



*If you would like to address City Council, please place your name on the sign-up sheet located at the back of the council room. You will be recognized to speak during the "audience participation" portion of the agenda.*

## AGENDA

### Regular Meeting

November 20, 2012 - 7:30 p.m.

City Council meeting packets are prepared several days prior to the meetings. This information is reviewed and studied by the Councilmembers, eliminating lengthy discussions to gain basic understanding. Timely action and short discussion on agenda items does not reflect lack of thought or analysis. An informational packet is available for public inspection on our website at [www.cityofevans.org](http://www.cityofevans.org) and posted immediately on the bulletin board adjacent to the Council Chambers.

1. CALL TO ORDER

2. PLEDGE

3. ROLL CALL

Mayor:	Lyle Achziger
Mayor Pro-Tem:	John Morris
Council:	Laura Brown
	Fred Burmont
	April Neibauer
	Brian Rudy
	Jay Schaffer

4. AUDIENCE PARTICIPATION

*The City Council welcomes you here and thanks you for your time and concerns. If you wish to address the City Council, this is the time set on the agenda for you to do so. When you are recognized, please step to the podium, state your name and address then address City Council. Your comments will be limited to two (2) minutes. The City Council may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and your questions may be directed to the appropriate staff person for follow-up. Thank you!*

5. APPROVAL OF AGENDA

6. CONSENT AGENDA

- A. Approval of Minutes of the Regular Meeting of November 6, 2012
- B. Ordinance 543-12—2012 Budget Revision #3 (2<sup>nd</sup> Rd)

7. NEW BUSINESS

- A. Ordinance 544-12—Amending exhibit a of Chapter 12.20 and sections 15.50.100 and 15.52.045 of the Municipal Code concerning adjustments of impact fees (1<sup>st</sup> Rd)
- B. Ordinance 545-12—Repealing Chapter 2.19 of the Municipal Code thereby eliminating the Volunteer Firefighter Pension Board (1<sup>st</sup> Rd)

- C. Ordinance 546-12—Instituting a temporary moratorium on the issuance of certain land use approvals for the Highway 85 Overlay District (1<sup>st</sup> Rd)

8. REPORTS

- A. City Manager
- B. City Attorney

9. AUDIENCE PARTICIPATION (general comments)

*Please review the Audience Participation section listed at the beginning of the agenda for procedures on addressing City Council.*

10. ADJOURNMENT

**CITY OF EVANS – MISSION STATEMENT**

“To provide positive and progressive leadership that promotes smart growth, economic prosperity and cultural diversity while preserving core and family values and a high quality of life that preserves our small town atmosphere.”

# November 2012 - October 2013

## Yearly Planner

Nov 2012						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

### November

- 12 City Offices Closed-Veterans Day Holiday
- 20 Worksession/City Council
- 22 City Offices Closed--Thanksgiving Holiday
- 23 City Offices Closed-Thanksgiving Holiday

May 2013						
S	M	T	W	T	F	S
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19	20	21	22	23	24	25
26	27	28	29	30	31	

Dec 2012						
S	M	T	W	T	F	S
						1
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9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

### December

- 4 Worksession/City Council
- 18 Worksession/City Council
- 24 City Office Closed--Christmas Holiday
- 25 City Offices Closed--Christmas Holiday

Jun 2013						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
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30						

Jan 2013						
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27	28	29	30	31		

### January

- 1 City Offices Closed--New Year's Holiday
- 2 Worksession/City Council
- 15 Worksession/City Council

Jul 2013						
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27	28	29	30	31		

### February

- 5 Worksession/City Council
- 19 Worksession/City Council

Feb 2013						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
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17	18	19	20	21	22	23
24	25	26	27	28		

Aug 2013						
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Mar 2013						
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24	25	26	27	28	29	30
31						

Sep 2013						
S	M	T	W	T	F	S
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29	30					

Apr 2013						
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28	29	30				

Oct 2013						
S	M	T	W	T	F	S
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27	28	29	30	31		

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## COUNCIL COMMUNICATION

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**DATE:** November 20, 2012

**AGENDA NO.:** 6.A

**SUBJECT:** Approval of Minutes

**PRESENTED BY:** City Clerk Staff

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**AGENDA ITEM DESCRIPTION:**

Approval of minutes.

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**FINANCIAL SUMMARY:**

N/A

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**RECOMMENDATION:**

N/A

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**SUGGESTED MOTIONS:**

*"I move to approve the minutes as presented."*

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**MINUTES**  
**EVANS CITY COUNCIL**  
Regular Meeting  
November 6, 2012 - 7:30 P.M.

**CALL TO ORDER**

Mayor Achziger called the meeting to order at 7:30 p.m.

**PLEDGE**

**ROLL CALL:**

Present: Mayor Achziger Mayor Pro-Tem John Morris, Council members Laura Brown, Fred Burmont, April Neibauer, Brian Rudy, and Jay Schaffer

**SPECIAL RECOGNITION**

Mayor Lyle Achziger read the National GIS Day Proclamation for November 14th. Mayor Achziger presented the proclamation to Public Works Director Earl Smith.

Mayor Lyle Achziger read the National Adoption Day 2012 Proclamation for November 17<sup>th</sup>. Christi Barren, Adoption Supervisor for Weld County Health and Human Services expressed her gratitude for the City to recognize this day. Mayor Achziger presented the proclamation to her.

Mayor Lyle Achziger read the National Alzheimer's Month Proclamation for November 2012. Marcia Shaffer from the Alzheimer's Association thanked the Council for their support of Alzheimer's Month. Mayor Achziger presented the proclamation to her.

**AUDIENCE PARTICIPATION:**

There was no audience participation.

**APPROVAL OF AGENDA:**

Council member Schaffer made motion, seconded by Mayor Pro Tem Morris to approve the agenda as presented. Motion passed with all voting in favor thereof.

**CONSENT AGENDA:**

- A. Approval of Minutes of the Regular Meeting of October 23, 2012
- B. Resolution No. 29-2012—2013 Holiday Schedule

Mayor Pro Tem Morris pointed out that the word "negotiations" was misspelled in the minutes under the executive session.

Mayor Pro Tem Morris made motion, seconded by Councilmember Schaffer to approve the Consent Agenda with correction to the minutes. Council member Neibauer abstained of voting due to absence from the October 23, 2012 meeting. Motion passed with all voting in favor thereof.

## **NEW BUSINESS**

### A. Public Hearing—Resolution No. 30-2012—Revocation of Use by Special Review—Outdoor Storage—3202 11<sup>th</sup> Avenue (Super Pichones)

Mayor Achziger opened the public hearing and asked to hear from staff.

Sheryl Trent, Economic Development Director reported the following:

The City approved in 2010 an application for a Use by Special Review (USR) from Roberto Hernandez, tenant, and Clyde Lane, property owner, in order for the tenant to be allowed to keep a tractor-trailer on the property for storage of fruits and vegetables for the Super Pichones grocery. This approval was through Resolution No. 27-2010. The subject property is located at 2929 11<sup>th</sup> Avenue, formerly Hillside Rental, and is zoned C-3, High-Intensity Commercial. This same USR was approved by both the Planning Commission and City Council in 2009 and again in 2010 for a period not to exceed one year, and reviewed by staff each year.

The original request for a USR was approved with conditions, to be reviewed annually by the City of Evans. Upon review by staff, the property has not complied with the code nor with the conditions of the USR as follows:

- Landscaping had not been installed (it has since been installed)
- The property has not been kept clean (this is an ongoing code enforcement effort)
- The property has not been kept clear of weeds (this is an ongoing effort)

Additionally other violations have been noted on the property including signage issues, landscaping, trash and inoperable vehicles. It has been an ongoing issue for the City. A letter of violation of the zoning code has been sent to the owner and the tenant, and that letter also informed them of the revocation of the USR.

Working with current land owner and tenant, staff felt that it was appropriate to recommend the revocation of the USR to the City Council and the Planning Commission as a result of the ongoing problems at this site. The current state is that the landowner has gone through an eviction process with the current tenant. Court date has been held and a second court date has been set for the tenant. The owner and the tenant are not the audience tonight but the tenant has agreed to move out by November 26<sup>th</sup>. The applicant did show at the Planning Commission meeting to testify. The Planning Commission recommended revocation with the deadline of November 26, 2012 for the trailer to be removed from the site (which is the same date as the tenants formal eviction from the premises).

The site does not currently meet the standards and things have been cleaned up and have not needed to be cited into court for those violations. The City will continue to monitor the site being that it is along one of the main avenues.

Mayor Achziger asked if there were any questions of staff.

Mayor Pro Tem Morris understood the 3 violations listed but questioned what the additional violations were that Ms. Trent had mentioned.

Ms. Trent replied by showing pictures of the property. She stated signage was constantly a problem and not permitted. The canopy tent meant for display during business hours was left out as permanent structures. Both issues have been resolved to the City's satisfaction.

