

**ORDINANCE NO. 083, 2003
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 12 OF THE CITY CODE TO
PROHIBIT THE CREATION OR ENFORCEMENT OF
COVENANT RESTRICTIONS ON CERTAIN RESOURCE CONSERVING
ACTIVITIES AND ELIMINATING A SIMILAR PROVISION
OF THE LAND USE CODE**

WHEREAS, Section 3.4.9 of the Land Use Code of the City of Fort Collins currently nullifies and renders unenforceable any private covenants or other agreements established after July 1, 2001, that restrict the use of real property for certain resource conserving activities, including xeriscape landscaping, specified solar collectors, specified clothes lines, and compost bins; and

WHEREAS, in order to more widely promote, encourage and allow the use of resource conserving practices in the use of real property, staff has recommended that this prohibition be expanded to prohibit the creation or enforcement of similarly restrictive covenants or agreements; and

WHEREAS, in addition, staff has recommended that the City also prohibit any private covenants which mandate that turf grass landscaping be planted on real property; and

WHEREAS, these modifications can be accomplished by adding as a new section in Chapter 12 of the City Code a version of the language currently provided in Section 3.4.9 of the Land Use Code, modified to expand the scope of its application and to address turf grass requirements; and

WHEREAS, the Water Board considered the proposed new City Code section on April 24, 2003, and recommended approval with certain modifications that have been incorporated herein; and

WHEREAS, the Planning and Zoning Board considered the proposed new City Code section on May 1, 2003, and expressed no objection to the substance of the provision, but recommended that further public outreach be conducted; and

WHEREAS, with the addition of the proposed new City Code provision, Section 3.4.9 of the Land Use Code is no longer needed and staff has recommended that it be deleted; and

WHEREAS, the City Council has determined that the important public health, safety and welfare objective of conserving valuable resources including water, soil, electric and natural gas resources, and recycling certain compostable wastes, will be served and advanced by prohibiting the creation or enforcement of private covenants that prohibit the installation of xeriscape landscaping, solar/photo-voltaic collectors, clothes lines (if located in backyards), or odor controlled compost bins, or that require a portion of any individual lot to be planted in turf grass.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That a new Article VII, entitled "Resource Conservation" be added to Chapter 12 of the Code of the City of Fort Collins, and that a new Division 1, entitled "Generally" be added to Article VII with a new Section 12-120 to read as follows:

ARTICLE VII. RESOURCE CONSERVATION

DIVISION 1. GENERALLY

Sec. 12-120. Definitions.

Restrictive covenant shall mean any covenant, restriction or condition applicable to real property for the purpose of controlling land use, but shall not include any covenant, restriction or condition imposed on such real property by any governmental entity.

Xeriscape landscaping shall mean any or all of the following:

- (a) grouping plants with similar water requirements together on the same irrigation zones;
- (b) limiting high-irrigation turf and plantings to appropriate high-use areas with high visibility and functional needs;
- (c) use of low-water demanding plants and turf;
- (d) use of efficient irrigation systems;
- (e) incorporation of soil improvements; and/or
- (f) use of mulches;

Xeriscape landscaping shall not include artificial turf or plants; mulched (including gravel) beds or areas without landscape plant material; paving of areas not required for walkways, patios, or plazas or parking areas; bare ground; or weed covered or infested surfaces.

Sec. 12-121. Purpose.

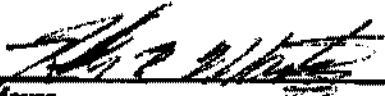
The purpose of this division is to promote the conservation of water, soil, electric and natural gas resources.

Sec. 12-122. Promotion of conservation.

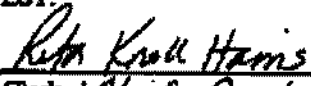
No person shall create, cause to be created, enforce or seek to enforce any provision contained in any restrictive covenant which has the effect of prohibiting or limiting the installation or use of xeriscape landscaping, solar/photo-voltaic collectors (if mounted flush upon any established roof line), clothes lines (if located in back yards), or odor-controlled compost bins, or which has the effect of requiring that a portion of any individual lot be planted in turf grass.

Section 2. That Section 3.4.9 of the Land Use Code of the City of Fort Collins is hereby repealed in its entirety.

Introduced and considered favorably on first reading and ordered published this 20th day of May, A.D. 2003, and to be presented for final passage on the 3rd day of June, A.D. 2003.

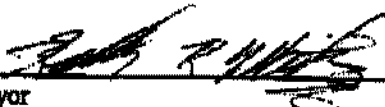


Mayor

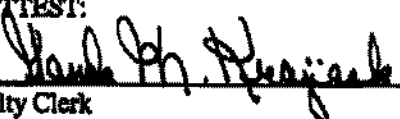
ATTEST:


City Clerk / Chief Deputy

Passed and adopted on final reading this 3rd day of June, A.D. 2003.



Mayor

ATTEST:


City Clerk