or store any vehicle on private property in violation of the following restrictions:
1. No vehicle shall be parked in such a way as to block the sidewalk or any portion of the public sidewalk.
 2. No vehicle shall be parked in front of the front setback of the principal structure unless located on a concrete, brick paver, asphalt surface, gravel or other similarly finished hardened or dust free surface.
 3. In no case shall more than one commercial vehicle be parked or stored on property in any residential zone district, whether in a private garage or carport, in an off-street parking space or in an open-space area, and the size of said commercial vehicle shall not exceed empty vehicle weight of seven thousand (7,000) pounds (70 C.W.T.).
 4. Detached campers shall be stored in the area identified as the rear or side yard and shall be stored on blocks or supports not more than six inches (6) in height, or on its loading jacks or apparatus at their lowest limits. All loading equipment shall be in good repair.
 5. No person shall occupy any vehicle in violation of the following:
 - a. No motor vehicle or vehicles shall be occupied or used for living or housekeeping or sleeping purposes or for the housing and keeping of animals, except as provided in subsection (b) below;
 - b. Upon the application of a resident of the City, a special permit may be issued by the City for a nonresident journeying in a recreational vehicle used for housekeeping purposes and who is visiting at the residence of the applicant, to occupy the recreational vehicle at the applicant's residence for not more than seven (7) days. The special permit shall specify the location of the applicant's property or ~~adjacent~~ bordering public right-of-way ~~in~~ on which the recreational vehicle will be parked while occupied.

This shall not be deemed to permit the parking or storage of a detached camper, trailer or small trailer in any public street or right-of-way of any street designated as an arterial or collector street.

Section 3. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 4. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 5. Inconsistent Ordinances. 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.

Section 6. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood 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 purposes 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.

Section 7. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of September, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of September, 2011 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date: September 6, 2011	Agenda Item: 11 a vii	Subject: Proposed Amendment to the Englewood Municipal Code pertaining to Hard Surfaces
Initiated By: Police Department	Staff Source: Gary Condreay, Commander	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

At the July 25, 2011 Study Session, City Council reviewed recommendations from the Code Enforcement Advisory Committee regarding proposed changes to the Englewood Municipal Code pertaining to hard surfaces, recreational vehicle parking, vehicle storage on properties without access to rear and side yards, sight triangles, vehicle weight limitations, and 72-hour parking.

RECOMMENDED ACTION

The Police Department recommends City Council approval of a bill for an ordinance authorizing proposed changes to sections of the Englewood Municipal Code pertaining to the definition of hard surface. Staff also requests that Council schedule a Public Hearing for Monday, September 19, 2011 to gather input on these proposed amendments.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In July of 2010 the Englewood Municipal Code sections related to hard surfaces, recreational vehicle parking, vehicle storage on properties without access to rear and side yards, sight triangles, vehicle weight limitations, and 72-hour parking were referred to the Code Enforcement Advisory Committee (CEAC) for recommendations. The CEAC spent several months discussing proposed amendments, and on July 25, 2011, the Committee met with City Council to discuss their recommendations.

The proposed amendments were sent to Planning and Zoning Commission for a review of the amendments to Title 16. The Commission held a Public Hearing on August 16, 2011 and made subsequent recommendations to City Council.

The recommended amendments pertaining to hard surfaces provide a new definition of acceptable hard surface materials for residential driveways and parking areas.

FINANCIAL IMPACT

There are no financial impacts foreseen as a result of adoption of these proposed amendments.

LIST OF ATTACHMENTS

August 16, 2011 Planning & Zoning Commission Staff Report
August 16, 2011 Planning & Zoning Commission Findings of Fact
August 16, 2011 Planning & Zoning Commission Minutes
Proposed Bill for an Ordinance



C I T Y O F E N G L E W O O D
C O M M U N I T Y D E V E L O P M E N T

TO: Planning and Zoning Commission
FROM: Alan White, Community Development Director ✓
Tricia Langon, Senior Planner ✓
DATE: August 16, 2011
SUBJECT: Case # 2011-09: UDC Amendments related to Hard Surfaces, Vehicle Weight Limits, and Rear and Side Yard Access for Off-Road Vehicles and Trailers

RECOMMENDATION:

The Community Development Department requests that the Planning and Zoning Commission review, take public testimony, and forward to City Council a recommendation for adoption of proposed amendments to Title 16: Unified Development Code (UDC) related to Hard Surfaces, Vehicle Weight Limits, and Rear and Side Yard Access for Off-Road Vehicles and Trailers.

The topics will be presented to City Council as individual Ordinances so that each may be considered separately. The Department requests that the Commission conduct a single public hearing for the three topics but that a separate motion is made for each topic.

BACKGROUND:

The Commission may recognize the hard surface and vehicle weight issues from previous consideration. Conflicting hard surface standards occur in Titles 11, 15, and 16 of the Englewood Municipal Code. Conflicting vehicle weight limits occur in Titles 11 and 16. In 2008 the Commission reviewed proposed amendments to hard surface materials and vehicle weight, conducted a public hearing, and forwarded the following recommendations to Council:

- Driveways, parking pads, and loading spaces shall be of a hard, durable surface of concrete, asphalt, brick pavers, or similar alternate materials approved by the City. This standard would be used consistently among the three Titles.
- Maximum vehicle weight shall be increased from 6,000 pounds to 7,000 pounds to be consistent with Title 11 requirements.

Based on that recommendation amendments were introduced as Council Bill No. 79 at First Reading where Council set a public hearing date of December 1, 2008. Council conducted the public hearing; no members of the public spoke. On December 15, 2011 approximately fifteen members of the public spoke against the proposed amendments during Recognition of Unscheduled Public Comment. The majority of comments focused on grandfathering existing

driveways and the desire for gravel to be an allowed surfacing material. During consideration under Second Reading later in the meeting Council continued the issue to the following month to allow for a study session. On January 20, 2011, Council again considered the proposed amendments on Second Reading and voted to table Bill No. 79. (Note: Tabling of a Council Bill requires a three-quarter Council majority to bring the same Bill up again). The Bill was not raised again; however the Code Enforcement Advisory Committee (CEAC) extensively studied the issues.

The amendments currently proposed are Council directives provided during the July 18, 2011 study session based on recommendations of the Code Enforcement Advisory Committee. The recommendations address six topics related to the parking and/or storage of recreational and off-road vehicles and trailers. The six topics are:

1. Maximum vehicle weight limit.
2. Hard surface material for driveways and parking pads.
3. Parking and storage of vehicles on properties without access to a rear or side yard.
4. Parking regulations for recreational vehicles.
5. 72-hour parking limits.
6. Restrictions for driveway sight triangles.

The first three topics affect various sections of the UDC and require UDC amendments which are outlined in this Staff Report. The Commission's role is to review, take public testimony, and provide recommendations on the proposed UDC (Title 16) amendments only. Topics 4 - 6 do not require amendments to the Unified Development Code; however they are related topics and are included in this Staff Report for background and informational purposes. They are proposed amendments to Title 11: *Public Ways and Property* and Title 15: *Health, Sanitation, and Environmental Protection* (commonly referred to as the "Nuisance Code"). The Commission does not have authority to amend these Titles. Proposed amendments to Titles 11 and 15 have been placed in a text box and shaded in gray to distinguish them from the Title 16 amendments over which the Commission does have review authority.

ANALYSIS:

As noted above, the six amendment topics will be presented to City Council as six individual Ordinances so that each may be considered separately. The three topics presented for Commission review are also addressed separately in this Report; therefore some material may overlap and be repeated under a different topic without the proposed amendments from other sections.

PROPOSED AMENDMENTS:

The proposed amendments are intended to standardize terms and requirements among Titles 11, 15, and 16. The three topics follow and are arranged as follows:

- Overview
- Title 16 Issues
- Community Development Department Recommendations,

followed by the text of Proposed UDC Amendments and the related proposed Title 11 and/or Title 15 amendments (text box with gray background).

1. VEHICLE WEIGHT LIMITS

- Overview: The maximum vehicle weight in the UDC is 6,000 pounds and is used in two sections.
 1. Prohibits any vehicle greater than 6,000 pounds from being parked in an R-2-B zone where parking is allowed in the rear twenty-five feet of a residential lot that is across the alley from a business district.
 2. Prohibits any commercial vehicle greater than 6,000 pounds from being stored in any residential district. (Note: One commercial vehicle less than 6,000 pounds may be stored on residential property).

This maximum allowed vehicle weight differs from the current Title 11 figure of 7,000 pounds. As with the 2008 amendments the CEAC proposed to Council that the figure be standardized between the two Titles. However CEAC proposes that the figure be raised to 10,000 pounds. This figure comes from vehicle classifications used by the Department of Transportation. The first two classes include passenger cars, light trucks and vans and end at 9,999 pounds. The next class includes commercial vehicles of various types beginning at 10,000 pounds. The State uses the 10,000 pound figure in its definition of commercial vehicle. Since 7,000 is an arbitrary number attached to vehicle size with no supporting rationale the recommendation was made to be consistent with the State. Further, the increase to 10,000 pounds updates the figure to a more realistic weight of many larger pickup trucks and other personal vehicle size sold today. This limitation shall not apply to recreational vehicles which are addressed elsewhere.

- Title 16 Issues: The proposed UDC amendment for maximum vehicle weight is consistent with the State standards and other City Codes.
- Community Development Department Recommendation:

16-5-4:C2a(7) – ACCEPT:

This amendment is necessary as the vehicle weight limit is a specific condition allowing an adjacent business' employees and customers to park in a residential district.

16-5-4:D2c - AMEND by deleting items c1, c2 and c3

All items under "c" are already included in Title 11 and therefore are redundant in Title 16. Repeating them here is redundant and could lead to confusion if one Code is amended in the future and the other is not. More importantly this places regulations for the parking and storage of vehicles, whether commercial or not, within Title 11 under the jurisdiction of the Code Division under the Police Department. This change simplifies enforcement and removes redundant language while maintaining the desired zoning effect. How or where a vehicle is parked should be centrally controlled under a single Code. The redundant subsections are:

16-5-4:D2c1	same material as	11-6-2:C3
16-5-4:D2c2	same material as	11-6-2:B2
16-5-4:D2c3	same material as	11-6-2:B1

Proposed UDC Amendments

16-5-4: Accessory Uses.

C. *Accessory Uses Permitted.* Table 16-5-1.1 includes accessory uses and shows in which zoning district a specific accessory use is permitted. If an accessory use is not listed in Table 16-5-1.1, but satisfies all the general standards set forth in subsection 16-5-4.B EMC, the City Manager or designee may allow its establishment according to the procedures and criteria in Section 16-5-1.B EMC, "Unlisted Uses." In addition, all unlisted accessory uses shall be subject to compliance with the general, dimensional, and operational standards set forth in this Section 16-5-4 EMC.

2. Parking Area, Surface.

a. *Parking Area, Surface (R-2-B District Only).* When an R-2-B district abuts or is adjacent to a MU-B-2 district, the portion of the lot adjacent to the business district may be used as a parking area by any commercial establishment to a depth of twenty-five feet (25') if the following conditions are met:

- (1) The parking area must be screened from the residential portion of the lot by a six foot (6') opaque fence. Side yard fences must also be provided to screen adjacent property. These fences shall also be six feet (6') in height except that, within ten feet (10') of the rear property line, the fences cannot exceed thirty inches (30") in height or be less than fifty percent (50%) open.
- (2) The paved parking area must be of hard surface to prevent the movement of dirt and debris from the parking area onto the public right-of-way.
- (3) Parking stops or other devices allowing snowfall maintenance must be placed in the parking area to prevent damage to the fence by vehicles.
- (4) Provisions must be made for the collection of trash as per City ordinance.
- (5) The final design of the parking area must be approved by the City Manager or designee.
- (6) No storage of vehicles is permitted and the lot is to be used solely for the parking of employees or customers.
- (7) No vehicles in excess of ~~seven~~ ten thousand (~~7,000~~ 10,000) pounds may be parked in the parking area.
- (8) The minimum width of the parking area shall be fifty feet (50').
- (9) The City Manager or designee may deny the use of any lot as a parking area if the above provisions are not met or if conditions are unsafe. The ruling may be appealed to the Board.

D. *Prohibited Accessory Uses.*

2. Prohibited in Residential Zoning Districts. The following activities shall not be regarded as accessory to a residential principal use and are prohibited in all residential (R) districts:

a. *Automotive Repair.* Automotive repair, including engine, body, or other repair or repainting of more than one (1) vehicle at any one time owned by a person not residing at that address, regardless of whether compensation was paid for the service.

b. *Outdoor Storage of Inoperative Vehicles.* The outdoor storage of inoperable vehicles shall comply with Title 15 EMC.

c. *Parking of Commercial Vehicles.*

(1) In no event shall more than one (1) commercial vehicle be stored on property in any residential zone district, whether in a private garage or carport, in an off-street parking space, or in an open-space area. The size of such commercial vehicles shall not exceed vehicle weight of ~~six~~ ten thousand (~~6,000~~ 10,000) pounds (~~60~~ c.w.t.).