Applicant is not here there for no position was presented.

Mayor Achziger asked if anyone in the audience who would like to speak in favor of this issue.

There was none.

Mayor Achziger asked if anyone in the audience who would like to speak in opposition of this issue. There was none.

Mayor Achziger asked if there was a need for clarification of questions.

Mayor Achziger closed the public hearing.

Mayor Achziger asked for Council discussion.

Mayor Pro Tem Morris stated that this is very clear cut and the business owner is aware of the situation.

Mayor Achziger stated he has been following this for a couple of years. He has spoken with the owner and agrees the owner has made a legitimate attempt to make it right. It was apparent that the signs would be coming and going. He understands the frustration staff has had with the tenant and will be supporting the revocation.

Mayor Pro Tem Morris stated on the issue of the revocation of the Use by Special Review for a refrigerated trailer as outdoor storage at 2929 11<sup>th</sup> Avenue, he moved to adopt, seconded by Council member Rudy Resolution No. 30-2012 because the use does not meet the criteria outlined in Sections 19.44 of the Municipal Code and the conditions of the USR have not been met. Motion passed with all voting in favor of.

**B. Public Hearing—Resolution No. 31-2012—Revocation of Use by Special Review—Repair Garage in C-3—1006 36<sup>th</sup> Street (MY Garage)**

Mayor Achziger opened the public hearing and asked to hear from staff:

Sheryl Trent, Economic Development Director, reported the following:

The City had received an application from Kelvin Kerst, property owner, and Marwan Yasin, tenant, for a Use by Special Review for an auto repair shop at 1006 36<sup>th</sup> Street in 2010 and

2011. The property is zoned C-3 but also contains a legal, nonconforming, single-family house addressed 1010 36<sup>th</sup> Street, which is rented by another tenant. This application was first reviewed and denied by the Planning Commission on April 23, 2010. It was then resubmitted, reviewed and final approval was granted by the City council in March of 2011. That approval was through Resolution 03-2011.

The original request for a USR was denied in April of 2010 due to code violations. Mr. Yasin and Mr. Kerst then undertook an effort to clean the property and it was brought into compliance, at which time the USR with conditions was approved by the City Council in 2011. Upon review by staff, the property has not complied with the code not with the conditions of the USR as follows:

- Landscaping has not been installed
- The property has not been keep clean
- The property has not been kept clear of weeds
- More than four (4) vehicles have been on the property on numerous occasions (see attached photographs)
- Vehicles have been observed in the ROW for more than 12 hours

Neither the tenant nor the owner where present at the Planning Commission meeting. The tenant has informed the City that they have potentially or has already moved out and relocated the business somewhere else. The tenant has been summoned into court because his business license has been revoked on the date of the revocation notice of the USR back in October. He has been operating the business in violation of the business license code. Both the tenant and the property owner where notified.

Ms. Trent further stated that because this neighborhood has a long standing of residential Because it is in the Highway 85 corridor they have been re-zoned C-3.As changes occur in the neighborhood the C-3 standards will have to be met.

Ms. Trent then reviewed the photo graphs of the violations past and current. Staff continues to see and have complaints in the area. One of the concerns that staff has is that it is pretty clear that there is no cooperation from the owner and the tenant for this particular issue. Although the tenant is gone, the concern still remains that the next potential tenant on the site may have similar issues that are brought to the site. These issues can be addressed at during the business license process and possibly a USR at which point Council can consider those and the past history of the site. The main concern is the compatibility with the surrounding neighborhood. The landscaping still remains an issue. The staff and Planning Commission are recommending that the condition of landscaping remain as a requirement on the site even though the use of the repair garage will no longer be there.

Mayor Achziger asked if there were any questions of staff.

Mayor Pro Tem Morris asked where the tenant has moved to.

Ms. Trent stated she has heard verbally from the tenant that he has moved to Greeley.

Mayor Achziger asked if applicant would they would like to address Council.  
Kelvin Kerst of 17798 Hwy 392, Greeley, stated the following:

He is in agreement with the revocation of the USR. Part of the lease was that he complied with the USR. Mr. Kerst can assure that the tenant is no longer there. The agreement was that any building modifications where the owners and the landscaping was on the tenant. In regard with landscaping he will put them in if the neighborhood is held to the same standard including the ditch.

Mayor Achziger asked if Council had any questions of the applicant. There were none.

Mayor Achziger asked if there was any one in the audience who would like to speak in favor of this issue. There was none.

Mayor Achziger asked if there was any one in the audience who would like to speak in opposition of this issue. There was none.

Mayor Achziger asked if Mr. Kerst had anything more to say to Council. Mr. Kerst did not.

Mayor Achziger asked if there any more clarifications of staff. There was none.

Mayor Achziger closed the public hearing.

Mayor Achziger asked for Council discussion.

Mayor Pro Tem Morris stated he is in favor of the revocation.

Mayor Achziger stated he is in favor of the revocation as well.

Council member Brown stated on the issue of the revocation of the Use by Special Review for a repair shop at 1006 36<sup>th</sup> Street, she moved to adopt, seconded by Council Member Rudy, Resolution No. 31-2012 because the use does not meet the criteria outlined in Sections 19.44 of the Municipal Code and the conditions of the USR have not been met. Motion passed with all voting in favor of.

C. Ordinance No. 543-12—3<sup>rd</sup> Quarter Budget Revision (1<sup>st</sup> Rd)

Jessica Gonifas, Deputy City Manager/Finance Director reported the following:

The City Council approves specific items during the year which require an amendment to the adopted budget as required by the City of Evans Charter (Section 7.3 & 8.6). In this case, the revenues, expenditures (or expenses in enterprise funds) and transfers have been previously approved by the City Council. Staff action is usually taken on these items immediately following Council direction. Budget revisions are scheduled at quarterly intervals throughout the year in order to facilitate a flexible and accurate City budget.

The Budget Ordinance heading summarizes the changes to revenues, expenditures, and

transfers by fund. Some of the items have been previously approved by the City Council, those items requiring additional explanation will be described below. Attachment "A" identifies the details of each council action and Attachment "B" identifies the net impact on the revised budget. The following descriptions are listed in the same order as the funds on Attachment "A" and include the items which were not approved as a preliminary budget revision during the quarter.

The General Fund includes an appropriation related to the IGA payment for increase Oil and Gas employee count in item 1.3. Item 1.9 is for costs incurred by Human Resources in the hiring of the fire part time staff and is funding by the Fire District administrative services IGA revenue. 1.10 is to allow for the expenditures to repair a police vehicle and for the replacement of a slide at Prairie View Park due to damage and graffiti. Both items were submitted to the insurance company and reimbursement has already been received. Item 1.11 relates to higher fuel costs and higher usage than was originally budgeted. The Capital Improvement – Streets Fund includes an appropriation for item 1.6 for retain age payment on a prior year project which was unintentionally left out of the carry forward revisions at the beginning of the year.

The Water Fund includes an appropriation of funds from the accumulated major maintenance balance for the 2012 fire hydrant maintenance program in item 1.7. Also, an increase is needed for the Greeley water treatment due to higher than anticipated usage.

Attachment "A" identifies the detailed changes for the proposed revisions to the 2012 Budget. The details are also summarized in the heading of the appropriation ordinance.

Attachment "B" includes Beginning Balance by Fund based on 2011 audited balances and reflects the changes related to this budget revision.

Attachment "C" includes a summary of any changes in projected fund balances from the adoption of the 2013 budget.

The Finance Committee reviewed the proposed budget revision at their last meeting and did not recommend any changes.

Mayor Achziger asked if there were any questions of staff.

None.

Council member Schaffer moved, seconded by Council member Brown to approve Ordinance No. 543-12 on first reading. Motion passed with all voting in favor thereof.

#### **REPORTS:**

The City Manager Aden Hogan reported the following:

Recently he attended the Town/County Dinner Fire Chief Warren Jones, Assistant to the City

Manager Jessica Scheopner, and Mary Achziger, Fire District Board President. There were a lot of updates from all over the County and it is apparent that great things are happening throughout the county. He has a CML meeting tomorrow for the Oversight Committee for the capital financing pool in Denver.

City Attorney had nothing new to report.

**AUDIENCE PARTICIPATION:**

There was no audience participation.

**ADJOURNMENT:**

Mayor Achziger adjourned the meeting at 8:09 p.m.

