

ORDINANCE NO. 184, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE OF A PERMANENT
WATERLINE EASEMENT ON CATHY FROMME PRAIRIE
NATURAL AREA TO THE FORT COLLINS-LOVELAND WATER
DISTRICT

A. The City owns Cathy Fromme Prairie Natural Area (“Cathy Fromme Prairie”), which is located south of Harmony Road and spans from Shields Street on the east to a half mile west of Taft Hill Road.

B. Fort Collins-Loveland Water District (“FCLWD”) provides water to more than 60,000 residents in parts of Fort Collins, Loveland, Timnath, Windsor and unincorporated Larimer County. FCLWD seeks to construct a new treated water storage tank (the “Tank”) south of Fort Collins to provide improved system reliability. To serve the Tank and connect it to an existing thirty-six inch waterline on Cathy Fromme Prairie, FCLWD proposes to construct a thirty-inch feeder waterline (the “Waterline”) on Cathy Fromme Prairie. This would require the City to grant FCLWD an easement (the “Easement”) over .089 acres of Cathy Fromme Prairie.

C. In accordance with the City’s Natural Areas Easement policy, the City will charge FCLWD an application fee of \$5,000 and a mitigation fee of \$3,000. Additionally, the City will charge FCLWD an easement fee representing the fair market value for the right to the Easement, which is approximately \$4,000. A legal description of the Easement is attached hereto as Exhibit “A” and incorporated herein by this reference. The Easement will include standard City terms and conditions for a waterline easement, including a requirement for FCLWD to minimize disturbance to the natural features of Cathy Fromme Prairie.

D. Because the Waterline involves a significant extension of existing domestic water systems and impacts City-owned property, it triggered the City’s 1041 permit process. After review of FCLWD’s 1041 application, the City issued the Waterline project a Finding of No Significant Impact (“FONSI”), which is attached hereto as Exhibit “B” and incorporated herein by this refernece. The FONSI contains several planning and financial-security conditions for FCLWD to meet prior to beginning construction of the Waterline.

E. Section 23-111(a) of the City Code authorizes the City Council to dispose of interests in real property owned in the name of the City provided that the City Council first finds, by ordinance, that such disposition is in the best interests of the City. Per Section 23-114 of the City Code, any such disposition must be for an amount equal to or greater than the fair market value, subject to a certain exception.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Council hereby finds that the conveyance of the Easement is in the best interests of the City.

Section 2. The conveyance of the Easement is contingent upon FCLWD meeting the pre-construction conditions contained in the FONSI.

Section 3. The City Council hereby authorizes the Mayor to execute such documents as are necessary to convey the Easement on terms and conditions consistent with this Ordinance, together with such terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City, including any necessary changes to the legal description of the Easement that do not materially increase the size or impacts of the Easement.

Introduced, considered favorably on first reading on December 3, 2024, and approved on second reading for final passage on December 17, 2024

Mayor

ATTEST:

City Clerk

Effective Date: December 27, 2024

Approving Attorney: Ted Hewitt

PERMANENT EASEMENT DESCRIPTION

Exhibit-A
(1 of 3)

A portion of City of Fort Collins Property, recorded December 11, 2001 under Reception No. 2001112633 of the Records of Larimer County, situate in the Southwest Quarter (SW1/4) of Section Ten (10), Township Six North (T.6N), Range Sixty-nine West (R.69W.) of the Sixth Principal Meridian (6th P.M.), Larimer County, State of Colorado and being more particularly described as follows:

Permanent Easement Parcel 1:

COMMENCING at the Southwest corner of said Section 10 and assuming the West line of the (SW1/4), as bearing North 02°02'30" East being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 2672.88 feet with all other bearings contained herein relative thereto;

THENCE North 71°33'55" East a distance of 96.07 feet to the intersection of the Northerly Right of Way of West Trilby Road and the East line of Larimer County Property as deed October 27, 1980 under Reception No 385173 of the Records of Larimer County, and to the **Parcel 1 POINT OF BEGINNING**;

THENCE North 02°02'30" East along the East line of said Larimer County Property, a distance of 92.03 feet;

THENCE North 90°00'00" East a distance of 24.59 feet to a Point of Curvature (PC) along the Westerly edge of an existing 30.00-foot waterline easement recorded at Reception No. 2001120740 of the Records of Larimer County Clerk and Recorder;

The following Two courses and distances are along said Westerly edge of waterline easement.