(2) For the purpose of this Section, a road tractor or truck tractor shall not be deemed a commercial vehicle, and no road tractor or truck tractor shall be parked or stored in any residential zone district.

(3) No commercial vehicle shall be stored on public property or in the public right-of-way.

[The following Sections of Title 11 are provided for informational and comparison purposes]

11-6-1: - Parking/Storage Regulations in All Districts.

A. It shall be unlawful for the operator or owner of an automobile transport trailer, road tractor, truck tractor, moving van, transit-mix concrete truck, trailer, semi-trailer or truck with an empty weight in excess of ~~seven~~ ten thousand (~~7,000~~ 10,000) pounds (~~70~~ C.W.T.) or special mobile equipment to stop, stand or park such vehicle or cause such vehicle to be stopped, stood or parked on any street or highway, alley or other public way within the City for a period in excess of four (4) hours at any time, except when such vehicle is being expeditiously loaded or unloaded or such mobile equipment is being used to perform the special operations for which it was designed.

B. No person(s) shall park any tank truck(s), tank trailer(s), tank semi-trailer(s) or other truck(s) used to transport hazardous substances or materials upon the streets, alleys or public or private places within the City except when entirely empty and then only for a period not exceeding one hour. No person shall repair any cargo area or tank of such vehicles within this City except when such cargo area or tank of such vehicles are completely empty of flammable liquids, vapors, or hazardous substances or materials, and only after being thoroughly steamed or washed to remove all explosive vapors. No person shall park or allow to remain on this City's streets, alleys, or public property, or private property any tank truck, tank semi-trailer or tank trailer used for transporting liquefied petroleum or gas, whether loaded or empty, or any truck carrying hazardous substances, except when actually engaged in filling storage tanks or while under repair.

- C. No person shall park any motor vehicle or vehicle in excess of twenty-two feet (22') in length, or eight feet (8') in width, in the public right-of-way except when such motor vehicle is being expeditiously loaded or unloaded.
- D. No person shall park or permit to stand in any public right-of-way or on public property, any trailer or small trailer unless the trailer is connected to or attached to a motor vehicle in a manner to be towed. The vehicle and connected trailer shall not be parked in the public right-of-way for more than seventy-two (72) hours within any one week.
- E. No person shall permit any snowplow designed to be truck mounted which is not hooked up or otherwise attached to a motor vehicle in a manner to be used for its intended purpose, to be stored or parked on public streets or rights-of-way. All owners and/or operators of vehicles with snowplows attached shall not store them on public streets.
- F. No person shall store any truck or other vehicle loaded with trash, junk, weeds, tree branches or limbs in a public right-of-way.
- G. No person shall park or store any motor vehicle in a manner so as to obstruct the public sidewalk or right-of-way.
- H. No person shall park a vehicle in excess of any time limit established for parking at that location, which shall be the time limit for that day and that block.

11-6-2: - Parking/Storage Regulations for Residential Districts.

- A. It shall be unlawful for any person to store a vehicle designed and used for recreation purposes, including, but not limited to, one or more motor homes, boats, campers, trailers used for carrying boats, hobby or derelict vehicles or racing cars, motorcycles and other equipment or motor vehicles upon the public right-of-way.

The vehicle may be parked in the right-of-way for no more than seventy-two (72) hours within any one week while being expeditiously loaded or unloaded.

- B. No person shall park the following described vehicles on public or private property in residential areas except while making normal deliveries or being used to perform the special operations for which it is designed:
 1. Any vehicle with an empty weight in excess of ~~seven~~ ten thousand (7,000 10,000) pounds (~~70~~ C.W.T.). This limitation shall not apply to recreational vehicles.
 2. A road tractor, truck tractor or semi-trailer.
 3. A truck constructed or adapted for the purpose of transporting or delivery of bulk gasoline, petroleum products, or hazardous substances or materials.
 4. A tow truck or automobile wrecker.
 5. A church bus or school bus not used for school or church purposes.

C. No person shall park or store any vehicle on private property in violation of the following restrictions:

1. No vehicle shall be parked in such a way as to block the sidewalk or any portion of the public sidewalk.
2. No vehicle shall be parked in front of the front setback of the principal structure unless located on a concrete, brick paver, asphalt surface, gravel or other similarly finished hardened or dust free surface.
3. In no case shall more than one commercial vehicle be parked or stored on property in any residential zone district, whether in a private garage or carport, in an off-street parking space or in an open-space area, and the size of said commercial vehicle shall not exceed empty vehicle weight of seven ten thousand (7,000 10,000) pounds (70 C.W.T.).
4. Detached campers shall be stored in the area identified as the rear or side yard and shall be stored on blocks or supports not more than six inches (6") in height, or on its loading jacks or apparatus at their lowest limits. All loading equipment shall be in good repair.
5. No person shall occupy any vehicle in violation of the following:
 - a. No motor vehicle or vehicles shall be occupied or used for living or housekeeping or sleeping purposes or for the housing and keeping of animals, except as provided in subsection b below;
 - b. Upon the application of a resident of the City, a special permit may be issued by the City for a nonresident journeying in a recreational vehicle used for housekeeping purposes and who is visiting at the residence of the applicant, to occupy the recreational vehicle at the applicant's residence for not more than seven (7) days. The special permit shall specify the location of the applicant's property or adjacent right-of-way in which the recreational vehicle will be parked while occupied.

2. HARD SURFACES

- Overview: With the adoption of the UDC in 2004, all new residential driveways and parking pads were required to be installed with a durable hard surface material: gravel was a prohibited material. The list of permitted materials was later amended and gravel remained a prohibited material for new driveway or parking pad construction. The current definition of hard surface relative to driveways and parking pads is:

A durable surface of concrete, asphalt, exposed aggregate, brick pavers, or similar alternate materials approved by the City.

This same definition is used in Title 15 but conflicts with Title 11 which prohibits storage in the front yard of recreational vehicles (motor homes, boats, campers, trailers used for carrying boats, hobby or derelict vehicles or racing cars, motorcycles and other equipment or motor vehicles) unless located on concrete, brick paver, asphalt surface, **gravel** or other similarly finished hardened or dust free surface.

The 2008 amendment recommended by the Commission standardized the definition of hard surface among the three Titles and prohibited the use of gravel for new construction. As previously noted this change was mistakenly seen as requiring existing driveways to be updated to an approved hard surface material.

The CEAC recommendation also standardizes allowed hard surface materials among the three Titles but allows the use of gravel. Council accepted the CEAC’s recommendation for the thickness of materials (based on City of Littleton’s requirements) as:

Concrete, asphalt	sufficient to support weight of parked vehicles
Brick, concrete or stone pavers	2¼"
Crushed hard rock	3½"

Council further directed that when crushed hard rock is used for new driveways and parking pads that a weed barrier be installed and that the nominal gravel size be ¾".

This Ordinance also established a grandfather clause stating that existing gravel driveways and parking pads may remain and may be maintained until a site plan affecting the driveway (new construction, re-installation, expansion, alteration, surfacing, or resurfacing) is required under 16-2-9(A) EMC.

- Title 16 Issues: The proposed UDC amendment for hard surface occurs in three Sections all of which either describe or define allowed hard surface materials and would be consistent with Titles 11 and 15.
 1. Use of the words "should" and "will" make the requirements advisory regulations where compliance is not mandatory but is strongly encouraged. It is suggested that both terms be replaced with "shall" so that the requirements are mandatory. Without this change, enforcement of the size of the gravel or prohibited materials is not possible.

2. Also in question are the phrases "of sufficient thickness to support the weight of parked vehicles" and "adequate weed barrier". These adjectives are not able to be measured and make review and enforcement difficult.
3. Establishing mandatory requirements for minimum material size, thickness, depth, etc. requires enforcement through some type of review for compliance. Currently a Zoning Site Plan Review (over the counter, administrative review by Community Development at no fee) is required for installation of a driveway or parking pad. A *permit* has benefits over a *zoning site plan review* because it has the built in functions of review and inspection as well as the option to issue a correction notice or stop work order if work is incorrectly done. The site plan review does not have these features. It is suggested that a more formalized accessory permit issued through the Building Division be considered so that it is centrally issued, appropriate fees collected, routed to affected departments for review, inspections performed and follow-up completed.
4. New driveways or parking pads would require at least 2 inspections; a preliminary inspection for weed barrier and road base, and a final for the surface material. This places additional responsibility and time constraints on Development Review staff.
5. Use of an accessory permit or the Zoning Site Plan Review process requires amending 16-2-9:A. Currently only a Site Plan Review is required for "construction, re-installation, expansion, alteration, surfacing, or resurfacing of a parking area or residential driveway".

- Community Development Department Recommendations

16-6-4:O, 16-6-10:B5d(4) and 16-11-2:B – AMEND guideline statements to mandatory regulations by replacing "should" and "will" with shall.

Grandfather Clause - AMEND to include site plans that affect *parking areas*, as follows:

A gravel driveway or parking pad existing prior to _____ shall be allowed to remain unless or until a site plan is required under 16-2-9(A) EMC which affects the driveway or parking area. Maintenance of a grandfathered driveway is specifically allowed and shall not be considered as an "alternative" or "resurfacing" under 16-2-9(A)(3) EMC.

If an accessory permit process is utilized, AMEND 16-2-9: Zoning Site Plan Review.

Proposed UDC Amendments

16-6-4: Off-Street Parking and Loading Requirements.

O. Surface Cover. Off-street parking and loading spaces shall be of a ~~hard surface, either paved with asphalt, concrete or brick pavers, except that the City may approve the use of alternate dust-free surfacing materials (e.g., chip seal surfacing)~~ to serve a principal permitted residential use.

concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or

crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three-quarters inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed shale, recycled concrete or asphalt or other similar materials will not be used.

16-6-10: Design Standards and Guidelines.

B. Residential Design Standards.

5. Front Lot Coverage/Residential Driveway and Parking Pad Standards.

d. Standards for Residential Driveways and Parking Pads within the Front Yard or Setback Area.

- (1) Relationship to and Conflict with Similar Provisions. The general residential driveway standards in Section 16-6-3 EMC, above shall apply to residential development, except that if this subsection's residential driveway standards conflict with the standards in Section 16-6-3 EMC, this subsection's standards shall control and apply.
- (2) Zoning Site Plan Review Required. All new construction, surfacing or resurfacing, alteration, expansion, or re-installation of a residential driveway or parking pad shall require Zoning Site Plan review (see Section 16-2-9 EMC) prior to the start of work.
- (3) The Use of Parking Pads in Conjunction with Driveways. The use of parking pads in conjunction with driveways is discouraged but not prohibited. However, in no case shall the total width of any combination of parking pad and driveway exceed twenty feet (20').
- (4) Permitted Driveway and Parking Pad Paving Materials. Residential driveways and parking pads shall be improved with a durable hard surface approved by the City. ~~Surfacing materials that may be used include concrete, exposed aggregate, and asphalt.~~ concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three-quarters inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed shale, recycled concrete or asphalt or other similar materials will not be used. ~~Prohibited materials include dirt, gravel, crushed concrete, and Grasserete.~~ Zoning Site Plan review (see Section 16-2-9) is required prior to the start of any residential driveway or parking pad surfacing.

(5) Hollywood Driveways Prohibited. Hollywood driveways are prohibited.

16-11-2: Definition of Words, Terms, and Phrases.

B. Definition of Words, Terms, and Phrases.

Hard Surface: As related to driveways, parking, and loading areas, "hard surface" means a durable surface of concrete, asphalt, exposed aggregate, brick pavers, or similar alternate materials approved by the City. concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three-quarters inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed shale, recycled concrete or asphalt or other similar materials will not be used.

[The following Sections of Titles 11 and 15 are provided for informational and comparison purposes]

11-6-2: - Parking/Storage Regulations for Residential Districts.

A. It shall be unlawful for any person to store a vehicle designed and used for recreation purposes, including, but not limited to, one or more motor homes, boats, campers, trailers used for carrying boats, hobby or derelict vehicles or racing cars, motorcycles and other equipment or motor vehicles upon the public right-of-way.

The vehicle may be parked in the right-of-way for no more than seventy-two (72) hours within any one week while being expeditiously loaded or unloaded.

B. No person shall park the following described vehicles on public or private property in residential areas except while making normal deliveries or being used to perform the special operations for which it is designed:

1. Any vehicle with an empty weight in excess of seven thousand (7,000) pounds (70 C.W.T.).
2. A road tractor, truck tractor or semi-trailer.
3. A truck constructed or adapted for the purpose of transporting or delivery of bulk gasoline, petroleum products, or hazardous substances or materials.
4. A tow truck or automobile wrecker.
5. A church bus or school bus not used for school or church purposes.

C. No person shall park or store any vehicle on private property in violation of the following restrictions:

1. No vehicle shall be parked in such a way as to block the sidewalk or any portion of the public sidewalk.
2. No vehicle shall be parked in the front yard of the front setback of the principal structure unless located on a concrete, brick paver, asphalt surface, gravel or other similarly finished hardened or dust free surface.

concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three-quarter inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed shale, recycled concrete or asphalt or other similar materials will not be used.