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Jessica Scheopner, City Clerk

NOT YET APPROVED

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## COUNCIL COMMUNICATION

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**DATE:** November 20, 2012

**AGENDA NO.:** 7.A

**SUBJECT:** Ordinance No. 544-12 - Amending Exhibit A Of Chapter 12.20 And Sections 15.50.100 and 15.52.045 of The Evans Municipal Code Concerning Adjustments Of Impact Fees (1<sup>st</sup> Rd)

**PRESENTED BY:** Earl H. Smith, P.E., Public Work Director  
Warren Jones, Fire Chief – Evans Fire Protection District

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### AGENDA ITEM DESCRIPTION:

Attached is an ordinance to adjust the 2012 impact fees for streets, fire and parks. The fees are established each year based on specific Consumer Price Index comparisons (3.69%), recommendations from the Commissioners, and/or specific studies.

As the Council is aware, the 2013 budget does not include any revenue from impact fees to be spent in the same year. Rather, the 2012 actual revenues are used in the 2013 budget process. In that way, accurate revenue and expenditures can take place.

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### FINANCIAL SUMMARY:

These rates are built into the revenue structure for the 2013 budget adoption.

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### RECOMMENDATION:

Staff recommends that the City Council adopt the ordinance that establishes the impact fees for 2013.

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### SUGGESTED MOTIONS:

*“I move to approve Ordinance No. 544-12 on first reading.”*

*“I move to deny adoption of Ordinance No. 544-12 on first reading.”*

CITY OF EVANS, COLORADO

ORDINANCE NO. 544-12

AN ORDINANCE AMENDING EXHIBIT A OF CHAPTER 12.20 AND SECTIONS 15.50.100 AND 15.52.045 OF THE EVANS MUNICIPAL CODE CONCERNING ADJUSTMENTS OF IMPACT FEES

WHEREAS, Section 12.20.040D of the Evans Municipal Code allows for the adjustment of the Street Impact Fees to be adjusted annually to reflect the effects of inflation utilizing the most recent actual historical factor for the previous fully completed year for which figures are available from the Consumer Price Index for the Denver-Boulder-Greeley area; and

WHEREAS, Section 15.50.100 of the Evans Municipal Code allows for the adjustment of the Fire Impact Fees to reflect inflation, as reflected in the Engineering News Record Construction Index; and

WHEREAS, Section 15.52.100 of the Evans Municipal Code allows for the adjustment of the Park Impact Fees to reflect inflation utilizing the most recent factor in the most recent period for which figures are available from the Consumer Price Index for the Denver-Boulder-Greeley area.

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

Section 1. Exhibit A of Chapter 12.20 of the Evans Municipal Code is hereby changed and will read as follows: **EXHIBIT A**

**Street Impact Fee**

**Residential (per housing unit)**

210 Detached Housing

221 Attached Housing

**Non-Residential Per Square Foot of Floor Area**

820 Commercial/Shop Ctr. 25,000 SF or less

820 Commercial/Shop Ctr. 25,001-50,000 SF

820 Commercial/Shop Ctr. 50,001-100,000 SF

820 Commercial/Shop Ctr. 100,001-400,000 SF

710 General Office 10,000 SF or less

710 General Office 10,001-25,000 SF

710 General Office 25,001-50,000 SF

720 Medical-Dental Office

610 Hospital

620 Nursing Homes

770 Business Park

110 Light Industrial

150 Warehousing

151 Mini-Warehouse\*

Residential	Commercial/ Shopping Centers	Other Non- residential
\$1,858		
\$1,281		
	\$2.79	
	\$2.57	
	\$2.24	
	\$1.65	
		\$1.75
		\$1.40
		\$1.20
		\$2.79
		\$1.29
		\$0.44
		\$0.99
		\$0.54
		\$0.36
		\$0.20

**Other Non-Residential**

310 Lodging (per room)	\$632
565 Day Care (per person)	\$346
530 High School (per student)	\$135
522 Middle School (per student)	\$121
520 Elementary School (per student)	\$86

\*Also used for churches without weekday or school or day care functions.

Section 2. Section 15.50.100 of the Evans Municipal Code is amended to read as follows:

15.50.100 Fire/Rescue Department Impact Fees.

Effective January 1, 2013, the Fire/Rescue Impact Fees shall be as follows:

FIRE/RESCUE DEPARTMENT IMPACT FEES:	
Each residential unit other than a motel or hotel.	\$787.00 per dwelling unit
Non-residential uses, but including a motel or hotel. <i>Exception: Any detached accessory structure related to a single family residential use.</i>	\$ 0.45 per square foot of each floor level of the building area

Annually, the fees will be updated to reflect inflation, as reflected in the Engineering News Record *Construction Index*.

Section 3. Section 15.52.045 of the Evans Municipal Code is amended to read as follows:

15.52.045 Park Development Impact Fees--Schedule of amounts.

- A. Effective January 1, 2013, the Park Development Impact Fees shall be as follows:
1. For each single-family dwelling, four thousand three hundred fifty six dollars (\$4,516);
  2. For each dwelling unit in a duplex, apartment building, or in any other residential structure other than a motel or hotel, four thousand three hundred fifty six dollars (\$4,516);
  3. For each space in a mobile home park or community, four thousand three hundred fifty six dollars (\$4,516);
  4. Exception: Any detached accessory structures related to residential uses described in items 1, 2, or 3 as listed above shall be exempt from this fee.

Section 4. Publication and Effective Date. This ordinance after its passage on final reading, shall be numbered, recorded, published and posted as required by the City Charter and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the City Clerk, and by the Certificate of Publication. This ordinance shall become effective January 1, 2013.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Evans on this 20<sup>th</sup> day of November, 2012.

CITY OF EVANS, COLORADO

By: \_\_\_\_\_  
Mayor

ATTEST:

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

PASSED, APPROVED AND ADOPTED ON SECOND READING this 4<sup>th</sup> day of December, 2012.

CITY OF EVANS, COLORADO

By: \_\_\_\_\_  
Mayor

ATTEST:

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

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## COUNCIL COMMUNICATION

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**DATE:** November 20, 2012

**AGENDA NO.:** 7.B

**SUBJECT:** Ordinance 545-12- Repealing Chapter 2.19 – Elimination of Volunteer Firefighter Pension Board

**PRESENTED BY:** Jessica Gonifas, CPA, Finance Director

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**AGENDA ITEM DESCRIPTION:**

As a piece of the transfer of emergency services from the City to the newly created Evans Fire Protection District, the City will transfer the employees and volunteers of the Fire Department to the District. The transfer is set to take place on January 1, 2013, at which time it will no longer be necessary for the City to maintain the Volunteer Firefighter Pension Board for then it will be the responsibility of the District to assume all powers and duties of that Board.

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**FINANCIAL SUMMARY:**

N/A

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**RECOMMENDATION:**

Staff recommends approval of the ordinance.

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**SUGGESTED MOTIONS:**

*“I move to approve Ordinance No. 545-12 on first reading.”*

*“I move to deny adoption of Ordinance No. 545-12 on first reading.”*

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CITY OF EVANS, COLORADO

ORDINANCE NO. 545-12

REPEALING CHAPTER 2.19 OF THE EVANS MUNICIPAL CODE THEREBY  
ELIMINATING THE VOLUNTEER FIREFIGHTER PENSION BOARD.

WHEREAS, the Volunteer Firefighter Pension Board acts in an advisory capacity for the City Council regarding matters relating to the Volunteer Firefighter Pension Program, including the management and protection of that fund, as well as hearing applications for Volunteer Pension Fund benefits; and

WHEREAS, pursuant to an election held on November 1, 2011, the eligible electors approved the organization of a Fire District in the City of Evans on November 4, 2011, and a Court Order was issued and recorded with the Weld County Clerk and Recorder on November 9, 2011, legally organizing the Evans Fire Protection District; and

WHEREAS, on or about November 28, 2011, the City and the Fire District entered into an Intergovernmental Agreement for transferring emergency service from the City to the newly created Evans Fire Protection District; and

WHEREAS, pursuant to that Intergovernmental Agreement, for an interim period of time, the District, through a Lease Agreement, leased emergency services personnel from the City of Evans effective January 1, 2012; and

WHEREAS, pursuant to that Intergovernmental Agreement for the lease of emergency services personnel, at such time as the District has received sufficient ad valorem revenues and other funds to be financially capable of providing emergency services directly to the citizens and property within its jurisdiction, the District is to provide written notice to the City of its intent to make an offer to employ the emergency services employees and accept all emergency service volunteers into the Fire District's volunteer program; and

WHEREAS, such Notice of Intent has been issued by the District and received by the City with an effective date of January 1, 2013; and

WHEREAS, pursuant to the Notice of Intent, on January 1, 2013, it will no longer be necessary for the City to maintain the Volunteer Firefighter Pension Board for then it will be the responsibility of the District to assume all powers and duties of that Board.

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

Section 1. Effective January 1, 2013, Section 2.19, Volunteer Firefighter Pension Board, of the Evans Municipal Code shall be repealed.

Section 2. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and City Clerk, and by the Certificate of Publication. This Ordinance shall become effective on January 1, 2013.