THENCE along a non-tangent curve concave to the West a distance of 24.79 feet, said curve has a radius of 2485.00 feet, a Delta of 00°34'18", and is subtended by a Chord bearing of South 01°45'21" West a distance of 24.79 feet to a Point of Tangency (PT);

THENCE South 02°02'30" West a distance of 67.13 feet to the Northerly Right of Way of West Trilby Road and to a point hereinafter referred to as **POINT "A"**;

THENCE South 89°45'42" West along said Northerly Right of Way a distance of 24.72 feet to the **Parcel 1 POINT OF BEGINNING**;

Said easement contains 2,271 sq. ft. / 0.052 acres more or less (+/-), and is subject to any rights-of-way or other easements of record as now existing on said described parcel of land.

Together With Permanent Easement Parcel 2:

COMMENCING at the aforesaid **POINT "A"**;

THENCE North 89°45'42" East along the Northerly Right of Way of West Trilby Road a distance of 30.02 feet to the Easterly edge of an existing 30.00-foot waterline easement recorded at Reception No. 2001120740 of the Records of Larimer County Clerk and Recorder, and to the **Parcel 2 POINT OF BEGINNING**;

The following Two courses and distances are along said Easterly edge of waterline easement.

THENCE North 02°02'30" East a distance of 65.93 feet to a PC;

THENCE along the arc of a curve concave to the West a distance of 25.86 feet, said curve has a Radius of 2515.00 feet, a Delta of 00°35'21" and is subtended by a Chord bearing North 01°44'49" East a distance of 25.86 feet to a PT;

THENCE North 90°00'00" East a distance of 16.80 feet;



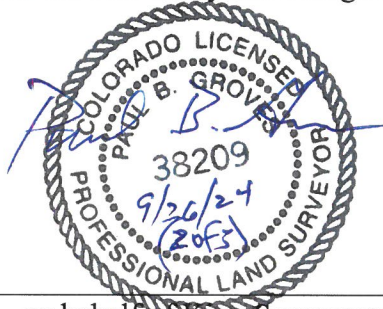
THENCE South 01°01'03" West a distance of 91.68 feet to the Northerly Right of Way of West Trilby Road;

THENCE South 89°45'42" West along said Northerly Right of Way a distance of 18.31 feet to the **Parcel 2 POINT OF BEGINNING**.

Said easement contains 1,605 sq. ft. / 0.037 acres more or less (+/-), and is subject to any rights-of-way or other easements of record as now existing on said described parcel of land.