3. In no case shall more than one commercial vehicle be parked or stored on property in any residential zone district, whether in a private garage or carport, in an off-street parking space or in an open-space area, and the size of said commercial vehicle shall not exceed empty vehicle weight of seven thousand (7,000) pounds (70 C.W.T.).
4. Detached campers shall be stored in the area identified as the rear or side yard and shall be stored on blocks or supports not more than six inches (6") in height, or on its loading jacks or apparatus at their lowest limits. All loading equipment shall be in good repair.
5. No person shall occupy any vehicle in violation of the following:
 - a. No motor vehicle or vehicles shall be occupied or used for living or housekeeping or sleeping purposes or for the housing and keeping of animals, except as provided in subsection b below;
 - b. Upon the application of a resident of the City, a special permit may be issued by the City for a nonresident journeying in a recreational vehicle used for housekeeping purposes and who is visiting at the residence of the applicant, to occupy the recreational vehicle at the applicant's residence for not more than seven (7) days. The special permit shall specify the location of the applicant's property or adjacent right-of-way in which the recreational vehicle will be parked while occupied.

This shall not be deemed to permit the parking or storage of a detached camper, trailer or small trailer in any public street or right-of-way of any street designated as an arterial or collector street.

15-1-2: Definitions

Hard Surface: A surface as defined in 16-11-2(B) EMC. of concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three-quarter inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed shale, recycled concrete or asphalt or other similar materials will not be used.

Grandfather Clause

Section 6 Grandfather Clause A gravel driveway or parking pad existing prior to shall be allowed to remain unless or until a site plan is required under 16-2-9(A) EMC which affects the driveway. Maintenance of a grandfathered driveway is specifically allowed and shall not be considered as an "alternative" or "resurfacing" under 16-2-9(A)(3) EMC.

3. REAR AND SIDE ACCESS

- Overview: Proposed amendments in this Ordinance pertain to where and how Off-Road Vehicles (ORV) and trailers are stored or parked in a residential zone. Pursuant to current Title 15 requirements, ORVs and trailers are prohibited from being stored in the front yard. One OVR or trailer may be stored in the rear or side yard if on a hard surface. As the Commission is aware, some properties in the City do not have access to the rear of the property (no alley) and some homes are built to a previously allowed three foot side setback. In both cases parking an ORV or trailer in the required side or rear yard is not possible. To remedy this, CEAC proposes an exception to Title 15 allowing storage of ORVs and trailers in the front yard when there is not reasonable access to the side or rear yard. Administration of the review process and determination of reasonable access is fully within Title 15. However, the Committee recommends an appeal process through the Board of Adjustment and Appeals. Therefore an amendment to the Board's review role contained in 16-2-1:C1b(1) is required to grant the Board authority to hear such an appeal.
- Title 16 Issues: An appeal to the City Manager's or Traffic Engineer's decision regarding reasonable access would be handled similarly to appeals to the Chief Building Official's decisions regarding the Building Code. Community Development would process the application, schedule the hearing and publish the notice. However, because the appeal is to a Title 15 regulation, it is the responsibility of Police Department, Code Division to prepare the staff report and present the case at the hearing.
- Community Development Department Recommendation:
16-2-1:C1b(1) – Accept as written.

Proposed UDC Amendments

16-2-1: Administrative and Review Roles.

C. Board of Adjustment and Appeals.

1. Administrative and Review Roles Under this Title. The Board of Adjustment and Appeals ("Board") shall have the following responsibilities in administering this Title:
 - a. *Appeals from Building Permit Denials. The Board shall have power to hear and determine appeals from refusal of building permits.*
 - b. *Administrative Appeals. In addition to such other jurisdiction as authorized by law, the Board shall have the jurisdiction and power:*
 - (1) To hear and decide appeals from and to review any order, requirement, decision, or determination by the Chief Building Official or any employee in the enforcement of this Title, or similar Uniform Codes adopted by the City, except the Model Traffic Code; or by the City Manager or designee or Traffic Engineer under 15-9-2 (A)(4 EMC) and to hear and decide all matters referred to it, or upon which it is required to pass under this Title or any amendment hereto.

- (2) In deciding upon appeals, the Board may reverse or affirm, wholly or partly, or modify any notice, order, requirement, decision, or determination of any employee of the City in the enforcement of this Title, and to make such order, requirement, decision or determination as in its opinion ought to be made and, to that end, shall have all the powers of the enforcing agent.

[The following Sections of Title 15 are provided for informational and comparison purposes]

15-9-2: - Vehicles: Off-Road (ORV) and Trailers.

A. Off-Road Vehicles (ORV) and Trailers in All Residential Zone Districts.

1. No ORV or any type of trailer shall be stored within the front yard.
2. No person shall store or work on any ORV or any type of trailer within the front yard or in or on any public right-of-way, except that such vehicles may be temporarily maintained in the front yard, on a hard surface, for the purposes of transport, loading, unloading, or other temporary activities. Such transport, loading, unloading, or other temporary activities shall not exceed eight (8) hours per day.
3. One (1) ORV or trailer under three thousand five hundred (3,500) pounds, may be stored in a carport or a rear or side yard if it is on a hard surface. Any additional ORV or trailer under five thousand (5,000) pounds may be stored in the rear or side yard if it is on a hard surface and screened from view of adjacent properties and public rights-of-way.
4. An exception to the requirement that these items located above must be stored in the rear or side yard may be made for those properties where there is no reasonable access, as defined, from public property to the rear yard.
 - a. for purposes of this Title, a lack of reasonable access shall be determined by the City Manager or designee on a case by case basis as to whether the obstruction which prevents access to the rear yard makes it physically impossible to access the rear yard without extensive construction or site modification.
 - (1) by way of example but not limitation, a solid privacy or chain link fence, small trees, small shrubs, flowers, etc. which are removable will not be considered a lack of "reasonable access" to the rear or side yard. Masonry walls, large trees or permanent structures may be considered an obstruction to "reasonable access."
 - (a) small trees shall be defined as deciduous or evergreen trees with a caliper measurement of six inches (6") or less. The caliper shall be measured at a point four feet (4') above the grade.
 - b. the reasonableness of the City Manager or designee's decision is appealable to the Board of Adjustment and Appeals as provided in 16-2-1(C) EMC.
 - c. the property must have a legal curb cut and driveway from the public street.
5. The exception listed in paragraph 4 above shall not apply to properties located in Arapahoe Acres or Hampden Hills subdivisions.

B. Off-Road Vehicles (ORV) and Trailers in Zone Districts Other Than Residential (including TSA Districts and PUDs).

1. No off-road vehicle or trailer shall be stored unless it is on a hard surface, screened from view of adjacent properties and public rights-of-way or in a fully enclosed structure.
2. The provisions of this Section shall not apply to permitted and/or licensed ORV and trailer uses.

Summary of Community Development Recommendations by Topic

The following is a summary of the Department's recommendations to assist in developing Commission motions on each topic. Each Title 16 amendment is written as proposed by the CEAC with the Department's further amendments in red.

VEHICLE WEIGHT LIMIT:

(1) Accept 16-5-4:C2a(7) as written:

16-5-4: Accessory Uses

C. *Accessory Uses Permitted.* Table 16-5-1.1 includes accessory uses and shows in which zoning district a specific accessory use is permitted. If an accessory use is not listed in Table 16-5-1.1, but satisfies all the general standards set forth in subsection 16-5-4.B EMC, the City Manager or designee may allow its establishment according to the procedures and criteria in Section 16-5-1.B EMC, "Unlisted Uses." In addition, all unlisted accessory uses shall be subject to compliance with the general, dimensional, and operational standards set forth in this Section 16-5-4 EMC.

2. Parking Area, Surface.

a. *Parking Area, Surface (R-2-B District Only).* When an R-2-B district abuts or is adjacent to a MU-B-2 district, the portion of the lot adjacent to the business district may be used as a parking area by any commercial establishment to a depth of twenty-five feet (25') if the following conditions are met:

(7) No vehicles in excess of ~~seven~~ ten thousand (~~7,000~~ 10,000) pounds may be parked in the parking area.

(2) Amend 16-5-4:D2 by deleting items c1, c2 and c3

16-5-4: Accessory Uses

D. *Prohibited Accessory Uses.*

2. Prohibited in Residential Zoning Districts. The following activities shall not be regarded as accessory to a residential principal use and are prohibited in all residential (R) districts:

a. *Automotive Repair.* Automotive repair, including engine, body, or other repair or repainting of more than one (1) vehicle at any one time owned by a person not residing at that address, regardless of whether compensation was paid for the service.

b. *Outdoor Storage of Inoperative Vehicles.* The outdoor storage of inoperable vehicles shall comply with Title 15 EMC.

c. ~~Parking of Commercial Vehicles.~~

- (1) ~~In no event shall more than one (1) commercial vehicle be stored on property in any residential zone district, whether in a private garage or carport, in an off-street parking space, or in an open-space area. The size of such commercial vehicles shall not exceed vehicle weight of six ten thousand (6,000 10,000) pounds (60 c.w.t.).~~
- (2) ~~For the purpose of this Section, a road tractor or truck tractor shall not be deemed a commercial vehicle, and no road tractor or truck tractor shall be parked or stored in any residential zone district.~~
- (3) ~~No commercial vehicle shall be stored on public property or in the public right-of-way.~~

HARD SURFACES

- (1) Amend 16-6-4:O to read:

16-6-4: Off-Street Parking and Loading Requirements.

O. *Surface Cover.* ~~Off-street parking and loading spaces shall be of a hard surface, either paved with asphalt, concrete or brick pavers, except that the City may approve the use of alternate dust-free surfacing materials (e.g., chip seal surfacing) to serve a principal permitted residential use. concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should shall have a nominal gradation of three-quarters inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed shale, recycled concrete or asphalt or other similar materials will shall not be used.~~

- (2) 16-6-10:B5d(4) to read:

16-6-10: Design Standards and Guidelines.

B. Residential Design Standards.

5. Front Lot Coverage/Residential Driveway and Parking Pad Standards.

- d. *Standards for Residential Driveways and Parking Pads within the Front Yard or Setback Area.*

- (1) Relationship to and Conflict with Similar Provisions. The general residential driveway standards in Section 16-6-3 EMC, above shall apply to residential development, except that if this subsection's residential driveway standards conflict with the standards in Section 16-6-3 EMC, this subsection's standards shall control and apply.
- (2) Zoning Site Plan Review Required. All new construction, surfacing or resurfacing, alteration, expansion, or re-installation of a residential driveway or parking pad shall require Zoning Site Plan review (see Section 16-2-9 EMC) prior to the start of work.
- (3) The Use of Parking Pads in Conjunction with Driveways. The use of parking pads in conjunction with driveways is discouraged but not prohibited. However, in no case shall the total width of any combination of parking pad and driveway exceed twenty feet (20').
- (4) Permitted Driveway and Parking Pad Paving Materials. Residential driveways and parking pads shall be improved with ~~a durable hard surface approved by the City. Surfacing materials that may be used include concrete, exposed aggregate, and asphalt.~~ concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should shall have a nominal gradation of three-quarters inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed shale, recycled concrete or asphalt or other similar materials will shall not be used. Prohibited materials include dirt, gravel, crushed concrete, and Grasserete. Zoning Site Plan review (see Section 16-2-9) is required prior to the start of any residential driveway or parking pad surfacing.
- (5) Hollywood Driveways Prohibited. Hollywood driveways are prohibited.

(3) Amend 16-11-2:B Hard Surface to read:

16-11-2: Definition of Words, Terms, and Phrases.

B. *Definition of Words, Terms, and Phrases.*

Hard Surface: As related to driveways, parking, and loading areas, "hard surface" means ~~a durable surface of concrete, asphalt, exposed aggregate, brick pavers, or similar alternate materials approved by the City.~~ concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two

and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should shall have a nominal gradation of three-quarters inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed shale, recycled concrete or asphalt or other similar materials will shall not be used.

- (4) Amend 16-2-9: Zoning Site Plan Review to require a Permit rather than a site plan review.

16-2-9: Zoning Site Plan Review.

- A. *Applicability.* No land shall be used, occupied, or developed for any use without complying with the Zoning Site Plan requirements and procedures provided in this Section, as applicable. A Zoning Site Plan shall be required for:
1. The commencement of all development, improvement, or construction requiring a building permit, except for interior remodel and tenant finish.
 2. The construction or expansion of fences, walls, and accessory structures (e.g., garages, carports, storage sheds, decks) in all zone districts, including decks less than thirty inches (30") in height and accessory structures containing less than one hundred twenty (120) square feet in floor area that do not otherwise require a building permit.
 3. The construction, re-installation, expansion, alteration, surfacing, or resurfacing of a residential driveway. An Accessory Permit shall also be required.
 4. Accessory uses, not including home occupations, marked as "A" in the applicable table cell in Table 16-5-1.1, "Table of Allowed Uses".
 5. The construction, re-installation, expansion, alteration, surfacing, or resurfacing of a parking area. An Accessory Permit shall also be required.