PASSED, AND APPROVED at a regular meeting of the City Council of the City of Evans on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

CITY OF EVANS, COLORADO

ATTEST:

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

By: \_\_\_\_\_  
Mayor

PASSED, APPROVED, AND ADOPTED ON SECOND READING THIS \_\_\_\_\_ day of \_\_\_\_\_, 2012.

CITY OF EVANS, COLORADO

ATTEST:

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

By: \_\_\_\_\_  
Mayor

**CITY COUNCIL  
INFORMATION SHEET**

**AGENDA ITEM A**

**DATE:** November 20, 2012

**AGENDA NO.:** 7.C

**SUBJECT:** Public Hearing – Ordinance No. 546-12 — A Temporary Moratorium on Land Use Development in the Highway 85 Corridor Overlay District

**PRESENTED BY:** Sheryl Trent, Community and Economic Development Director

**ACTION:** To adopt an Ordinance for a temporary moratorium

BACKGROUND INFORMATION		
<b>Location:</b>	Highway 85 Overlay District (map attached)	
<b>Owner/Tenant:</b>	See attached list	
<b>Existing Land Use:</b>	Commercial, light industrial, residential	
<b>Proposed Land Use:</b>	Will not be affected by this ordinance	
<b>Surrounding Land Use:</b>	<b>North</b>	Out of City limits
	<b>South</b>	Out of City limits
	<b>East</b>	Multiple
	<b>West</b>	Multiple
<b>Existing Zoning:</b>	C-3, I-2, I-3, RC	
<b>Proposed Zoning:</b>	Same, will not be affected	
<b>Surrounding Zoning:</b>	<b>North</b>	Out of City Limits
	<b>South</b>	Out of City limits
	<b>East</b>	R-c, R-1, R-2, R-3, I-1
	<b>West</b>	C-3, R-1, R-3, I-2, I-3
<b>Future Land Use Designation:</b>	Commercial	

**PROJECT DESCRIPTION:** In 2005, with the help of a citizen's review task force, the City of Evans adopted Section 19.62 of the Evans Municipal Code, which established the Highway 85 Overlay District. Since that time the City has formed the Evans Redevelopment Agency, moved forward with a retail strategy and has also revised many standards and codes related to development. At this time staff is reviewing Section 19.62 and will be making recommendations for significant changes to the code in order to make it current and meet the needs of the City. Staff is recommending a temporary moratorium on new development applications within the Overlay District until such time those code revisions have been approved by the City Council.

**RECOMMENDATION:** Recommend adoption of the ordinance setting a temporary moratorium on land use development in the Highway 85 Corridor.

## **ANALYSIS:**

### **1. Background:**

#### Section 19.62 of the Evans Municipal Code:

This section of the zoning code has been in place since 2005 and affected both the land development standards and the zoning in the area as designated. Over the years as additional development has taken place, staff has recognized that the code was silent on some very important development issues including architectural standards, use of land, and allowed business uses in the corridor.

### **2. Issues:**

The main concern is that the economy has now improved to the point where land use development has outpaced the ability of the City to revise the code in a logical and clear manner to address the long term sustainability and compatibility of the area along Highway 85. With the completion of the retail strategy, it was clear that Highway 85 holds the key the future of the City for financial sustainability. Staff will need six (6 months) to be able to write the code, hold public meetings for input and feedback, and present that code to the Planning Commission and City Council for review and approval.

Until that time, a moratorium should be placed on certain types of land use development in that corridor. The City will still accept applications, and will place them in order for review and processing when the moratorium has been removed by the City Council. Those applications will not be processed, however. Those applications include:

Variances

Use by Special Review

Zoning Amendments  
Land Use Development – Site Plans  
Major Subdivisions  
Fence Permits

A letter has been mailed to all of the business owners AND land owners in the Highway 85 Overlay District. Notice of this public hearing was provided in accordance with the City of Evans Municipal Code.

**STAFF RECOMMENDATION:**

I recommend that the City Council adopt Ordinance No 546-12.

**RECOMMENDED PLANNING COMMISSION MOTION:**

“Mr. Mayor, I move to adopt Ordinance No. 546-12.”

“Mr. Mayor, I move to adopt Ordinance No. 546-12 with the following changes....”

CITY OF EVANS, COLORADO

ORDINANCE NO. 546-12

AN ORDINANCE INSTITUTING A TEMPORARY MORATORIUM ON THE  
ISSUANCE OF CERTAIN LAND USE APPROVALS FOR THE HIGHWAY 85  
OVERLAY DISTRICT WITHIN THE CITY OF EVANS PENDING ADOPTION  
OF APPROPRIATE REGULATIONS

WHEREAS, the City Council for the City of Evans (the "City") desires to protect and preserve the health, safety, and welfare of its citizens through the implementation of a comprehensive ordinance regulating development along Highway 85; and

WHEREAS, Highway 85 is a critical corridor of commerce and business within the City of Evans; and

WHEREAS, the City Council adopted Section 19.62 of the Evans Municipal Code which regulates the development along Highway 85 in 2005; and

WHEREAS, the City Council finds that currently there are no developments seeking application for city services such as variances, Use by Special Review approval, site plan development, minor subdivisions, lot line adjustments, major subdivisions, zoning amendments, or fence permits; and

WHEREAS, because the City has determined that because the economics and compatibility of the overlay district have changed since 2005, the City will suffer irreparable harm if a short, temporary moratorium on the submission, acceptance, processing, and approval of City permits, licenses, and land use applications is not imposed, and

WHEREAS, the City Council hereby determines that it is necessary to impose a temporary moratorium on the review of land use applications as listed above for businesses in the Highway 85 Overlay District to protect and preserve the health, safety, welfare, and economic well-being of the City and its citizenry while appropriate regulations are developed.

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

Section 1: Consistent with the City's authority and obligation to promote the health, safety, and general welfare of the citizens and residents of the City, the City Council does hereby find and determine that for a period of 6 months from the effective date of this Ordinance the City is not to process, or act on any use or development application(s) or issue any permits for any use, business, activity, or action in the area known as the Highway 85 Overlay District and attached hereto as Exhibit A. A moratorium period is hereby declared from the effective date of this Ordinance, December 4, 2012, to June 4, 2013, (inclusive) or until further action of the City Council ending or modifying this moratorium, whichever occurs first. Such further action shall be taken by resolution by the City Council accordingly.

The City will accept applications in the Highway 85 Overlay District Area as attached hereto but will not process them or take action until the termination of the moratorium. Those applications that will be accepted but not acted upon include:

- Variance
- Use by Special Review
- Fence permit
- Site Plan Development
- Major Subdivisions
- Zoning Amendments

Section 2: If any section, sentence, clause or phrase of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of this law.

Section 3: The City Council finds and concludes that this Ordinance is necessary for the immediate preservation of the peace, health, welfare, safety, and economic well being of the City of Evans and that the presence or potential of proliferation of non-compatible development along Highway 85 in an uncontrolled or unregulated fashion constitutes an issue.

PASSED, SIGNED, APPROVED AND ADOPTED on first reading at a regular meeting of the City Council of the City of Evans on this 20th day of November, 2012.

CITY OF EVANS, COLORADO

By \_\_\_\_\_  
Mayor

ATTEST:

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

PASSED, SIGNED, APPROVED AND ADOPTED on second reading at a regular meeting of the City Council of the City of Evans on this 4th day of December, 2012.

CITY OF EVANS, COLORADO

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk



## Parcel Map Highway 85 Urban Renewal Area

**Legend**

- Highway 85 URA Boundaries
- Parcels within the Highway 85 URA Boundaries and ID Number
- Parcels
- Evans City Limits

1:3,600  
1 inch = 300 feet



Feet  
0 100 200 400 600 800 1,000

  
**City of Evans, Colorado**

DISCLAIMER: This map was designed and intended for City of Evans use only. It is not guaranteed to survey accuracy. This map is based on the best information available on the date shown on this map. The City of Evans makes no warranties or guarantees, either expressed or implied, as to the completeness, accuracy or correctness of this map, nor accepts any liability arising from any incorrect, incomplete, or misleading information contained therein. Any reproduction or sale of this map, or portions thereof, is prohibited without the express written authorization by the City of Evans.