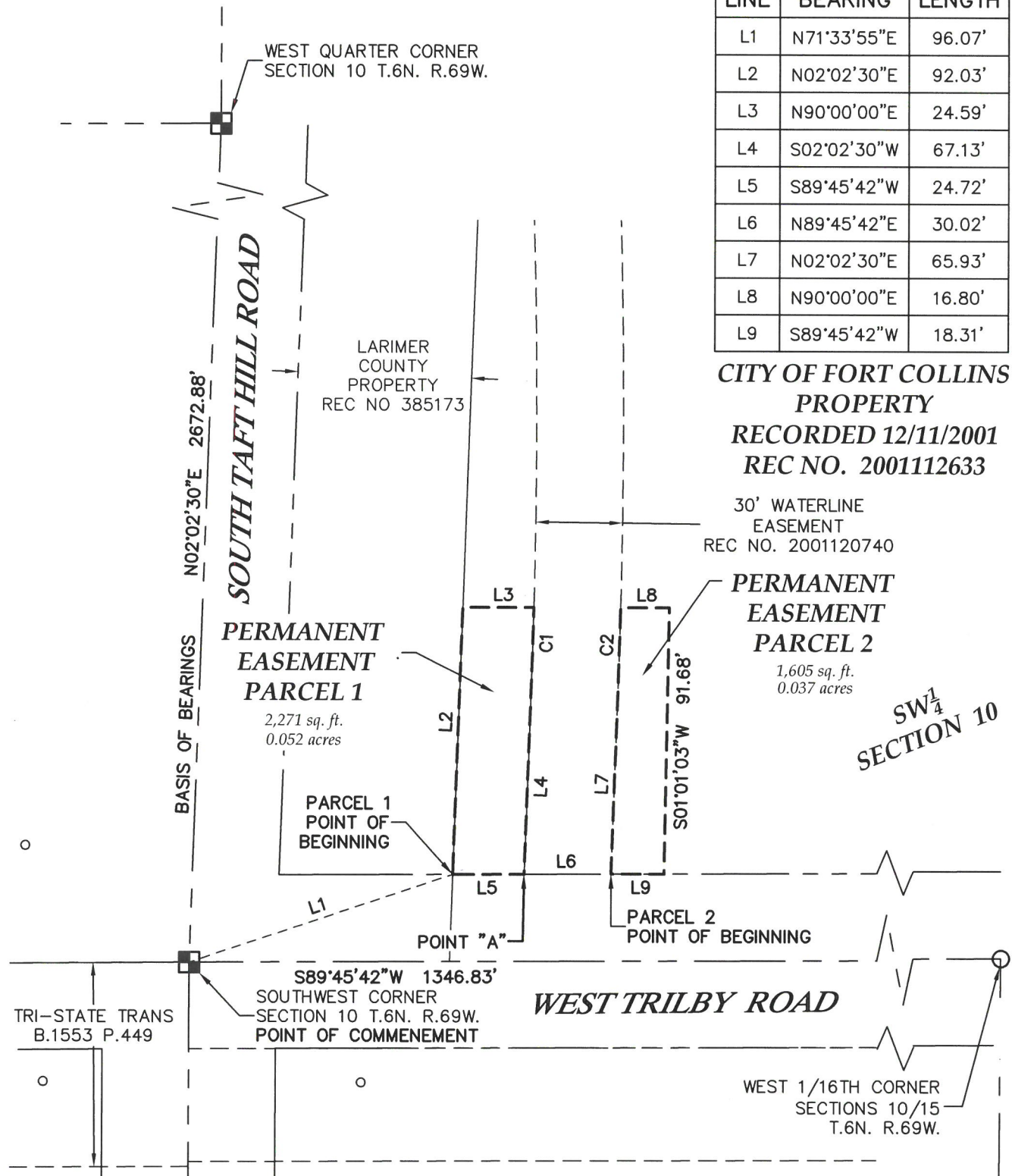
SURVEYORS CERTIFICATE

I, Paul B. Groves, a Colorado Registered Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.



Paul B. Groves - on behalf of King Surveyors, Inc.
Colorado Registered Professional
Land Surveyor #38209

KING SURVEYORS, INC.
650 Garden Drive
Windsor, Colorado 80550
(970) 686-5011



LINE TABLE		
LINE	BEARING	LENGTH
L1	N71°33'55"E	96.07'
L2	N02°02'30"E	92.03'
L3	N90°00'00"E	24.59'
L4	S02°02'30"W	67.13'
L5	S89°45'42"W	24.72'
L6	N89°45'42"E	30.02'
L7	N02°02'30"E	65.93'
L8	N90°00'00"E	16.80'
L9	S89°45'42"W	18.31'

**CITY OF FORT COLLINS
PROPERTY**
RECORDED 12/11/2001
REC NO. 2001112633

30' WATERLINE
EASEMENT
REC NO. 2001120740

**PERMANENT
EASEMENT
PARCEL 2**

1,605 sq. ft.
0.037 acres

SW¹/₄
SECTION 10

**PERMANENT
EASEMENT
PARCEL 1**

2,271 sq. ft.
0.052 acres

PARCEL 1
POINT OF
BEGINNING

PARCEL 2
POINT OF BEGINNING

S89°45'42"W 1346.83'
SOUTHWEST CORNER
SECTION 10 T.6N. R.69W.
POINT OF COMMENCEMENT

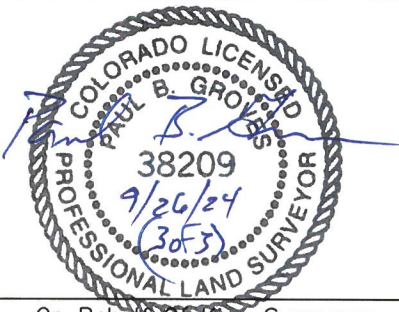
TRI-STATE TRANS
B.1553 P.449

WEST TRILBY ROAD

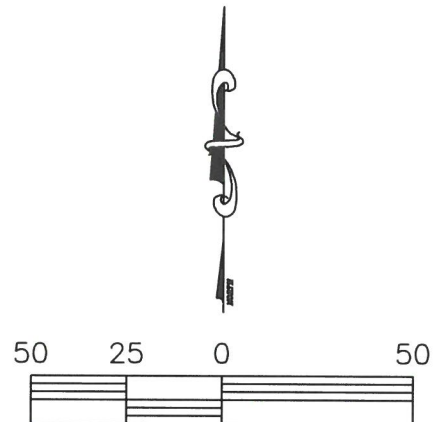
WEST 1/16TH CORNER
SECTIONS 10/15
T.6N. R.69W.