- (5) Amend the proposed Grandfather Clause contained in the Bill for an Ordinance to include parking areas to read as:

A gravel driveway or parking pad existing prior to _____ shall be allowed to remain unless or until a site plan is required under 16-2-9(A) EMC which affects the driveway or parking area. Maintenance of a grandfathered driveway is specifically allowed and shall not be considered as an "alternative" or "resurfacing" under 16-2-9(A)(3) EMC.

REAR AND SIDE ACCESS

(1) Accept 16-2-1:C1b(1) as written:

16-2-1: Administrative and Review Roles.*C. Board of Adjustment and Appeals.*

1. Administrative and Review Roles Under this Title. The Board of Adjustment and Appeals ("Board") shall have the following responsibilities in administering this Title:
 - a. *Appeals from Building Permit Denials. The Board shall have power to hear and determine appeals from refusal of building permits.*
 - b. *Administrative Appeals. In addition to such other jurisdiction as authorized by law, the Board shall have the jurisdiction and power:*
 - (1) To hear and decide appeals from and to review any order, requirement, decision, or determination by the Chief Building Official or any employee in the enforcement of this Title, or similar Uniform Codes adopted by the City, except the Model Traffic Code; or by the City Manager or designee or Traffic Engineer under 15-9-2 (A)(4 EMC) and to hear and decide all matters referred to it, or upon which it is required to pass under this Title or any amendment hereto.

CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION

IN THE MATTER OF CASE #2011- 09,)
FINDINGS OF FACT, CONCLUSIONS)
AND RECOMMENDATIONS RELATING) FINDINGS OF FACT AND
TO THE UNIFIED DEVELOPMENT CODE) CONCLUSIONS OF THE
HARD SURFACE, VEHICLE WEIGHT) CITY PLANNING AND
LIMIT AND REAR AND SIDE YARD) ZONING COMMISSION
ACCESS FOR OFF-ROAD VEHICLES AND)
TRAILERS AMENDMENTS)
INITIATED BY:)
Community Development Department)
1000 Englewood Parkway)
Englewood, CO 80110)

Commission Members Present: Bleile, Kinton, Brick, Knoth, Roth, Fish

Commission Members Absent: Calonder, King, Welker

This matter was heard before the City Planning and Zoning Commission on August 16, 2011 in the City Council Chambers of the Englewood Civic Center.

Testimony was received from staff and the public. The Commission received notice of Public Hearing, the Staff Report, and a copy of the proposed amendments to Title 16 Unified Development Code which were incorporated into and made a part of the record of the Public Hearing.

After considering the statements of the witnesses, and reviewing the pertinent documents, the members of the City Planning and Zoning Commission made the following Findings and Conclusions.

FINDINGS OF FACT

1. **THAT** the Public Hearing on the Unified Development Code Hard Surface, Vehicle Weight Limit and Rear and Side Yard Access for Off-Road Vehicles and Trailers Amendments was brought before the Planning Commission by the Department of Community Development, a department of the City of Englewood.
2. **THAT** notice of the Public Hearing was published on the City of Englewood website from August 4, 2011 through August 16, 2011.
3. **THAT** the Staff report was made part of the record.

4. **THAT** the amendments are designed to provide consistency to Titles 11, 15 and 16 of the Englewood Municipal Code.
5. **THAT** the amendments will simplify enforcement and assist Code Enforcement in their dealing with vehicle parking and storage issues.
6. **THAT** similar amendments to the UDC related to Hard Surface and Vehicle Weight Limits were previously reviewed in 2008 by the Commission.
7. **THAT** on January 20, 2009, City Council considered the previous amendments on Second Reading and voted to table Council Bill No. 79.
8. **THAT** the Code Enforcement Advisory Committee has extensively studied the issues and the amendments currently proposed are Council directives provided during the July 18, 2011 study session based on recommendations of the Code Enforcement Advisory Committee and through the Community Development Department Staff.
9. **THAT** the Commission found that crushed hard rock was not an acceptable hard surface material for driveways and parking pads.

CONCLUSIONS

1. **THAT** the Public Hearing on the Unified Development Code Hard Surface, Vehicle Weight Limit and Rear and Side Yard Access for Off-Road Vehicles and Trailers Amendments was brought before the Planning Commission by the Department of Community Development, a department of the City of Englewood.
2. **THAT** notice of the Public Hearing was published on the City of Englewood website from August 4, 2011 through August 16, 2011.
3. **THAT** the amendments are designed to provide consistency to Titles 11, 15 and 16 of the Englewood Municipal Code.
4. **THAT** the amendments will simplify enforcement and assist Code Enforcement in their dealing with vehicle parking and storage issues.
5. **THAT** the Commission found that crushed hard rock was not an acceptable hard surface material for driveways and parking pads.
6. **THAT** the previously discussed amendments were forwarded to City Council.

DECISION

THEREFORE, it is the decision of the City Planning and Zoning Commission that Case #2011-09 Amendments to the Unified Development Code related to Hard Surface, Vehicle Weight Limit and Rear and Side yard Access for Off-Road Vehicles and Trailers should be referred to the City Council with a favorable recommendation.

The decision was reached upon a vote on a motion made at the meeting of the City Planning and Zoning Commission on August 16, 2011 as follows:

Mr. Roth moved, seconded by Mr. Fish, which motion states:

CASE #2011-09. VEHICLE WEIGHT LIMIT AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE OF THE ENGLEWOOD MUNICIPAL CODE BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION.

AYES: Brick, Knoth, Roth, Kinton, Fish
NAYS: Bleile
ABSTAIN: None
ABSENT: Calonder, Welker, King

Motion carried.

Chair Knoth moved, seconded by Mr. Brick, which motion states:

CASE #2011-09. HARD SURFACE AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE OF THE ENGLEWOOD MUNICIPAL CODE BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING CHANGES:

In 16-6-4:O, 16-6-10:B5d(4) and 16-11-2:B:

1. Remove "or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock shall have a nominal gradation of three-quarters inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). " and
2. The last sentence shall read "River cobble, lava rock, **crushed hard rock**, crushed shale, recycled concrete or asphalt or other similar material shall not be used."

AYES: Brick, Knoth, Roth, Kinton
NAYS: Fish, Bleile
ABSTAIN: None

ABSENT: Calonder, Welker, King

Motion carried.

Mr. Roth moved, seconded by Mr. Fish, which motion states:

CASE #2011-09. REAR AND SIDE YARD ACCESS FOR OFF-ROAD VEHICLES AND TRAILERS AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE OF THE ENGLEWOOD MUNICIPAL CODE BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION.

AYES: Bleile, Brick, Knoth, Roth, Kinton, Fish

NAYS: None

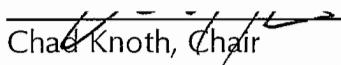
ABSTAIN: None

ABSENT: Calonder, Welker, King

Motion carried.

These Findings and Conclusions are effective as of the meeting on August 16, 2011.

BY ORDER OF THE CITY PLANNING & ZONING COMMISSION



Chad Knoth, Chair

**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION
REGULAR MEETING
August 16, 2011**

Minutes and audio are available at:
<http://www.englewoodgov.org/Index.aspx?page=152>

I. CALL TO ORDER



The regular meeting of the City Planning and Zoning Commission was called to order at 7:00 p.m. in the City Council Chambers of the Englewood Civic Center, Chair Knoth presiding.

Present: Bleile, Roth, Knoth, Fish, Brick, Kinton
Harbaugh (alternate)

Absent: Calonder, Welker, King

Staff: Alan White, Community Development Director
Tricia Langon, Senior Planner
Nancy Reid, Assistant City Attorney
Commander Gary Condrey, Englewood Police Department

II. APPROVAL OF MINUTES

August 2, 2011



Fish moved:

Roth seconded: TO APPROVE THE AUGUST 2, 2011 MINUTES

Chair Knoth asked if there were any modifications or corrections. There were none.

AYES: Bleile, Roth, Knoth, Fish, Brick

NAYS: None

ABSTAIN: Kinton

ABSENT: Calonder, Welker, King

Motion carried.

APPROVAL OF FINDINGS OF FACT

Case #2011- 07 Mailed Public Notice Amendments



Fish moved:

Roth seconded: TO APPROVE THE FINDINGS OF FACT FOR CASE #2011-07

Chair Knoth asked if there were any modifications or corrections. There were none.

AYES: Bleile, Roth, Knoth, Fish, Brick
NAYS: None
ABSTAIN: Kinton
ABSENT: Calonder, Welker, King

Motion carried.

III. PUBLIC HEARING
CASE #2011-09



Roth moved:

Brick seconded: TO OPEN THE PUBLIC HEARING ON CASE #2011-09

AYES: Roth, Knoth, Brick, Bleile, Fish, Kinton
NAYS: None
ABSTAIN: None
ABSENT: Calonder, Welker, King

Motion carried.

Ms. Langon, Senior Planner, was sworn in. She said typically the Commission would have a study session for Unified Development Code amendments. However, Council asked Staff to move these three amendments forward because they are going forward with three other Bills that are addressed in Titles 11 (Public Ways and Property) and 15 (Health, Sanitation, and Environmental Protection "Nuisance Code") on September 6, 2011. She noted the Commission's authority only extends to the 3 amendments to the Unified Development Code, but members could make comments on Titles 11 and 15, but they would have no recommendations within those Titles. All of the topics discussed tonight from the Unified Development Code perspective deal in some way with parking and storage of vehicles in residential neighborhoods.

The proposed amendments to Title 16: Unified Development Code will:

1. Provide consistency with other Titles,
2. Simplify enforcement, and
3. Assist Code Enforcement in their dealings with parking and storage issues.

Conflicting hard surface standards occur in Titles 11, 15 and 16 of the Englewood Municipal Code. Conflicting vehicle weight limits occur in Titles 11 and 16.

In 2008 the Commission reviewed proposed amendments to hard surface materials and vehicle weight and forwarded their recommendations to Council. Council held a public hearing and tabled the issue in early 2009. The amendments currently proposed are Council directives provided during the July 18, 2011 study session based upon recommendations of the Code Enforcement Advisory Committee and from Community Development Staff.

Commander Condrey was sworn in and provided testimony on vehicle weights. He provided a handout to the Commissioners describing various types of trucks, motor homes, campers, boats, trailers, etc. and their approximate weight. He stated the Department of Transportation uses weight as a guideline and the Code Enforcement Advisory Committee proposed raising the weight limit to 10,000 pounds to be consistent with State regulations.

The proposed amendments contain a grandfather clause that will allow a gravel driveway or parking pad existing prior to a date to be determined to remain unless or until a site plan is required under 16-2-9(A) Englewood Municipal Code which affects the driveway or parking area. The proposed amendments also state the construction, re-installation, expansion, alteration, surfacing or resurfacing of a residential driveway or parking area will require a Site Plan Review and an Accessory Permit.

Director White was sworn in. He provided clarification as to why Staff is recommending an Accessory Permit be required.

There are properties within the City that do not have rear access and have only a 3 foot side setback making it not possible to park an Off-Road Vehicle in either place. The Code Enforcement Advisory Committee proposes an exception to Title 15 allowing storage of Off-Road Vehicles and trailers in the front yard when there is not reasonable access to the side or rear yard. Administration of the review process and determination of reasonable access is fully within Title 15. However, the Committee recommends an appeal process through the Board of Adjustment and Appeals, requiring an amendment to 16-2-1:C1b(1). Community Development would process the application, schedule the hearing and publish the notice. It will be the responsibility of the Police Department, Code Division to prepare the staff report and present the case at the hearing

The Commission took a short recess at 8:17. They reconvened at 8:30 with all members previously in attendance.

Ms. Langon said since the next Planning and Zoning meeting will not be held until September 7th and City Council will meet on September 6th she asked that the Commission approve tonight's Minutes and Findings of Fact by way of a telephone poll.

Commission discussion:

- The Commission determined crushed hard rock (gravel) was not a suitable material for driveways or parking pads. Findings were consistent with the Commission's 2008 proposed amendments to prohibit the use of crushed hard rock (gravel) as a hard surface material.
- Discussion ensued regarding weight limits versus types or uses of vehicles.
- The use of recycled asphalt for driveways and parking pads was discussed and determined to not be a suitable material.

PUBLIC TESTIMONY



Mr. Lester Myers was sworn in and commented on the proposed Vehicle Weight Limit and Hard Surface amendments.



Fish moved:

Brick seconded: TO CLOSE THE PUBLIC HEARING ON CASE #2011-09

AYES: Roth, Knoth, Brick, Bleile, Fish, Kinton

NAYS: None

ABSTAIN: None

ABSENT: Calonder, Welker, King

Motion carried.



Vehicle Weight Limit

Roth moved:

Fish seconded: CASE #2011-09. VEHICLE WEIGHT LIMIT AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE OF THE ENGLEWOOD MUNICIPAL CODE BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION.



AYES: Roth, Knoth, Fish, Brick, Kinton

NAYS: Bleile

ABSTAIN: None

ABSENT: Calonder, Welker, King

Motion carried.