## Chapter 19.62

### US 85 OVERLAY DISTRICT DESIGN STANDARDS

#### Sections:

- 19.62.010 General
- 19.62.020 Intent of US 85 Overlay District
- 19.62.030 Definitions
- 19.62.040 Boundaries and Affected Property
- 19.62.050 Non-Permitted Uses
- 19.62.060 Uses Allowed with Special Use Permit
- 19.62.070 Existing Uses and Structures
- 19.62.080 Design Review Process
- 19.62.090 Site Planning and Urban Design
- 19.62.100 Setbacks, Street Frontages, and Height
- 19.62.110 Access, Circulation and Parking
- 19.62.120 Service, Loading and Outdoor Storage Areas
- 19.62.130 Telecommunications Equipment and Utilities
- 19.62.140 Buffers and Transition Areas
- 19.62.150 Fences and Walls
- 19.62.160 Landscape Standards
- 19.62.170 Architectural Design Standards
- 19.62.180 Lighting
- 19.62.190 Signage
- 19.62.200 Maintenance Standards
- 19.62.210 Variance
- 19.62.220 Administration and Enforcement
- 19.62.230 Violation – Penalty

#### 19.62.010 General

The provisions of this chapter apply to all lands, uses and structures within the US 85 Overlay District (“District”) as defined herein. If any provisions of this chapter conflict with other provisions of the Evans Municipal Code, the provisions of this chapter shall apply. (Ord. 336-05)

#### 19.62.020 Intent of US 85 Overlay District

The intent of the US 85 Overlay District is to implement the principles and recommendations of the US 85 Corridor Master Plan, adopted by Resolution 111-02 on December 17, 2002, through establishing consistent development standards for new development, redevelopment, and renovation along US 85 in the City of Evans. The standards contained herein are intended to ensure that development along the US 85 Corridor (“the corridor”) meets certain minimum criteria in order to:

- Improve the appearance and coordinate land uses along the US 85 Corridor
- Establish a unique identity for the City of Evans
- Improve economic vitality along the US 85 Corridor
- Maximize long-term property values and community benefits
- Minimize the impact of nonresidential development on residential areas
- Improve safety for automobiles, bicycles, and pedestrians
- Encourage the development of sidewalks and trails along West Service Road (WSR)
- Encourage in-fill development to develop higher densities within the corridor
- Facilitate the undergrounding of overhead utilities in the corridor

(Ord. 336-05)

### 19.62.030 Definitions

The following words and phrases shall, for the purpose of this chapter, be defined as follows:

- “Accent lighting” shall mean directional lighting to emphasize a particular object.
- “Animals, confined” shall mean the commercial raising of animals such as, but not limited to, horses, cattle, sheep, goats, swine, turkeys and chickens, the commercial production of milk, commercial pen feeding operations (feed lots), riding stables with arenas, and similar activities.
- “Articulation, horizontal” shall mean a method of breaking up the vertical appearance of a structure through varying horizontal planes.
- “Articulation, vertical” shall mean a method of breaking up the horizontal appearance of a structure through varying vertical planes.
- “Articulation” shall mean the manner in which contiguous shapes are joined or formed to clarify or emphasize certain elements of the structure.
- “Auction yard” shall mean a property on which merchandise or other property is sold by auction.
- “Awning” shall mean a roof-like cover of canvas, metal, or other material extending in front of and over a door, window or deck to provide protection from weather.
- “Belt course” shall mean a horizontal course of brick, stone or similar material, flush with or projecting beyond the face of a building.
- “Building height” shall mean the height as measured from the average surrounding grade of the footprint of a building to the midpoint of a pitched roof or highest point of a flat roof.
- “Building scale” shall mean the size and proportion of a building relative to surrounding buildings and environs, adjacent streets, and pedestrians.
- “Canopy, gas station” shall mean a structural protective cover, not enclosed on any side, for a gasoline or fuel service dispensing or similar service area.
- “Canopy, tree” shall mean the more or less continuous cover of branches and foliage formed collectively by the crown of one or more trees.
- “Cemetery” shall mean land used for the burial and memorializing of the dead and dedicated for cemetery purposes, including columbariums, mausoleums, and pet cemeteries.
- “Clustered; clustered development” shall mean a development technique which concentrates buildings on a portion of a site, so that the remaining land may be used for common area or open space.
- “Colonnade” shall mean a series of regularly spaced columns, usually supporting one side of a roof structure.
- “Cornice” shall mean a continuous, molded projection that crowns a wall or other construction.
- “Crematorium” shall mean a place for the cremation of human or animal remains.
- “Dead-end parking lots” shall mean a parking lot having only one outlet and no area at the closed end for vehicles to turn around.
- “Dead-end sidewalks” shall mean a sidewalk that terminates abruptly with no connection to another sidewalk or pedestrian walkway.
- “Dead-end driveways” shall mean a driveway having only one outlet and no area at the closed end for vehicles to turn around.
- “Development/redevelopment” shall mean any man-made change to improved or unimproved real property including, but not limited to, grading, paving, mining, excavating, construction, substantial improvement to an existing structure, or addition of a new structure.
- “Environmental effect” shall mean the presence of any chemical, biological, or physical contaminant or substance in the outdoor atmosphere, ground, or water that is or may be potentially harmful to the health, safety, or welfare of human, animal, or plant life, or that interferes with the use and enjoyment of any nearby property.

- “Fixture, lighting” shall mean a complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.
- “Flea market” shall mean a business operation or bazaar consisting of more than one independent vendor who is allocated space and does business on the premises and is not in charge of the premises, and where goods and/or services are offered for sale or exchange at retail to the general public, either indoors or outside, or both, including but not limited to antiques, curios, new and used merchandise, equipment, appliances and other goods and wares, (excluding yard sales, auctions, pawn brokers and retail business establishments, and the like) where sales are made to the general public by the individual vendor who leases space where such sales are made.
- “Hospital” shall mean a state or federal certified facility providing health services primarily for in-patients and medical or surgical care of the human sick and injured, including as an integral part, such related facilities as laboratories, out-patient services, rehabilitation and recovery services, training facilities, central service facilities and staff offices.
- “Human scale” shall mean the proportion of a building element or space relative to average human size.
- “Impervious surface” shall mean any surface made of asphalt, concrete, brick, pavers, stone, or similar material which does not readily absorb water.
- “Industrial uses facility” shall mean any establishment for wholesale, commercial service and storage of goods and materials, such as warehouses, commercial laundries and dry-cleaning plants, bottling works, builders’ supply yards, printing and publishing plants, tire vulcanizing shops, automobile and truck body work, and establishments of a similar nature.
- “Internal circulation” shall mean a continuous network of sidewalks, pathways, and driveways within a site or within multiple sites.
- “Junk” shall mean garbage and all other waste matter or discarded or unused material such as, but not limited to, salvage materials, scrap metal, scrap materials, bottles, tin cans, paper, boxes, crates, rags, used lumber and building materials; manufactured goods, appliances, fixtures, furniture, machinery, motor vehicles or other such items which have been abandoned, demolished or dismantled, or are in such a condition as to be unusable for their original use, but may be used again in present or different form for a new use; discarded or inoperable vehicles, machinery parts and tires; and other items commonly considered to be refuse, rubbish or junk.
- “Kennel” shall mean any property used for commercial purposes, on which four or more pet animals, at least four months of age, are kept for training, boarding or breeding, whether in special structures, runs or not.
- “Livestock trailer washout” shall mean a property where trailers used for hauling livestock are washed.
- “Living plant material” shall include, but is not limited to, deciduous and coniferous trees, shrubs, vines, perennial plants, cacti, succulents, sod, and native and ornamental grasses. Also includes annual plants provided new plants are planted each year.
- “Manufacturing/assembly plant” shall mean establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembly of component parts, the creation of products, the blending of materials, and other similar uses.
- “Massing” shall mean the relationship between various masses or volumes of a building or structure.
- “Molding” shall mean any of various long, narrow, ornamental surfaces with uniform cross sections.
- “Multi-planed” shall mean having more than one plane visible from each side of a building.