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD	CH BEARING
C1	24.79'	2485.00'	0°34'18"	24.79'	S01°45'21"W
C2	25.86'	2515.00'	0°35'21"	25.86'	N01°44'49"E



Paul B. Groves – On Behalf of King Surveyors
Colorado Licensed Professional
Land Surveyor #38209



SCALE IN FEET
SCALE: 1"=50'

EXHIBIT A TO ORDINANCE NO. 184, 2024



KING SURVEYORS

650 E. Garden Drive | Windsor, Colorado 80550
phone: (970) 686-5011 | fax: (970) 686-5821
email: contact@KingSurveyors.com

PROJECT NO:20230117
DATE: 09/26/24
CLIENT: RESPEC
DWG: 20230117EX_07
DRAWN: PG CHECKED: PG



Development Review Center
281 North College Avenue
PO Box 580
Fort Collins, CO 80522-0580
970-221-6689
fcgov.com/DevelopmentReview

September 19, 2024

Carlos Medina
Fort Collins Loveland Water District
5150 Snead Dr, Fort Collins, CO 80525

RE: DETERMINATION OF APPLICABILITY OF 1041 REGULATIONS - FONSI

Dear Applicant:

On August 12, 2024, the City of Fort Collins Development Review Division received a complete submittal and processed a pre-application to determine if a 1041 permit is required for the proposed development plan. Fort Collins Loveland Water District (FCLWD) is proposing to install a new 30-inch water line that connects to their existing 36-inch water line at the corner of S. Taft Hill Road and Trilby Road in Fort Collins. Approximately 100-feet of new 30-inch water main will be installed within City limits and the Cathy Fromme Natural Area. This new water line and permanent easement meets the threshold criteria established by the City for 1041 review for projects of statewide significance. This request has been reviewed in accordance with 6.27.6.3 –Pre-Application Area or Activity Review, of the City of Fort Collins Land Use Code and pursuant to the review criteria within Section 6.27.6.5 - Determination of Applicability of Regulations– FONSI.

The Director hereby makes the following findings of fact:

1. **The Trilby Water Tank Feeder Line, SPA240001, meets the following criteria of Section 6.27.6.5(A)(1-8) for review.**
 - a. Is located wholly or partly on, under, over or within an existing or planned future City natural area or park, whether developed or undeveloped;
 - b. Has potential to significantly impact a natural feature as defined by the Land Use Code.
2. **The Trilby Water Tank Feeder Line, SPA240001, has provided mitigation including a prairie dog management plan, and revegetation plan for the areas of disturbance within the City-owned Natural Areas.**
3. **Pursuant to Section 6.27.6.4, a public notice was mailed to the property owners and occupants within one thousand feet (1,000) in all directions of the location of the proposed development plan. Five public comments were received and provided to the Director to make a final decision.**

Based on these findings of fact, the Director makes the following decision:

The Trilby Water Tank Feeder Line, SPA240001, has been issued a Finding of No Significant Impact (FONSI). The Director's decision includes consideration of proposed mitigation, and so the applicant must provide the City with a guarantee to ensure the completion of all mitigation to be constructed as shown on the approved 1041 Development Plan (herein known as the Plan). Fort Collins Loveland Water District (herein known as the Applicant) must provide a City-approved means to guarantee the completion of all mitigation prior to receiving final approval of a Natural Areas Easement. If the Applicant subsequently makes material changes to the Development Plan, the Applicant is required to schedule another pre-application area or activity review pursuant to Section 6.27.6.3 to discuss the changes. Based on the new information and whether the revised development could result in significant impacts, the Director may rescind the FONSI by issuing a written determination.

The Final 1041 Development Plan

Upon issuance of the FONSI, the applicant must contact the Natural Areas Department to begin the easement approval process which requires staff and Land Conservation Stewardship Board review and Council approval as well as the additional costs outlined in the Natural Areas' Easement Policy and Easement Application Packet.

The Applicant must submit a City-approved Plan prior to receiving final approval of a Natural Areas Easement. This Plan must consist, at minimum, of the following sections and specifications to ensure the successful revegetation and management of the project site after construction and until final closeout based on the success criteria established by the common review standards for all 1041 applicants.