Hard Surfaces

Knott moved:

Brick seconded:

CASE #2011- 09. HARD SURFACE AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE OF THE ENGLEWOOD MUNICIPAL CODE BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING CHANGES:

In 16-6-4:O, 16-6-10:B5d(4) and 16-11-2:B:

1. Remove "or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock shall have a nominal gradation of three-quarters inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen)." and
2. The last sentence shall read "River cobble, lava rock, **crushed hard rock**, crushed shale, recycled concrete or asphalt or other similar material shall not be used."

Mr. Bleile asked Mr. Knott if he would entertain a Friendly Amendment to allow the use of recycled asphalt. Chair Knott stated he would not.



AYES: Roth, Knott, Brick, Kinton
NAYS: Fish, Bleile
ABSTAIN: None
ABSENT: Calonder, Welker, King

Motion carried.



Rear and Side Yard Access for Off-Road Vehicles and Trailers

Roth moved:

Fish seconded:

CASE #2011- 09. REAR AND SIDE YARD ACCESS FOR OFF-ROAD VEHICLES AND TRAILERS AMENDMENTS TO TITLE 16: UNIFIED

DEVELOPMENT CODE OF THE ENGLEWOOD MUNICIPAL CODE
BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A
FAVORABLE RECOMMENDATION FOR ADOPTION.



AYES: Bleile, Roth, Knoth, Fish, Brick, Kinton
NAYS: None
ABSTAIN: None
ABSENT: Calonder, Welker, King

Motion carried.

IV. PUBLIC FORUM



There was no public comment.

V. DIRECTOR'S CHOICE



Director White had nothing further to report.

VI. STAFF'S CHOICE



Ms. Langon updated the Commission on future meetings:

September 7:	John Voboril will update the Commission on the Bike Plan and Complete Streets projects
September 20:	To be determined

Ms. Langon stated she would be out of the office from August 25th until October 10th.

VII. ATTORNEY'S CHOICE



Ms. Reid had nothing further to report.

VIII. COMMISSIONER'S CHOICE



Mr. Brick thanked Mr. Bleile for his discussion points tonight. He said he believes there is a timetable that City Council wants to meet and they asked the entire organization to meet that timetable.

Mr. Bleile said it was a great discussion tonight. He said he is not disgruntled with anybody on the Board. The process overall has been poorly calendared. He stated he is certainly not faulting Community Development; everyone in that department works extremely hard, more than anyone ever gives them credit for. They do a great job of making the Board's life

Planning and Zoning Commission

Public Hearing

Case #2011-09 Hard Surfaces, Vehicle Weight Limit and Rear and Side Yard Access for Off-Road Vehicles and Trailers
Amendments

August 16, 2011

Page 7 of 7

easier. This issue deserved some time to discuss and is disappointed as a group we did not take the time. The Board affects people's lives with our decisions and he said he tries to take that very personally and with a high degree of responsibility. He stated he felt the Board went the wrong way on this issue. He stated he was very disgusted with the process.

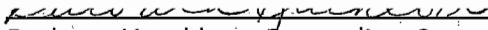
Mr. Roth stated he agreed and would have liked to have had study session time on this issue also, but also understands City Council wants to get something reasonable in place.

Mr. Kinton said he agreed with Mr. Bleile's statements and the Board should not have been put in this position.

Mr. Fish thanked Staff for putting together a good report in a very short time. It made it a lot less difficult than it could have been.

Chair Knoth congratulated Mr. Kinton on his first public hearing. He also echoed Mr. Bleile's comments on having so little time to study the issue. He stated he hopes City Council will take that into account next time.

The meeting adjourned at 9:35 p.m.


Barbara Krecklow, Recording Secretary

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2011

COUNCIL BILL NO. 53
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 11, CHAPTER 6, SECTION 2(C); TITLE 15, CHAPTER 1, SECTION 2; TITLE 16, CHAPTER 6, SECTIONS 4 AND 10, AND TITLE 16, CHAPTER 11, SECTION 2 OF THE ENGLEWOOD MUNICIPAL CODE 2000, PERTAINING TO **HARD SURFACES**.

WHEREAS, in July of 2010 this issue was referred to the Code Enforcement Advisory Committee (CEAC) for recommendations; and

WHEREAS, on July 25, 2011, CEAC met with City Council and discussed their recommendations; and

WHEREAS, these ordinance amendments were sent to Planning and Zoning Commission (P&Z) for review of the amendments to Title 16; and

WHEREAS, P&Z reviewed these amendments at a Public Hearing held on August 16, 2011 and made **recommendations** to City Council.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 11, Chapter 6, Section 2, of the Englewood Municipal Code 2000, to read as follows:

11-6-2: - Parking/Storage Regulations for Residential Districts.

- A. It shall be unlawful for any person to store a vehicle designed and used for recreation purposes, including, but not limited to, one or more motor homes, boats, campers, trailers used for carrying boats, hobby or derelict vehicles or racing cars, motorcycles and other equipment or motor vehicles upon the public right-of-way.

The vehicle may be parked in the right-of-way for no more than seventy-two (72) hours within any one week while being expeditiously loaded or unloaded.

- B. No person shall park the following described vehicles on public or private property in residential areas except while making normal deliveries or being used to perform the special operations for which it is designed:
1. Any vehicle with an empty weight in excess of seven thousand (7,000) pounds (70 C.W.T.).
 2. A road tractor, truck tractor or semi-trailer.

3. A truck constructed or adapted for the purpose of transporting or delivery of bulk gasoline, petroleum products, or hazardous substances or materials.
 4. A tow truck or automobile wrecker.
 5. A church bus or school bus not used for school or church purposes.
- C. No person shall park or store any vehicle on private property in violation of the following restrictions:

1. No vehicle shall be parked in such a way as to block the sidewalk or any portion of the public sidewalk.
2. No vehicle shall be parked in the front yard of the front setback of the principal structure unless located on ~~a concrete, brick paver, asphalt surface, gravel or other similarly finished, hardened or dust-free surface.~~

concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three-quarter inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed hard rock, crushed shale, recycled concrete or asphalt or other similar materials will not be used.

OR

concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three quarter inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed hard rock, crushed shale, recycled concrete or asphalt or other similar materials will shall not be used.

3. In no case shall more than one commercial vehicle be parked or stored on property in any residential zone district, whether in a private garage or carport, in an off-street parking space or in an open-space area, and the size of said commercial vehicle shall not exceed empty vehicle weight of seven thousand (7,000) pounds (70 C.W.T.).
4. Detached campers shall be stored in the area identified as the rear or side yard and shall be stored on blocks or supports not more than six inches (6") in height, or on its loading jacks or apparatus at their lowest limits. All loading equipment shall be in good repair.
5. No person shall occupy any vehicle in violation of the following:

- a. No motor vehicle or vehicles shall be occupied or used for living or housekeeping or sleeping purposes or for the housing and keeping of animals, except as provided in subsection b below;
- b. Upon the application of a resident of the City, a special permit may be issued by the City for a nonresident journeying in a recreational vehicle used for housekeeping purposes and who is visiting at the residence of the applicant, to occupy the recreational vehicle at the applicant's residence for not more than seven (7) days. The special permit shall specify the location of the applicant's property or adjacent right-of-way in which the recreational vehicle will be parked while occupied.

This shall not be deemed to permit the parking or storage of a detached camper, trailer or small trailer in any public street or right-of-way of any street designated as an arterial or collector street.

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 15, Chapter 1, Section 2, "Definitions" of the Englewood Municipal Code 2000, to read as follows, with unchanged definitions:

15-1-2: Definitions

~~Hard Surface: A surface as defined in 16-11-2 (B) EMC.~~

~~of concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three-quarter inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed shale, recycled concrete or asphalt or other similar materials will not be used.~~

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concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three-quarter inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed hard rock, crushed shale, recycled concrete or asphalt or other similar materials will shall not be used.

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 2, Section 9, "Zoning Site Plan Review" of the Englewood Municipal Code 2000, to read as follows:

16-2-9: Zoning Site Plan Review.

- A. **Applicability.** No land shall be used, occupied, or developed for any use without complying with the Zoning Site Plan requirements and procedures provided in this Section, as applicable. A Zoning Site Plan shall be required for:
1. The commencement of all development, improvement, or construction requiring a building permit, except for interior remodel and tenant finish.
 2. The construction or expansion of fences, walls, and accessory structures (e.g., garages, carports, storage sheds, decks) in all zone districts, including decks less than thirty inches (30") in height and accessory structures containing less than one hundred twenty (120) square feet in floor area that do not otherwise require a building permit.
 3. The construction, re-installation, expansion, alteration, surfacing, or resurfacing of a residential driveway. An Accessory Permit shall also be required.
 4. Accessory uses, not including home occupations, marked as "A" in the applicable table cell in Table 16-5-1.1, "Table of Allowed Uses".
 5. The construction, re-installation, expansion, alteration, surfacing, or resurfacing of a parking area. An Accessory Permit shall also be required.

Section 4. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 6, Section 4, Subsection O, of the Englewood Municipal Code 2000, to read as follows:

16-6-4: Off-Street Parking Loading Requirements.

- O. *Surface Cover.* Off-street parking and loading spaces shall be of ~~a hard surface, either paved with asphalt, concrete or brick pavers, except that the City may approve the use of alternate dust-free surfacing materials (e.g. chip seal surfacing) to serve a principal permitted residential use.~~

of concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three-quarter inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed shale, recycled concrete or asphalt or other similar materials will not be used.

OR

concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three quarter inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed hard rock, crushed shale, recycled concrete or asphalt or other similar materials will shall not be used.

Section 5. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 6, Section 10, Subsection B, Paragraph 5, Letter d, Number 4, of the Englewood Municipal Code 2000, to read as follows:

16-6-10: Design Standards and Guidelines.

5. Front Lot Coverage/Residential Driveway and Parking Pad Standards.

- d. Standards for Residential Driveways and Parking Pads within the Front Yard or Setback Area.
- (1) Relationship to and Conflict with Similar Provisions. The general residential driveway standards in Section 16-6-3 EMC, above shall apply to residential development, except that if this subsection's residential driveway standards conflict with the standards in Section 16-6-3 EMC, this subsection's standards shall control and apply.
 - (2) Zoning Site Plan Review Required. All new construction, surfacing or resurfacing, alteration, expansion, or re-installation of a residential driveway or parking pad shall require Zoning Site Plan review (see Section 16-2-9 EMC) prior to the start of work.
 - (3) The Use of Parking Pads in Conjunction with Driveways. The use of parking pads in conjunction with driveways is discouraged but not prohibited. However, in no case shall the total width of any combination of parking pad and driveway exceed twenty feet (20').
 - (4) Permitted Driveway and Parking Pad Paving Materials. Residential driveways and parking pad shall be improved with ~~a durable hard surface approved by the City. Surfacing materials that may be used include concrete, exposed aggregate, and asphalt.~~
concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three-quarter inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed shale, recycled concrete or asphalt or other similar materials will not be used.

OR

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~~Prohibited materials include dirt, gravel, crushed concrete and Grasserete.~~ Zoning Site Plan review (see Section 16-2-9) is required prior to the start of any residential driveway or parking pad surfacing.

[EDITORS NOTE: The remainder of 16-6-10, contains no changes and is therefore not included here]

Section 6. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter II, Section 2, of the Englewood Municipal code 2000, to read as follows:

16-11-2: Definition of Words, Terms and Phrases.

~~*Hard Surface:* As related to driveways, parking, and loading areas, "hard surface" means a durable surface of concrete, asphalt, exposed aggregate, brick pavers, or similar alternate materials approved by the City.~~

concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three-quarter inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed shale, recycled concrete or asphalt or other similar materials will not be used.

OR

concrete or asphalt of sufficient thickness to support the weight of parked vehicles; brick, concrete or stone pavers with a minimum depth of two and one fourth inches (2¼") or crushed hard rock of a minimum depth of three and a half inches (3½") placed over an appropriate road base. If crushed hard rock is used, an adequate weed barrier is required. Crushed hard rock should have a nominal gradation of three quarter inches (¾") (100% passing through a 1" screen and less than 10% passing through a ½" screen). River cobble, lava rock, crushed hard rock, crushed shale, recycled concrete or asphalt or other similar materials will shall not be used.

Section 7. Grandfather Clause A gravel driveway or parking pad existing prior to shall be allowed to remain unless or until a site plan is required under 16-2-9(A) EMC which affects the driveway or parking area. Maintenance of a grandfathered driveway or parking area is specifically allowed and shall not be considered as an "alternative" or "resurfacing" under 16-2-9(A)(3) EMC.

Section 8. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 9. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 10. Inconsistent Ordinances. 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.

Section 11. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood 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 purposes 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.

Section 12. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of September, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of September, 2011 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 6th day of September, 2011.