- “Natural resource extraction and treatment” shall mean gravel pits, quarries, gas refineries, or any other process of altering or storing a natural resource or removing natural resources from the ground.
- “Outdoor sales lot” shall mean an uncovered, paved area of a lot or parcel used primarily for the constant display of goods for sale, such as automobile sales lots, landscaping and nursery retailers, and construction materials sales lots. Outdoor sales lots do not include salvage yards or outdoor flea markets.
- “Pedestrian connection” shall mean a clearly-defined pedestrian walkway between a sidewalk or parking area and the building entrance.
- “Pedestrian court” shall mean an open space, generally open to the public, surrounded by buildings or walls on at least three sides and improved with an impervious surface.
- “Pedestrian plaza” shall mean an open space, generally open to the public, usually surrounded by buildings and/or streets and improved with an impervious surface.
- “Reasonably feasible” shall mean capable of being accomplished or brought about without undue burden or hardship, whether financial or otherwise.
- “Recessed window or door” shall mean a door or window which exterior plane is offset from the exterior wall by at least twelve inches inward.
- “Recreational vehicle (RV)” shall mean a transportable structure that is primarily designed for seasonal recreational/vacation purposes for recreational, camping, and travel use including, but not limited to, boats, travel trailers, campers, snowmobiles, motorcycles, self-propelled motor homes, and similar vehicles/units.
- “Recreational vehicle (RV) park/campground” shall mean any parcel of land upon which two or more recreational vehicles or camp sites are located, established, or maintained for occupancy or living quarters. Such parcel being commercial in nature must comply with all the state and local regulations related to licensing, site design/layout, life safety and health issues. This use does not include the storage of travel trailers, recreational vehicles, boats, snowmobiles, motorcycles, or similar vehicles/units.
- “Recreation vehicle storage” shall mean the renting of space in an unroofed area for simultaneous commercial placement/storing of two or more recreational vehicles, including but not limited to, boats, travel trailers, campers, snowmobiles, motorcycles, and similar vehicles/units. This use does not include the storage of these vehicle/units at private residences, provided such vehicles/units stored at residences are owned or leased by persons residing at the residence.
- “Recycling center” shall mean a use involving the collection and processing of recyclable materials for shipment or re-use. Processing includes baling, compacting, flattening, grinding, crushing, mechanical sorting, shredding, melting, cleaning, and remanufacturing.
- “Roof plane” shall mean the portion of a roof, whether flat or pitched, by which a straight line would pass through continuously.
- “Roof, flat” shall mean a roof having a slope of less than 1:12, with one being the rise and twelve being the run.
- “Roof, pitched” shall mean a roof having a pitch of at least 1:12, with one being the rise and twelve being the run.
- “Roofline” shall mean the profile of or silhouette made by a roof or series of roofs.
- “Salvage yard” shall mean an industrial use for collecting, storing and/or selling scrap metal or discarded material or for collecting, dismantling, storing, salvaging or demolishing vehicles, machinery or other material and including the sale of such materials or parts.
- “Shared driveway” shall mean a driveway that serves two or more lots in order to reduce the number of access points onto a public roadway.
- “Shared parking” shall mean the development and use of parking areas on two or more separate properties for joint use by the businesses or residents on those properties.

“Substantial improvement” shall mean any change to an existing improvement that causes the size, height, or area to increase by 50 percent or more, or which costs 50 percent or more of the market value of the improvement prior to the change.

“Wall, parapet” shall mean an exterior wall that rises above the roof on all sides of a building, usually to screen mechanical or other equipment.

“Wall, partial parapet” shall mean an exterior wall that rises above the roof on one or more, but not all, sides of a building, usually to screen mechanical or other equipment. (Ord. 336-05)

#### 19.62.040 Boundaries and Affected Property

The boundaries of the US 85 Overlay District are shown as a solid white line on the following maps. The standards of this chapter shall apply to all new development and redevelopment occurring within the District, and shall also be taken into consideration when reviewing new development adjacent to the District. If any parcel is partially within the District, these standards shall apply to the entire parcel. (Ord. 336-05)

Figure 1. US 85 Overlay District Boundaries, North Section





#### 19.62.050 Non-Permitted Uses

A. The uses allowed within the District are intended to be of a nature that is retail, personal service, and office. Where industrial uses are allowed within the District, they shall be of a low-impact, light industrial nature, and any environmental effects generated shall be kept within the buildings where they are produced. As stated in Chapter 19.32 of the Evans Municipal Code, light industry consists of, but is not limited to, scientific research; limited manufacturing; compounding, assembly, processing or treatment of products; food and beverage processing; and similar limited industrial uses in which the environmental effects of the operation are confined within the principal buildings.

B. Regardless of the uses allowed by a property's underlying zoning, the following uses or use groups are not permitted within the District:

- Animals, confined, except riding stables with arenas
  - Cemetery
  - Crematorium
  - Flea market
  - Salvage yard
  - Natural resource extraction and treatment
  - Recreational vehicle (RV) park/campground
  - Livestock trailer washout
  - Recycling facility
  - Auction yard
- (Ord. 336-05)

#### 19.62.060 Uses Allowed with Special Use Permit

A. If a property's underlying zoning allows any of the following uses or use groups, such uses shall only be allowed within the District by Special Use Permit approved in accordance with Chapter 19.44 of the Evans Municipal Code:

- Recreational vehicle storage
- Industrial uses facility
- Manufacturing/assembly plant
- Hospital
- Kennel

B. Special Use Permits shall only be issued in the District if the City Council finds that the proposed use is consistent with the purpose and intent of this chapter. (Ord. 336-05)

#### 19.62.070 Existing Uses and Structures

A. Uses and structures in the District that were conforming prior to the effective date of the ordinance adopting this chapter, but that do not meet one or more standards of this chapter, will be considered legal nonconforming in accordance with Chapter 19.56 of the Evans Municipal Code.

B. Uses that were conforming prior to the effective date of the ordinance adopting this chapter, but that require a Special Use Permit under the provisions of this chapter, will be considered to have Special Use approval.

C. New standards effective upon adoption of this ordinance shall apply to all building permits and final plat approvals applied for on or after the effective date of this ordinance, except as may otherwise be provided for under the provisions of this chapter. (Ord. 336-05)

#### 19.62.080 Design Review Process

All new development and redevelopment within the US 85 Overlay District will be reviewed administratively for compliance with the District Design Standards, as provided herein, prior to issuance of a building permit. (Ord. 336-05)

#### 19.62.090 Site Planning and Urban Design

A. The purpose of site planning is to consider site characteristics, such as sunlight, weather, drainage, traffic patterns, and orientation of the building to roadways and other structures, when developing a parcel of land. Urban design is the method of combining planning, architecture, and landscaping to create attractive and functional urban areas. Conscientious site planning and urban design carefully integrate and organize structures and related improvements to provide a pleasant experience for the users. All new development and redevelopment shall be reviewed within a site-specific context, as well as within the context of the entire District.

B. Urban design principles of integrating architectural style, overall layout of structures, vehicular and pedestrian circulation and connectivity, and functional landscaping shall be considered for all new development and redevelopment. When reasonably feasible, new structures shall be sited in a manner that will complement adjacent, conforming structures. Sites shall be developed in a coordinated manner to avoid random, confusing development. When possible, new structures shall be clustered to create pedestrian plazas, shared driveways and shared parking to lessen pedestrian-vehicle conflicts. (Ord. 336-05)

#### 19.62.100 Setbacks, Street Frontages, and Height

A. In order to create continuity along West Service Road, the elevation nearest WSR for principal structures on properties adjacent to WSR shall be built as close as reasonably feasible to the minimum setback closest to WSR.

B. Any new or substantially improved principal structure adjacent to US 85 or WSR shall either be oriented with its major entry toward US 85 or have architectural features that simulate a front façade facing US 85. When possible, the majority of parking should be located at the rear and/or sides of the building with landscaped pedestrian connections to the front of the building. Detached accessory structures, such as sheds and workshops, and accessory uses, such as outdoor storage, shall not be permitted between the principal structure and any property line abutting US 85 or WSR. This section shall not apply to fences, patios, or structures of a similar nature.

C. The maximum height of any new structure in the District shall not exceed 35 feet or two stories, whichever is less. Notwithstanding the height limitation, at the discretion of the City Council and Planning Commission, in cases where architectural design exceeds the minimum standards set forth herein and urban design principles have been demonstrated, the height limitation may be waived. (Ord. 336-05)

#### 19.62.110 Access, Circulation and Parking

A. Vehicular access shall be separated from pedestrian and bicycle access to the greatest extent possible to reduce pedestrian-vehicle conflicts. Internal circulation, including pedestrian and vehicular, shall be continuous and shall avoid creating dead-end parking lots, dead-end driveways, or dead-end sidewalks.

B. Parking areas shall be broken up through the use of landscaping and building layout to avoid large expanses of parking stalls. Parking lots are required to be landscaped according to Chapter 19.47 of the Evans Municipal Code.