- A. The Applicant shall provide a Revegetation and Weed Management Plan that encompasses revegetation techniques, monitoring methodology and timeline, and weed management before, during, and after construction. It should also include a discussion of how adaptive management techniques will be utilized as the site progresses over time. This document shall be prepared by a qualified natural resource professional and reviewed and approved by the City of Fort Collins.
- B. The Applicant shall ensure that all revegetation activities within the Limits of Disturbance (LOD) in City limits are properly maintained for a three (3) year-minimum period following construction thereof to ensure that the vegetation is fully established and maintained in accordance with the Plan. The restoration efforts will ensure that the goals and requirements of the Plan are accomplished. Total vegetative ground cover will be determined using a reference area approach, where the reference area is representative of the target vegetative community(ies) found within the Cathy Frome Prairie Natural Area.

The success criteria prior to release of the city-guarantee includes the following:

The total vegetative ground cover shall be analogous to the adjacent Cathy Frome Prairie Natural Area and will be measured annually at the end of the growing season (late summer to early fall) to the point of demonstrating sample adequacy using a line-point intercept methodology. The survival rate of any planted shrubs and trees must be equal to or greater than eighty percent (80%). No more than five percent (5%) of the species noted on the site may be weedy or noxious species as defined by City Code Section §20-41.

- C. The submitted Prairie Dog Mitigation Plan must be updated to include the completion of a Burrowing Owl Survey, performed by a qualified wildlife biologist, immediately prior to prairie dog fumigation at the site. The qualified professional must submit a report to the City stating the that no threatened or endangered species were harmed by prairie dog removal activities.
- D. Temporary Limits of Disturbance: Construction activities within the limits of disturbance may only take place between September 1 and March 31 to avoid impacts to foraging migratory birds within the adjacent natural areas.
- E. The City shall periodically inspect the limits of disturbance to ensure compliance with the requirements established in the Plan.



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A City-Approved Security or Guarantee

Prior to the issuance of a Natural Areas Easement, the Applicant must provide the City an acceptable form of security (escrow, bond, or letter of credit) or guarantee to ensure completion of the revegetation improvements and prairie dog mitigation that meet City standards for acceptability. The Applicant may select one option from the accepted forms of security listed herein:

Option 1: The Applicant may select their own contractor to complete and implement the Plan

The Applicant shall provide the City an acceptable form of security (escrow, bond, or letter of credit) to guarantee completion of the Plan improvements that meets City standards for acceptability. The security must match the cost of mitigation, restoration, and landscape improvement efforts, which shall include plant material and irrigation system improvements, weed management, and a minimum of three years of monitoring and annual reporting equal to 125% of the cost to be held until said improvements are constructed and accepted by the City. The City shall return the security to the Applicant upon the Applicant’s installations of the landscape improvements and the City’s Environmental Planner acceptance thereof. If the seeded areas have not been established in accordance with the Plan Documents, then the Applicant shall promptly provide the City’s Environmental Planner with a written proposal of steps and timing to bring the areas into conformance with such Documents for the City’s approval and, after receipt of approval shall promptly take such steps as are necessary to implement the approved plan and bring the areas into conformance. If the Applicant does not take action to bring any and all areas and plantings into conformance with the approved Plan documents, the City shall use the security provided by the Applicant to install said LOD landscape improvements and the Applicant forfeits any right to the security.

Option 2: Hire a Natural Areas Department-approved Contractor to complete and implement the Plan

The Applicant may choose to subcontract with a contractor who is already pre-approved with the Natural Areas Department, and who has proven experience drafting and implementing 1041 Development Plans. If this option is selected, the City will work directly with the approved contractor to ensure the Plan is designed and implemented appropriately. The act of securing the approved contractor is the guarantee and the City will not require any additional security for the project. The City will work with the approved Contractor to ensure that the Plan and its implementation are in conformance.

No Permit is Required - FONSI 9/18/2024
Decision Date

Signed by:

3A1130E4D0E9483

Kim Meyer, City of Fort Collins, Interim Community Development and Neighborhood Services Director

The Director’s determination whether to issue or not issue a FONSI is subject to appeal to the Planning and Zoning Commission pursuant to Land Use Code Section 6.3.12(D). The Planning and Zoning Commission decision on the appeal is further subject to appeal to City Council pursuant to the Code of the City of Fort Collins Ch. 2, Art. 2, Div. 3. The filing of a timely notice of appeal shall reset any time period set forth in 6.27.6.8 and 6.27.6.12 and such time period shall begin from the date the appeal is decided as previously described.