Loucrishia A. Ellis

BY AUTHORITY

ORDINANCE NO. _____
 SERIES OF 2011

COUNCIL BILL NO. 36
 INTRODUCED BY COUNCIL
 MEMBER OLSON

AN ORDINANCE APPROVING THE GRANT OF AN EASEMENT TO B P WIND ENERGY NORTH AMERICA INC. FOR TRANSMISSION FACILITIES ON THE BYERS BIOSOLIDS FARM.

WHEREAS, BP Wind Energy North America Inc. is proposing to develop a private transmission line through Kit Carson, Washington and Arapahoe Counties; and

WHEREAS, this will enable BP to transport power from their prospective wind farm projects in eastern Colorado to the Front Range power market; and

WHEREAS, the Littleton/Englewood Byers biosolids farm property is within BP's area of interest for transmission line development; and

WHEREAS, payments from the transmission Right-of-Way agreements provide an additional revenue stream to participating landowners with minimal impact to existing farming and ranching operations; and

WHEREAS, in May 2010 Littleton/Englewood Waste Water Treatment Plant received a request for an easement from BP to construct a private, power transmission line (above ground) through the Byers biosolids farm; and

WHEREAS, the easement would be 100 feet wide, and two miles in length and would house approximately ten power transmission structures;

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes the "Grant of Easement and Easement Agreement for Transmission Facilities", between the BP Wind Energy North America Inc., City of Littleton and the City of Englewood, Colorado, as attached hereto as Exhibit A.

Section 2. The Mayor is authorized to execute said Grant of Easement Agreement for and on behalf of the City of Englewood.

Introduced, read in full, amended and passed on first reading on the 18th day of July, 2011.

Published by Title as an amended Bill for an Ordinance in the City's official newspaper on the 22nd day of July, 2011.

Published as an amended Bill for an Ordinance on the City's official website beginning on the 20th day of July, 2011 for thirty (30) days.

Read in full, amended the fee schedule to adopt annual payments and passed as amended on the 15th day of August, 2011.

Published as an amended Bill for an Ordinance on the City's official website beginning on the 26th day of August, 2011 for thirty (30) days.

Read by title as amended and passed on final reading on the 6th day of September, 2011.

Published as amended by title in the City's official newspaper as Ordinance No. ____, Series of 2011, on the 9th day of September, 2011.

Published by title as amended on the City's official website beginning on the 7th day of September, 2011 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the amended Ordinance passed on final reading and published by title as Ordinance No. ____, Series of 2011.

Loucrishia A. Ellis

For Recorder's Use Only

Recording Requested By and
When Recorded Return to:

Land Manager
BP Wind Energy North America Inc.
700 Louisiana, 33rd Floor
Houston, TX 77002
(713) 354-2130

GRANT OF EASEMENT AND EASEMENT AGREEMENT
FOR TRANSMISSION FACILITIES

This GRANT OF EASEMENT AND EASEMENT AGREEMENT FOR TRANSMISSION FACILITIES (this "Agreement") is made, dated and effective as of _____, 2011 (the "Effective Date"), between **the City of Englewood and the City of Littleton, each to an undivided one-half interest** (Collectively "Grantor"), and **BP Wind Energy North America Inc., a Virginia corporation** ("Grantee"). Grantor is the sole owner of that certain property located in Arapahoe County, Colorado, as more particularly described in Exhibit A attached hereto and made part hereof (the "Property").

1. Grant of Transmission Easement. For good and valuable consideration, the legal sufficiency of which is hereby acknowledged by Grantor, Grantor hereby grants to Grantee and its successors and assigns, an exclusive easement ("Transmission Easement") on, along, over, under and across a portion of the Property one hundred (100) feet wide (such portion of the Property, the "Easement Area" as more particularly described in Exhibit B attached hereto and made part hereof). The Easement Area may be used by Grantee for the following purposes and no other: to erect, construct, reconstruct, replace, remove, maintain and use a single line of poles, with such wires and cables as from time to time are suspended therefrom for the transmission of electrical energy (not to exceed 345 kilovolts) and/or for communication purposes that are directly related to and dedicated solely for Grantee's operations, and all necessary and proper foundations, footings, guy wires, anchors, crossarms and other appliances, fixtures and facilities for use in connection with said towers, poles, wires and cables on, along, over, under and/or across the Easement Area. The Easement Area may exceed 100 feet in width by up to 50 feet to the extent reasonably necessary to provide for an airspace overhang of Transmission Facilities (as defined below) located on the Property to allow for blow-out of transmission wires. Said towers, poles, wires, cables, foundations, footings, guy wires, anchors, crossarms, appliances, fixtures, and facilities are herein collectively called the "Transmission Facilities."

2. Payment. In consideration of the rights granted hereunder, Grantee agrees to pay Grantor the amounts set forth in the Fee Schedule attached hereto ("Fee Schedule").

3. Construction Activities. During the construction of the Transmission Facilities, Grantee may use for construction purposes an additional fifty (50) feet of land in total on either or both sides of the Easement Area. Grantee will use commercially reasonable efforts to minimize

surface disturbance on the portion of the Property lying outside of the Easement Area during construction, as more particularly described in Section 14 of this Agreement. Grantee shall notify Grantor of the commencement and completion of construction on the Easement Area.

4. Access. Grantor also hereby grants to Grantee an access easement (the “Access Easement”) over, across and along the Easement Area by means of roads and lanes thereon if existing, or otherwise by such route or routes as Grantee may construct from time to time for the purposes of (a) ingress to and egress from Transmission Facilities (whether located on the Property or elsewhere) and (b) entering onto the Easement Area at any time to conduct inspections, tests, geotechnical reviews, soil tests, environmental studies, wildlife and/or habitat studies, transmission studies, archeological assessments, land surveying, title examinations, site engineering, and such other activities as Grantee reasonably deems necessary or appropriate for determining whether the Easement Area is or remains suitable for Grantee’s permitted purposes under this Agreement. Grantee shall consult with Landowner on the location of any such new roads and lanes prior to their construction. Grantee shall also have the right to maintain and improve any such roads and lanes; provided, however, that Grantee shall compensate Grantor for any damage caused thereby as provided in Section 14, below.

5. Term and Termination. Subject to the terms and conditions of this Agreement, the term of this Agreement shall be perpetual, commencing on the Effective Date, unless and until one of the following events occurs: (a) the Agreement is terminated by Grantee by written notice to Grantor, or (b) “Start of Construction” (as defined below) has not occurred by the date which is ten (10) years after the Effective Date, in which case this Agreement shall automatically terminate. As used in this Agreement, “Start of Construction” shall be deemed to have occurred upon the earlier of (i) the installation of any Transmission Facilities in the Easement Area or (ii) the installation of the first transmission pole or vertical structure on the transmission project of which the Easement Area will be a part. If construction of the Transmission Facilities on the Easement Area has not been completed within twelve (12) months after Start of Construction; or if after the date commercial quantities of electricity are first transmitted by Transmission Facilities located on the Easement Area, Grantee ceases to operate Transmission Facilities on the Easement Area for a period of twenty-four (24) consecutive months, then unless due to an event of force majeure, Grantor may elect to terminate this Agreement by written notice to Grantee.

6. Removal. Upon termination of this Agreement, Grantee shall (a) upon written request by Grantor, prepare and place of record in the official real property records of Arapahoe County, an instrument releasing all of Grantee’s right, title and interest in and to the Property under this Agreement, and (b) as soon as practicable thereafter, remove all above-ground Transmission Facilities and transmission line poles down to a depth of four feet (4’) from the Easement Area and restore the soil surface to a condition reasonably similar to its original condition. Within sixty (60) days of completion of construction of Transmission Facilities on the Property, Grantee shall provide security (“Removal Bond”) to cover the estimated removal costs associated with the Transmission Facilities then on the Property pursuant to this section. The Removal Bond shall be, at Grantee’s option, either a removal bond from an individual or entity engaged in the construction business and reasonably acceptable to the parties, a surety bond from an issuer with a Best’s Rating of not less than A, a corporate guarantee (from a financially responsible entity that is reasonably acceptable to the parties and whose credit rating is investment grade), a letter of credit issued by a financial institution reasonably acceptable to the parties, a cash deposit, or

other security reasonably acceptable to both parties. The amount of the Removal Bond shall be the estimated cost of removing the Transmission Facilities, net of their estimated salvage value. In the event the county or other governmental authority requires Grantee to provide security for removal or decommissioning of the Project, Grantee shall provide a single Removal Bond that benefits both Grantor and the governmental authority in a manner consistent with the requirements of the governmental authority, and the governmental authority shall have access to the Property pursuant to reasonable notice to effect or complete the required removal or decommissioning. If Grantee fails to remove such Transmission Facilities within twenty-four (24) months of termination of this Agreement, or such longer period as Grantor may provide by extension, Grantor may do so, in which case Grantee shall reimburse Grantor for reasonable out-of-pocket costs of removal and restoration incurred by Grantor.

7. Character of Easements. This Agreement and the Transmission Easement and Access Easement shall run with the Property, whether or not this Agreement and/or the Transmission Easement and/or Access Easement are referenced or described in any conveyance, ground lease or other instrument granting rights in, to or under all or any portion of the Property. This Agreement and the Transmission Easement and Access Easement shall inure to the benefit of, and be binding upon, Grantor and Grantee and their respective transferees, successors and assigns and all persons claiming under them. Any sale or other transfer of the Property by Grantor shall be subject to this Agreement and the Transmission Easement and Access Easement. The Transmission Easement and Access Easement are irrevocable, and Grantor has no right to terminate this Agreement except as provided herein. Grantor further agrees with respect to the Transmission Easement and Access Easement that, except as provided in Section 5, above, (a) no act or failure to act on the part of Grantee shall be deemed to constitute an abandonment, surrender or termination thereof except upon recordation by Grantee of a quitclaim deed or other release or termination instrument specifically terminating the Transmission Easement or Access Easement or conveying the Transmission Easement or Access Easement back to Grantor, or as otherwise may be declared by an order of a court having proper jurisdiction over this Agreement; (b) non-use of the entirety of the Transmission Easement, Access Easement and/or Easement Area shall not prevent the future use of the entire scope thereof in the event the same is needed; and (c) no use of or improvement to the Easement Area or any lands benefited by the Transmission Easement or Access Easement (within the scope of rights described in Section 1 and Section 4 of this Agreement), and no transfer of the Transmission Easement or Access Easement shall, separately or in the aggregate, constitute an overburdening of the Transmission Easement or Access Easement.

8. Assignment. Grantee may convey or assign this Agreement or its rights with respect to the Transmission Easement or Access Easement at any time, in whole or in part, to one or more assignees or subassignees, without the need for Grantor's consent. Grantee shall have the right to make a partial conveyance or assignment of the Transmission Easement or Access Easement resulting in two or more persons or entities having interests as tenants-in-common who shall have the right to jointly use any Transmission Facilities and/or roads on the Property for ingress to and egress from the Transmission Facilities. The assignor under any assignment hereunder shall be released from obligations and liabilities accruing after the date such obligations and liabilities are assumed by the assignee, to the extent assumed by the assignee. The assignee under any assignment of this Agreement shall assume the obligations and liabilities accruing hereunder from the date and to the extent such obligations and liabilities are assigned by the assignor. Grantee shall provide Grantor with the name, address and contact information for any assignees

or subassignees hereunder for notice purposes, as well as a copy of any recorded document evidencing such assignment.

9. Compliance with Laws. Grantee shall comply with all laws, regulations and rules governing the erection, construction, reconstruction, replacement, removal, maintenance and use of the Transmission Facilities. Grantor agrees to cooperate fully and promptly with Grantee, so long as such work is accomplished at no out-of-pocket cost to Grantor, and to join in all applications for permits, licenses and governmental approvals or requests for other instruments if necessary for purposes of the intended use or development of the Easement Area or the Property.

10. Maintenance; Costs. Grantee shall have the right to make all foreseen and unforeseen and ordinary and extraordinary changes and repairs which may be required to the Transmission Facilities, and shall maintain and keep the Easement Area in good order, repair and condition, including but not limited to trimming, cutting and removing trees and underbrush anywhere on the Property as reasonably necessary if any limbs, branches or other parts are within or overhang the Easement Area. When Grantee performs such maintenance activities, Grantee shall remove all debris created (such as, but not limited to, tree limbs, underbrush, etc.) and dispose of such debris offsite. All costs and expenses incident to the erection, construction, reconstruction, replacement, removal, repair, maintenance and use of the Transmission Facilities, including the trimming and cutting of any trees and underbrush, shall be borne by Grantee.

11. Grantor's Right to Use the Easement Area. Notwithstanding the reservation of exclusivity in Section 1 of this Agreement, Grantor retains the right to use the Property, including the Easement Area, for all purposes not inconsistent with, and which will not interfere with, the rights granted to Grantee by this Agreement, including, without limitation, dry land farming on the Property. Specifically, but without limiting the generality of the foregoing, (i) Grantor shall not undertake or allow any digging, tunneling or other form of construction activity in the Property which would disturb or damage the Transmission Facilities, unearth, obstruct or interfere with the operation and use of the Transmission Facilities or endanger the lateral support to the Easement Area or Transmission Facilities, and (ii) Grantor shall not grant other persons easement rights in the Property if such easement rights shall in any way interfere with the easement rights granted Grantee under this Agreement. The parties agree that dry land farming practices employed on the Property as of the Effective Date are consistent with, and shall not interfere with, Grantee's rights under this Agreement.