C. Adjacent developments which incorporate shared driveways and parking areas shall be allowed up to a 20 percent reduction in the required number of parking spaces, in accordance with the following requirements:

1. Such shared parking shall not be farther than 500 feet from the entrance of any building for which it counts as required parking.
  2. There shall be a recorded easement for cross-access and parking on the lots that share parking.
  3. Parking required for residential buildings shall not be allowed to count as shared parking.
- D. Bicycle parking shall be required on all properties in accordance with the following provisions:
1. The required number of bicycle parking spaces shall be five percent of the required number of automobile parking spaces. Notwithstanding the foregoing, not less than one or more than 20 bicycle spaces shall be required.
  2. Bicycle parking shall be located as near as practical to building entrances without obstructing pedestrian or vehicular traffic or causing damage to nearby landscaping.
  3. Bicycle parking shall be provided with a permanent structure of heavy gauge tubular steel, or similar material, with angle bars attached to concrete or asphalt pavement. Such structures shall be designed to allow the frame and both wheels of bicycles to be securely locked to the structure. (Ord. 336-05)

19.62.120 Service, Loading and Outdoor Storage Areas

All service areas, loading areas, and outdoor storage areas shall be screened and separated from parking areas using architectural features, constructed of the same materials and colors as the adjacent, conforming structure, and landscaping. No service, loading or outdoor storage areas may be located in the required front setback or adjacent to or along WSR or US 85. (Ord. 336-05)

19.62.130 Telecommunications Equipment and Utilities

- A. All telecommunications equipment shall comply with Chapter 19.42 of the Evans Municipal Code.
- B. All utility lines shall be installed underground. Existing overhead utility lines shall be relocated underground, whenever feasible. (Ord. 336-05)

19.62.140 Buffers and Transition Areas

In order to lessen the impact of nonresidential development upon residential areas, nonresidential development must meet the following provisions:

- A. Landscaped buffer areas shall be provided pursuant to Chapter 19.47 of the Evans Municipal Code, except that greater bufferyards and/or screening may be required at the discretion of the City.
- B. Businesses on property adjacent to property zoned residential use shall not be open for business between the hours of 10:00 p.m. and 6:00 a.m. This provision shall not apply to legally existing businesses that regularly operated between 10:00 p.m. and 6:00 a.m. on the effective date of the adoption of this chapter.
- C. Regardless of the uses allowed by a property's underlying zoning, the following uses or use groups shall not be permitted on property adjacent to property zoned for residential use:
- Adult business
  - Nightclub, bar, tavern
  - Retail uses, extensive
  - Treatment of humans, restrained
  - Kennel
- (Ord. 336-05)

#### 19.62.150 Fences and Walls

A. All fences and walls shall conform to the standards provided in Chapter 19.48 of the Evans Municipal Code in addition to the requirements of this section.

B. Materials and colors. New fences and walls generally parallel to and within 25 feet of a property line abutting US 85 or WSR shall be constructed of durable materials that will retain their appearance over time. The materials and colors chosen should be the same as or similar to new or existing, conforming structures on adjacent lots.

1. Appropriate materials include:
  - Brick
  - Stone
  - Stucco
  - Tinted, textured masonry block/architectural block
  - Wrought iron or decorative aluminum
  
2. Other fencing not parallel to and within 25 feet of US 85 or WSR may be constructed of the following materials:
  - Brick
  - Stone
  - Stucco
  - Tinted, textured masonry block/architectural block
  - Wrought iron or decorative aluminum
  - Vinyl-coated chain link
  - Decorative vinyl fence
  - Decorative pressure-treated or hardwood fence

C. Permit required. A fence permit is required for all new fences and walls in the US 85 Overlay District. Existing fences and walls adjacent to or facing US 85 or WSR that become dilapidated and need at least 25 percent of the structure repaired or replaced as determined by the City shall require a fence permit and shall be brought into conformance with the provisions of this chapter. (Ord. 336-05)

#### 19.62.160 Landscape Standards

In addition to the requirements of Chapter 19.47 of the Municipal Code, required landscaped areas shall contain at least 50 percent living plant material, as defined by this chapter, as measured within five years of planting. Deciduous tree canopies shall not count toward the 50 percent requirement. (Ord. 336-05)

#### 19.62.170 Architectural Design Standards

A. New single-family and two-family residential development and redevelopment shall comply with the current residential architectural design standards pursuant to the Evans Municipal Code.

B. The following minimum architectural design standards apply to each elevation of all new multifamily and nonresidential development and redevelopment in the corridor, unless otherwise noted. These minimum standards are intended to achieve consistent and quality developments that will retain their appearance and value over time.

1. Building Design and Character
  - a. Height, massing, building scale. The height and scale of any new building shall be compatible with surrounding, conforming structures. Whenever possible, individual structures shall be clustered to create plazas and pedestrian courts, and shared driveways and/or parking shall be incorporated to lessen pedestrian-vehicle conflicts.

- b. Human scale. The design of new buildings shall reflect consciousness of how the size of the proposed building relates to the size of human beings. Human-scale design shall be incorporated through the use of horizontal articulation, belt courses, cornices, recessed windows or doors, awnings, roof overhangs, moldings, fixtures, colonnades, or other architectural feature. In order to avoid blank walls at the ground floor levels, windows, trellises, articulation, arcades, change in materials, or other architectural features shall be utilized. These features shall be incorporated into each elevation.
  - c. Complementary architecture. All accessory structures including, but not limited to, gas station canopies, warehouses, or clubhouses, shall utilize design, colors, and materials similar or complementary to the principal structure on the lot.
2. Roofs
- a. Form. The roofline of pitched and flat roofs shall not run in a continuous plane for more than 50 feet without offsetting or jogging the roof plane through the use of multi-planed roofs. For buildings with flat roofs or parapet walls, in addition to multi-planed roofs, vertical articulation shall be incorporated into the exterior wall design. Partial parapet walls and mansard roofs are not permitted. Roofs shall be constructed to prevent mechanical and other rooftop equipment from being visible from any nearby right-of-way.
  - b. Materials. New buildings shall be constructed with appropriate roof material.
    - i. Appropriate roofing materials include:
      - Asphalt or fiberglass shingle
      - Clay or concrete tile
      - Slate
      - Metal shake or shingle (non-reflective)
    - ii. Inappropriate materials include:
      - Reflective materials (copper may be considered)
      - Tar and gravel (built-up)
      - Corrugated metal
3. Elevations
- a. Building Materials. New buildings shall be constructed of appropriate, durable materials that will retain their appearance over time. Combinations of materials and textures are encouraged.
    - i. Appropriate exterior materials include:
      - Brick
      - Stucco
      - Stone
      - Tinted, textured masonry block/architectural block
      - Glass block
      - Hardboard siding/simulated wood products
    - ii. Steel architectural panels will be allowed in Industrial zoning districts only and only up to 50 percent of the area of each elevation.
    - iii. Tilt-concrete panels may be used, at the discretion of the City, in conjunction with other acceptable materials.
    - iv. Inappropriate materials include:
      - Plywood
      - Reflective metal siding

- Vinyl siding
  - Cinder block/concrete masonry units (CMU)
- b. Change in plane. All newly developed and redeveloped structures shall contain a change of plane equal to at least ten percent of the area of the wall for walls greater than 1,000 square feet in area.
  - c. Building colors and textures. Building color requirements contained herein shall apply to all primary and accessory structures, whether newly constructed or renovated. Reflective, neon, primary (red, blue, yellow) and secondary (purple, green, orange) colors shall not be permitted, except for trim and accent by approval of the City. Acceptable colors include subtle warm and cool colors, earth-tone colors, and neutral colors. The intent is not to discourage color variety, but to avoid colors that are primarily used only to attract attention. Approval of a permit shall be required prior to repainting existing buildings within the District in order to ensure compliance with these provisions. Samples of proposed materials and colors shall be provided upon request of the City.
  - d. Windows and Doors. If all windows and doors on an elevation are recessed or protruding by at least one foot, those windows and doors shall count toward the required change in wall plane. At least 25 percent of the area of any wall visible from a public right-of-way shall contain windows and/or doors. Overhead doors shall not be placed facing any public right-of-way. Each window not recessed or otherwise architecturally enhanced (such as with decorative molding, sills, mullions, arches or cornices; window boxes; awnings; multi-paned windows; or bay windows) shall have at least three-inch-wide exterior trim, constructed of acceptable building material, around the window. (Ord. 336-05)

#### 19.62.180 Lighting

A. Lighting is required for the security of on-site areas, such as parking, loading, plazas, and sidewalks in accordance with the following provisions:

1. All new freestanding fixtures located in the right-of-way shall be either the City of Evans' Standard Ornamental Arterial Lighting Fixture or Standard Ornamental Local Lighting Fixture. Standard Ornamental Lighting Fixtures are strongly encouraged for on-site parking areas and on-site sidewalks; however, full cutoff fixtures may be used in on-site areas with prior written approval from the City.
2. Internal or on-site parking areas, sidewalks, pathways, pedestrian courts and plazas shall have sufficient lighting to ensure adequate visibility for pedestrians.
3. All wall-mounted fixtures shall be shielded and directed downward and inward so as to reduce glare onto neighboring properties and rights-of-way.
4. The maximum height of any fixture shall be 25 feet.
5. Interior lighting in parking garages shall be shielded to minimize nighttime glare on adjacent properties and rights-of-ways.
6. Upward accent lighting for landscaping is permitted, as long as the light source is directed inward and away from adjacent sidewalks, plazas, parking lots, neighboring properties, and rights-of-way.
7. Where vehicle headlights would likely shine onto residentially zoned property, driveways and parking areas for more than two vehicles shall be screened from adjacent residentially zoned property by a solid fence, wall, solid evergreen hedge, or landscaped berm with vegetation that will mature to at least five feet in height.
8. Glare diagrams and/or lighting plans may be required at the discretion of the City.