12. Indemnity. Grantee shall, at all times, save and hold harmless and indemnify Grantor, its officers, partners, agents, contractors and employees, from and against all losses, damages, expenses, claims, demands, suits and actions for personal injuries and property damage outside the Easement Area, to the extent caused by the negligence or willful misconduct of Grantee, its officers, partners, agents, contractors and employees.

13. Quiet Enjoyment. Grantor represents and warrants to Grantee that Grantor has good title to the Property and the Easement Area and warrants title to and quiet enjoyment of the Transmission Easement, Access Easement and the Easement Area by Grantee and Grantee and Grantee's members, managers, agents, licensees, contractors, subcontractors, lessees, sublessees, mortgagees, successors, and assigns against the lawful claims and demands of all persons whomsoever. Grantor shall cooperate with Grantee, at Grantee's sole expense, to obtain a non-

disturbance agreement or other appropriate agreement from any party that holds a lien, easement, lease, mortgage, deeds of trust, mineral or oil and gas right, option to purchase or lease, or any other encumbrance or exception to Grantor's fee title ownership of the Property, recorded or unrecorded (collectively, "Liens"). A non-disturbance or other agreement is an agreement between Grantee and Grantee's successor and assigns and a holder of a Lien which provides that the holder of the Lien subordinates its rights under the Lien and shall not disturb or interfere with any of the rights or benefits granted under this Agreement or terminate or extinguish this Agreement. Grantor agrees to satisfy and pay when due all obligations under any Lien affecting the Property including any taxes and assessments. If Grantor fails to satisfy and pay when due all obligations under any Lien, Grantee shall be entitled (but not obligated) to make payments in fulfillment of Grantor's obligations to the holder of the Lien and may offset the amount of such payments from amounts due Grantor under this Agreement or seek reimbursement from Grantor, which amounts Grantor agrees to promptly pay upon written demand.

14. Surface Damage. In the event that Grantor suffers damage to crops, grass, soil, fences, trees, and other property or improvements on the Property as a result of Grantee's construction, reconstruction, replacement, removal, maintenance, operation and use of the Transmission Facilities, Grantee shall pay Grantor fair compensation for any such losses or damage caused by Grantee, and, if the parties cannot reach agreement as to the amount which would constitute fair compensation, either party may pursue all remedies available to such party at law. Should a growing crop be damaged or destroyed by Grantee, "fair compensation" for purposes hereof shall be calculated in accordance with the rate of the average production per acre in the general area as determined by the local NRCS Office, multiplied by the current market price. Should a tree be damaged or destroyed by Grantee, "fair compensation" for purposes hereof shall be calculated in consultation with Colorado State University's Agricultural Experiment Station and Cooperative Extension Service. Grantee will take reasonable care when removing top soil, to separate said top soil from the subsoil, and to restore said top soil to the surface to the satisfaction of Grantor, so as to, as nearly as is commercially practicable, restore the land to its original state after both construction on the Property and operations on the Easement Area have been completed, and shall use commercially reasonable efforts to remediate any soil settling identified by Grantor for a period of three (3) years after completion of construction of Transmission Facilities on the Property. Other than as expressly set forth herein, Grantee shall not be responsible to pay Grantor any losses of income, rent, business opportunities, profits or other losses arising out of Grantor's inability to grow crops or otherwise use the Easement Area.

15. Financing.

15.1 Grantee may collaterally assign, mortgage or otherwise encumber its interest in this Agreement to a Financing Party (as hereinafter defined) under a Mortgage (as hereinafter defined). The term "Financing Party" means any institution (including any trustee or agent of behalf of such institution) providing debt or other financing to Grantee or its successors or assigns. The term "Mortgage" shall mean any mortgage, deed of trust, deed to secure debt or other security instrument by which Grantee's interest under this Agreement is mortgaged, conveyed, assigned or otherwise transferred to secure a debt or other obligation to a Financing Party. Each Financing Party who provides notice to Grantor of its Mortgage shall be referred to as "Mortgagee." In the event any such Mortgage is granted, the Mortgagee thereunder shall, for so long as its Mortgage remains in effect, be entitled to the protections described in the following provisions of this

Section 15, upon delivery to Grantor of written notice of its name and address.

15.2 So long as any Mortgage remains in effect, this Agreement shall not be modified, and Grantor shall not accept a surrender of the Property or a termination or release of this Agreement prior to the expiration of the term hereof, without the prior consent of all Mortgagees.

15.3 Grantor, upon providing Grantee any notice of (i) default under this Agreement or (ii) termination of this Agreement, shall at the same time provide a copy of such notice to each Mortgagee. Such Mortgagee shall have the same period, after the giving of such notice, for remedying any default or causing the same to be remedied (but shall have no obligation to remedy or cause the remedy of any default), as is given Grantee after the giving of such notice to Grantee to remedy the default specified in any such notice. The Mortgagee shall have the absolute right to do any act or thing required to be performed by Grantee under this Agreement, and any such act or thing performed by a Mortgagee shall be as effective as if done by Grantee itself. Following acquisition of Grantee's easement interest hereunder by the Mortgagee or its assignee or designee as a result of foreclosure of Grantee's easement interest or assignment of Grantee's easement interest in lieu of foreclosure, or by a purchaser of Grantee's easement interest at a foreclosure sale, this Agreement shall continue in full force and effect and the Mortgagee or other party acquiring title to the easement estate shall, as promptly as reasonably possible, commence the cure of any defaults hereunder and thereafter diligently process such cure to completion; provided, however, the Mortgagee or other party acquiring title to the easement estate shall not be required to cure those defaults which are not reasonably susceptible of being cured or performed by such party ("Non-curable Defaults"). Non-curable Defaults shall be deemed waived by Grantor as to any party acquiring title to the easement estate upon completion of foreclosure proceedings or acquisition of Grantee's interest in this Agreement by such party. Upon the subsequent sale or other transfer by the Mortgagee or other acquiring party of the easement interests acquired pursuant to foreclosure or assignment in lieu of foreclosure, the Mortgagee or other acquiring party shall have no further duties or obligations hereunder arising after the effective date of such subsequent sale or other transfer. Neither the bankruptcy nor the insolvency of Grantee shall be grounds for terminating this Agreement.

15.4 Grantor shall execute such estoppel certificates (certifying as to such matters as Grantee may reasonably request, including, without limitation, that no default then exists under this Agreement to Grantor's knowledge, if such be the case) and/or consents to assignment and/or non-disturbance agreements as Grantee or any Mortgagee may reasonably request from time to time.

15.5 Without limiting any other provisions of this Agreement, including Section 19, in the event Grantor wishes to terminate this Agreement as a result of any default by Grantee hereunder after expiration of any applicable period of notice and cure, Grantor shall give prompt notice to the Mortgagees, and shall not terminate this Agreement unless and until it has complied with this Section and Mortgagees have elected not to respond to Grantor's notice within the period hereinafter described. Grantor shall, upon written request of the first priority Mortgagee, made within forty (40) days after notice to such Mortgagee, enter into a new easement agreement with such Mortgagee, or its designee, within twenty (20) days after the receipt of such request. Such new easement agreement shall be effective as of the date of the termination of this

Agreement by reason of default by Grantee, and shall be for a perpetual term (subject only to any termination rights expressly set forth in this Agreement) and upon the same terms, covenants, conditions and agreements as contained in this Agreement. Upon the execution of any such new easement agreement, the Mortgagee shall agree in writing to perform or cause to be performed all of the covenants and agreements set forth in this Agreement to be performed by Grantee to the extent that Grantee failed to perform the same prior to the execution and delivery of the new easement agreement.

16. Notices. All notices, requests and communications (each, a “Notice”) under this Agreement shall be given in writing, by (i) personal delivery (confirmed by the courier delivery service), or (ii) first class certified mail, postage prepaid, return receipt requested, to the individuals and addresses indicated below:

(a) If to Grantor:

City of Englewood / City of Littleton
c/o Littleton/Englewood Waste Water Treatment Plant
Attn: Operations Manager
2900 South Platte River Drive
Denver, Colorado 80110-1460 Facsimile: _____

(b) If to Grantee:

BP Wind Energy North America Inc.
700 Louisiana, 33rd Floor
Houston, TX 77002
Attention: Land Manager
Facsimile: (713) 354-2120

(c) If to Mortgagee:

At the address indicated in Mortgagee’s notice sent to Grantor under Section 15.1 hereof.

Except as expressly provided herein, any Notice provided for herein shall become effective only upon and at the time of first receipt by the party to whom it is given, unless such Notice is only mailed by certified mail, return receipt requested, in which case it shall be deemed to be received five (5) business days after the date that it is mailed. Any party may, by proper written notice hereunder to the other party, change the individual address to which such Notice shall thereafter be sent.

17. Legal Matters.

(a) This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, excluding the choice of law provisions thereof.

(b) The parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either party shall not be employed in the interpretation of this

Agreement. No waiver by a party of any provision of this Agreement shall be deemed to be a waiver of any other provision hereof. The use of the neuter gender includes the masculine and feminine, and the singular number includes the plural, and vice versa, whenever the context so requires. The terms “include”, “includes” and “including”, as used herein, are without limitation. Captions and headings used herein are for convenience of reference only and do not define, limit or otherwise affect the scope, meaning or intent hereof. The term “hereof” or “herein” means the entirety of this Agreement unless otherwise indicated.

18. Integration; Amendment. This Agreement, when executed, approved and delivered, together with all exhibits attached hereto, shall constitute the entire agreement between the parties and there are no other representations or agreements, oral or written, except as expressly set forth herein. This Agreement may not be amended or modified except by a written agreement signed by the parties hereto.

19. Default; Remedies. If any party should fail to perform any of its obligations under this Agreement within thirty (30) days after the other party has given such party written notice of such failure (or such longer period if the failure cannot be cured within thirty (30) days but the defaulting party commences such cure within thirty (30) days and thereafter diligently prosecutes such cure to completion), including failure to make any payments due hereunder, then the non-defaulting party shall have the right, at its option and without further notice, but subject to the limitations set forth in the last sentence of this section, to exercise, in addition to any remedies expressly set forth in this Agreement, any and all remedies available in law or in equity, and any court enforcing the rights and duties granted in this Agreement shall have the power (insofar as that power may be granted by contract) to issue restraining orders or injunctions as necessary to enforce the provisions of this Agreement. Notwithstanding the foregoing or any rights at law or equity, neither this Agreement nor the rights of Grantee granted hereunder shall be terminated under any circumstances.

20. Further Assurances. Each party agrees that it will without further consideration execute and deliver such other documents and take such other action as may be reasonably requested by the other party to consummate more effectively the purposes or subject matter of this Agreement. The parties acknowledge and agree that the provisions of this Section and Section 22 shall survive the execution and recording of this Agreement, and the Grantee may seek specific performance of said Sections, together with such other legal and equitable remedies as may be provided by law.

21. Inaccuracy of Legal Description or Ownership. In the event of any inaccuracy in the description of the Property or Easement Area in Exhibit A or Exhibit B, respectively, or in the description of the parties in whom title to the Property is vested, Grantor and Grantee shall amend this Agreement to correct such inaccuracy in order to accomplish the intent of Grantor and Grantee.

22. Recording. Grantor and Grantee agree that this Agreement (without the Fee Schedule) shall be recorded in the official real property records of Arapahoe County.

23. Severability. If any terms or provisions of this Agreement are deemed to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

24. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original agreement, and all of which shall constitute one agreement.

[signature pages follow]

IN WITNESS WHEREOF, Grantor and Grantee have caused this Agreement to be executed and delivered by their duly authorized representatives as of the Effective Date.

“GRANTOR”

City of Englewood

By: _____

Name: James K. Woodward, Mayor

Date: _____

STATE OF Colorado)
) ss
COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this _____ day of _____, 2011, by
James K. Woodward as Mayor

of the City of Englewood, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity on his own behalf.

Witness my hand and official seal.

Notary Public for the State of _____

My commission expires: _____

Commission No. _____

[SEAL]

"GRANTOR"

City of Littleton

By: Doug Clark
Name: Doug Clark
Date: June 30, 2011

APPROVED AS TO FORM
By: [Signature]
Littleton City Attorney
Date

STATE OF Colorado)
COUNTY OF Arapahoe) SS

The foregoing instrument was acknowledged before me this 30th day of June, 2011, by Doug Clark as Mayor of the City of Littleton, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity on his own behalf.

Witness my hand and official seal.

Lucy M. Lucero
Notary Public for the State of Colorado
My commission expires: July 2, 2013
Commission No. _____



“GRANTEE”

BP Wind Energy North America Inc.

By: _____

Title: _____

Date: _____

STATE OF _____)
) ss
COUNTY OF _____)

On _____, 2011, before me, _____
Notary Public, personally appeared _____, the _____
of BP WIND ENERGY NORTH AMERICA INC., personally known to me (or proved to me on
the basis of satisfactory evidence) to be the person whose name is subscribed to the within
instrument and acknowledged to me that he executed the same in his authorized capacity, and
that by his signature on the instrument the person or the entity upon behalf of which the person
acted, executed the instrument.