B. Canopies. For gas station canopies and similar structures, lighting shall not cause glare onto adjacent rights-of-way or properties. All fixtures shall be mounted underneath the canopy and fully recessed with flat lenses that are flush with the underneath surface of the canopy. Light fixtures shall not be mounted on the top or sides of the canopy.

C. Outdoor sales lots. Outdoor sales lots may incorporate lighting fixtures other than the Evans Standard Ornamental Fixture for the on-site sales lot. In order to prevent glare onto adjacent properties and rights-of-way, all fixtures shall be full cutoff, with the light source directed downward and away from adjacent rights-of-way or adjacent properties. The maximum height of any fixture shall be 25 feet. A lighting plan, including the type of fixture and bulb proposed, is required.

D. All on-site lighting fixtures shall be maintained so as to be functioning properly at all times.

E. When more than 25 percent of nonconforming light fixtures are not functioning or are dilapidated, all fixtures on the lot shall be replaced with Arterial or Local Standard Ornamental Light Fixtures or other acceptable light fixtures. (Ord. 336-05)

#### 19.62.190 Signage

All signs in the corridor shall comply with the provisions of Chapter 19.45 of the Evans Municipal Code. (Ord. 336-05)

#### 19.62.200 Maintenance Standards

All structures, related improvements, and landscaping shall be properly maintained. Outdoor storage areas, where permitted, shall be kept orderly and free of junk. (Ord. 336-05)

#### 19.62.210 Variance

A. Application for variance or modification of these regulations shall be submitted to the Planning Commission. Such application shall include a statement setting forth the nature and extent of the requested variances or modifications, together with evidence supporting the need for such variance.

B. Where the Planning Commission and the City Council find that extraordinary hardships may result from strict compliance with these regulations, they may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variance is based on a finding that unusual topography or other exceptional conditions not caused by the applicant make such variance necessary, and that the granting thereof will not have the effect of nullifying the intent and purpose of these regulations.

C. In granting variances and modifications, the Planning Commission and the City Council may require such conditions as will, in their judgment, secure substantially the objectives of the requirements and standards so varied or modified. (Ord. 336-05)

#### 19.62.220 Administration and Enforcement

A. The Director of Public Works is authorized and directed to administer and enforce all of the provisions of this chapter.

B. Any violation of these Overlay District Design Standards, including without limitation, construction of any new structure or related improvement without first obtaining Overlay District Design Review approval, or filing false or misleading information on a Design Review application, shall be a violation of this Code, as amended, and shall be subject to all the enforcement provisions of those regulations. Without limiting the generality of the previous sentence, these Design Standards may be enforced by withholding building permits or certificates of occupancy, suspending or revoking building permits previously granted, or issuing stop-work orders effective until violations of these Standards have been corrected. (Ord. 336-05)

19.62.230 Violation – Penalty

A. Any person who violates any of the provisions of this chapter is guilty of a violation of the Municipal Code and shall be punished as provided in Section 1.16.010 of this Code.

B. In the event a property owner fails to comply with the provisions of this chapter, the City may perform the required action and invoice the property owner responsible, plus a ten percent fee for inspection and other administrative costs. The City shall first give written notice to the property owner of the required action and allow at least 14 days to comply. In the event a property owner fails to pay an invoice from the City for such costs and fees within 30 days of receipt, the City may file a lien on the property with the County Treasurer's Office to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with an additional ten percent penalty to defray the cost of collection. Such lien shall have priority over all other liens except general property taxes and prior assessments. Nothing in this section shall preclude or prevent the City from punishing violations of this Code in accordance with Section 1.16.010. (Ord. 336-05)

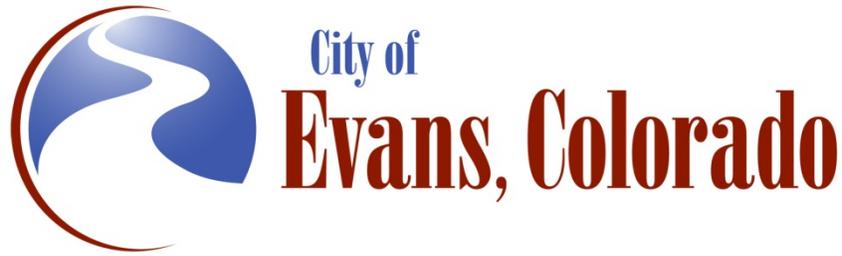
**CITY OF EVANS  
NOTICE OF PUBLIC HEARING**

NOTICE is hereby given, pursuant to the Evans Municipal Code, the City Council will hold a public hearing on November 20, 2012, commencing at 7:30 pm, said meeting to be held at the Evans Community Complex Council Chambers, 1100 37th Street, Evans, Colorado, at which time and place they will consider and act upon a ordinance placing a temporary moratorium on land use applications for the properties located in the Highway 85 Overlay District in the City of Evans.

Vicinity: Highway 85 Corridor from north to south

All persons in any manner interested in this matter may be present and may be heard.

Be it also known that additional information may be obtained from the Evans Community Development Department, 1100 37th Street, Evans, Colorado, between the hours of 8:00 am and 5:00 pm Monday through Friday, or by contacting the Community Development Department at (970) 475-1112. Information will be located on the website at [www.cityofevans.org](http://www.cityofevans.org) under the City Council agenda packet as posted.



## City Manager Monitoring Report

November 20, 2012

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*Below is a compellation of updates and projects that are either new or have changed since the last City Council meeting.*

- **Economic and Community Development**

### Library Project

The Library Design Advisory Group has had their first meeting, and their second meeting will be on November 13<sup>th</sup> just before the Planning Commission meeting. This will be the final programming meeting prior to having an architect start to draw actual plans and layouts. As we progress, the team will be able to interact via email. A Facebook page just for the Library Project will also be a part of the project. We intend to apply for a DOLA Energy Impact Grant, which is due December 1, 2012.

An IGA for the project will be discussed at a joint meeting with the City Council and the High Plains Library Board on Monday, January 14<sup>th</sup> at 6:00 pm.

### Retail Strategy

Our implementation continues with the Highway 85 Corridor Plan. We continue our focus on how best to bring retail to Evans, what kind of retail it should be, and how to secure that retail. Part of that process will involve updating the Highway 85 Overlay District, Section 19.62 of the Evans Municipal Code. Baseline Corporation will be the lead consultant on that project, which is expected to take no more than six months. During that update, a temporary moratorium will be in place on land use development in the corridor.

### Development Meetings

Staff has recently had development meetings with the following:

Family Dollar – 35<sup>th</sup> and 37<sup>th</sup> – site plan submitted and reviewed, out for correction  
Ashcroft Park Apartments – 35<sup>th</sup> and 34<sup>th</sup> – submitted this week  
Cave Creek Phase III – 35<sup>th</sup> and Prairie View Drive – will submit a new site plan.  
CDOT Park and Ride – east side of Highway 85, south of 42<sup>nd</sup> Street, in review  
Renaissance – 49<sup>th</sup> and 23<sup>rd</sup> – working on a PUD Amendment process

### Neighborhood Services

Weed season is over! We are focusing on signage, landscaping, and other zoning code violations. Those have a different, and much more complicated, citation process. We will be working with the City Attorney to update that process to include some enforcement issues such as business licenses, closing businesses, and more. We will start working at least one weekend a month to better our contact with citizens and address issues that happen on the weekends.

### Building Update

We continue to see stronger single family development and development in general in Evans. While we have no indication that we will ever return to the "hey day" of permits, we do see strong signs of improvement.

### Wayfinding Signage

Staff is now working on Phase II, which will include signs along the Avenues of Evans, in a shared project with the local business owners. The signs will look the same, but many of them will have the actual business name on them. A letter will be sent to owners in those corridors to gauge interest first.

### Business to Business Conference

Staff is planning a Business to Business (B2B) conference in March/April of 2013 here at the Evans Community Center. It will include a vendor show, educational seminars, and more. We will be working with the EEDAC, SBDC, Evans Area Chamber of Commerce, and Upstate Colorado.

- **IT**

The workshops to document the processes related to the City value streams were wrapped up last week. The consultant will now be working on the report and recommendations with the target for completion still the end of the year.

- **Finance Committee**

The committee will hear another update from the team on the progress on the developing financing models for NISP & Windy Gap. The final product will be presented to the City Council on December 18<sup>th</sup>.

- **Finance Department**

The conversion of the revenue system to the new EmGov.net platform is nearly completed. The team will be working on finishing the implementation of paperless A/P with a target to live date of January 1<sup>st</sup>. The interim audit field work for both the City and District has been completed.

- **CM's Office**

The next CML board meeting is November 16, 2012 at the CML offices.

Aden will be attending the National League of Cities Conference November 28<sup>th</sup> through December 1<sup>st</sup> in Boston, MA.

The next Northern Colorado Regional Managers Meeting is December 13th in Frederick.