Witness my hand and official seal.

Notary Public

My Commission Expires: _____

Exhibit A

THE PROPERTY

The Premises is all of the following tracts or parcels of land, situated in Arapahoe County, State of Colorado, more particularly described as follows:

Section 17, Township 4 South, Range 57 West of the 6th P.M., EXCEPT the West 40 feet and the South 40 feet thereof as described in Quit Claim Deed recorded September 8, 1948, in Book 618, Page 128, County of Arapahoe, State of Colorado.

ALL OF SECTION 18, EXCEPT THE EAST 40 FEET;
THE NORTH ONE-HALF OF SECTION 19, EXCEPT THE EAST 40 FEET;
THE NORTH ONE-HALF, EXCEPT THE WEST 40 FEET;
THE SOUTHWEST QUARTER, EXCEPT THE WEST 40 FEET;
AND THE NORTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 20;
ALL IN TOWNSHIP 4 SOUTH, RANGE 57 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ARAPAHOE, STATE OF COLORADO. ===

In the event of inaccuracies in the foregoing legal description, Grantee and Grantor shall modify this Exhibit "A" to correct the inaccuracies.

Tax Reference

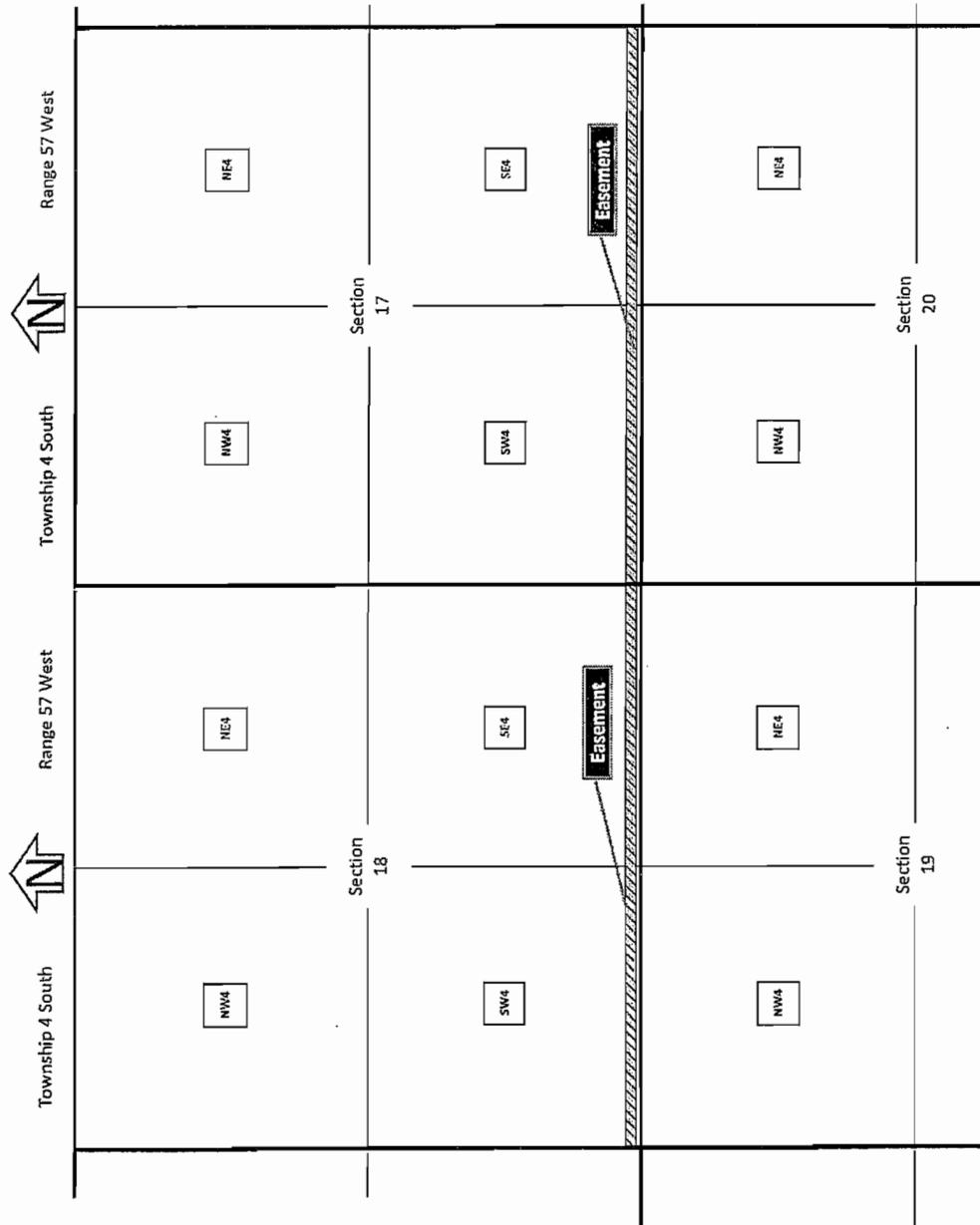
Parcel 1993-00-0-00-024	S17-T04S-R57W	(599.49 acres, more / less)
Parcel 1993-00-0-00-004	S18-T04S-R57W-	(308.72 acres, more / less)
Parcel 1993-00-0-00-006	S18-T04S-R57W-	(305.43 acres, more / less)

Exhibit B

EASEMENT AREA

A 100 foot wide tract of land generally described as:

The North 100 feet of the South 130 feet of Sections 17 and 18, Township 4 South, Range 57 West of the 6th PM; County of Arapahoe, State of Colorado.



FOR ILLUSTRATION ONLY - NOT TO SCALE

Note: This sketch is meant to depict the legal description of the easement. It does not represent a monumented land survey.

FEE SCHEDULE

1. Annual Pre-Construction Payments. Within thirty (30) days after the Effective Date, and within thirty (30) days after each anniversary of the Effective Date occurring prior to payment being made under Section 2 below and prior to termination of this Agreement, Grantee shall pay Grantor the sum of One Thousand Dollars (\$1,000.00) per mile of the Property included in the Easement Area, with a minimum payment of \$2,000.00 per year.
2. After Commencement of Construction. After commencement of construction of Transmission Facilities on the Easement Area, Grantee shall pay Owner the following:

Owner to Select Payment Option:

One-Time Payment:

(Check Here) (Initial Here 1) Within thirty (30) days after the commencement of construction of Transmission Facilities on the Easement Area, as determined by Grantee, in its sole discretion, Grantee shall pay Grantor the sum of Fifteen Thousand Dollars (\$15,000.00) per mile of the actual length of the Transmission Facilities in the Easement Area, and Grantor shall not be obligated to reimburse Grantee, and Grantee shall not offset, any payments previously made pursuant to Section 1 above. In the event Grantee installs transmission poles within the Easement Area, then together with such payment, Grantee shall also pay Grantor Two Thousand Five Hundred Dollars (\$2,500.00) for each transmission pole that Grantee installs in the Easement Area.

OR

Annual Payments:

(Check Here) (Initial Here) Within thirty (30) days after commencement of construction of Transmission Facilities on the Easement Area, and thereafter within 30 days of each anniversary of the commencement of construction for the term of this Agreement, but not later than the termination of this Agreement, Grantee shall pay Grantor the sum of One Thousand Five Hundred Dollars (\$1,500) per mile of the actual length of the Transmission Facilities in the Easement Area, such amount to be adjusted for inflation at a rate of 2.5% per year over the term of this Agreement. If the base of the transmission line poles are not located on Grantor's Property, but rather a portion of the Transmission Facilities such as a horizontal cross arm or wire hangs in the airspace above Grantor's Property ("Airspace Transmission Facilities"), then the payment is Three Hundred Dollars (\$300) per mile of the actual length of the Airspace Transmission Facilities in the Easement Area.

Attachment 1
BP Wind Energy Easement Payment Detail Summary

Based on final Agreement language, the following is an estimation of easement payment options (in addition to any described pre-construction payments):

One-Time Payment:

Within thirty (30) days after the commencement of construction of Transmission Facilities on the Easement Area, as determined by Grantee, in its sole discretion, Grantee shall pay Grantor the sum of Fifteen Thousand Dollars (\$15,000.00) per mile of the actual length of the Transmission Facilities in the Easement Area, and Grantor shall not be obligated to reimburse Grantee, and Grantee shall not offset, any payments previously made pursuant to Section 1 above. In the event Grantee installs transmission poles within the Easement Area, then together with such payment, Grantee shall also pay Grantor Two Thousand Five Hundred Dollars (\$2,500.00) for each transmission pole that Grantee installs in the Easement Area.

$\$15,000 \times 2 \text{ miles} = \$30,000$

$\$2,500/\text{pole} \times 14 \text{ poles (800 ft spacing)} = \$35,000 + \$30,000 = \mathbf{\$65,000}$

$\$2,500/\text{pole} \times 9 \text{ poles (1,200 ft spacing)} = \$22,500 + \$30,000 = \mathbf{\$52,500}$

Annual Payments:

Within thirty (30) days after commencement of construction of Transmission Facilities on the Easement Area, and thereafter within 30 days of each anniversary of the commencement of construction for the term of this Agreement, but not later than the termination of this Agreement, Grantee shall pay Grantor the sum of One Thousand Five Hundred Dollars (\$1,500) per mile of the actual length of the Transmission Facilities in the Easement Area, such amount to be adjusted for inflation at a rate of 2.5% per year over the term of this Agreement. If the base of the transmission line poles are not located on Grantor's Property, but rather a portion of the Transmission Facilities such as a horizontal cross arm or wire hangs in the airspace above Grantor's Property ("Airspace Transmission Facilities"), then the payment is Three Hundred Dollars (\$300) per mile of the actual length of the Airspace Transmission Facilities in the Easement Area.

Year	Annual Payment	Total
1	\$3,000	
2	\$3,075	
3	\$3,152	
4	\$3,231	
5	\$3,311	
6	\$3,394	
7	\$3,479	
8	\$3,566	
9	\$3,655	
10	\$3,747	\$33,610
11	\$3,840	
12	\$3,936	
13	\$4,035	
14	\$4,136	
15	\$4,239	\$53,796
16	\$4,345	
17	\$4,454	
18	\$4,565	\$67,159
19	\$4,679	
20	\$4,796	\$76,634
21	\$4,916	
22	\$5,039	
23	\$5,165	
24	\$5,294	
25	\$5,426	\$102,473

RESOLUTION NO. _____
 SERIES OF 2011

A RESOLUTION OF THE CITY OF ENGLEWOOD, COLORADO SUPPORTING THE DENVER REGION'S APPLICATION TO THE US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT PROGRAM.

WHEREAS, on June 16, 2009, the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Transportation (DOT), and the U.S. Environmental Protection Agency (EPA) announced the Partnership for Sustainable Communities (The Partnership) to coordinate federal housing, transportation, water, and other infrastructure investments to make neighborhoods more prosperous, allow people to live closer to jobs, save households time and money, and reduce pollution; and

WHEREAS, the Partnership is governed by the following Livability Principles:

1. Provide more transportation choices.
2. Promote equitable, affordable housing.
3. Enhance economic competitiveness.
4. Support existing communities.
5. Coordinate policies and leverage investment.
6. Value communities and neighborhoods; and

WHEREAS, the Denver Regional Council of Governments' Board of Directors adopted a resolution on May 19, 2010 affirming its support for the Partnership and agreeing to integrate the Livability Principles into ongoing and future Metro Vision discussions; and

WHEREAS, the Partnership recognizes the need to support metropolitan scale, multi-jurisdictional planning efforts that integrate housing, land user, economic and workforce development, transportation and infrastructure investments; and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) recently announced that it will award \$67 million in grants as part of the Sustainable Communities Regional Planning Grant program; and

WHEREAS, the Denver Regional Council of Governments is facilitating a region-wide discussion with a wide range of stakeholders to develop a regional application to this grant program; and

WHEREAS, the grant funding would support 1) efforts to fine-tune the Metro Vision Plan to more fully integrate the federal Livability Principles; and, 2) the preparation of more detailed execution plans and programs that further Metro Vision goals; and

WHEREAS, the City of Englewood is a strong, committed member of the Denver Regional Council of Governments and is duly proud of the region's long history of collaborative action on matters of regional concern for the collective betterment of the region as a whole.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, THAT:

Section 1. The City of Englewood, Colorado strongly supports submittal of the Denver region's application for the Sustainable Communities Regional Planning Grants Program by the Denver Regional Council of Governments and commits to continue working collaboratively with the Denver Regional Council of Governments and stakeholders from across the region to refine and implement Metro Vision to achieve the outcomes envisioned in the Federal Livability Principles.

ADOPTED AND APPROVED this 6th day of September, 2011.

ATTEST:

James K. Woodward, Mayor

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. _____, Series of 2011.

Loucrishia A. Ellis, City Clerk