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City of Loveland  
500 E. 3rd Street, Suite 330  
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September 26, 2025

SENT VIA ELECTRONIC MAIL

*Re: Overnight Shelter at South Railroad Facility and Loveland Resource Center*

To the leadership of the City of Loveland:

The ACLU of Colorado has recently become aware of the City's intention to shut down its only overnight shelter for people experiencing homelessness by September 30<sup>th</sup>,<sup>1</sup> with winter around the corner, and with no concrete plans for short or long term shelter for the people the closure will displace. We are deeply troubled not only by the City's detrimental decision, but by the process used to get there. We urge you to halt the closure of the South Railroad Facility (SRF) and overnight shelter at the Loveland Resource Center (LRC) until you have a responsible plan in place to provide for the health and safety of the most vulnerable of the residents you were elected and appointed to serve. **At the very least, the shelters should not close before April of 2026.**

I. The City Can Extend the SRF Permit Past September 30<sup>th</sup>.

In recent communications with City Council, the City Attorney has suggested that closure of these shelters by September 30<sup>th</sup> is required by Loveland's Unified Development Code:

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<sup>1</sup> Loveland Encampment Ordinance & Shelter Updates—What You Need to Know, City of Loveland (Sept. 16, 2025, 1:00 PM MT), <https://perma.cc/L2JD-B9PK>.

[T]he City’s Unified Development Code Section 18.02.05.04 . . . caps the temporary use at two years. Two years have elapsed (and then some) since the South Railroad Facility started offering services. . .

To be sure, the South Railroad Facility is required to be closed as the temporary use permit authorized by the City’s Unified Development Code Section 18.02.05.04 caps the temporary use permit at a period of two years (which has already been exceeded).<sup>2</sup>

This claim is repeated on the City’s website explaining the closure: “The SRF’s temporary use permit for the shelter expires on Sept. 30 and cannot be extended under City code.”<sup>3</sup>

But that characterization of the law appears directly contradicted by the plain terms of the ordinance, by the permit itself, and by city staff’s own presentations to council. The initial temporary use permit for the SRF was issued on April 12, 2023.<sup>4</sup> Section 18.02.05.04 of the Unified Development Code, the provision cited by the City Attorney, states that an initial temporary use permit is valid for a period of one year, while subsequent renewals are valid for an additional two years:

After the issuance of the first temporary use permit, renewal temporary use permits for the same applicant are valid for a period of two years, provided that the temporary use operation is not substantively altered from that of the previous year(s).<sup>5</sup>

The conditions of approval for the initial permit for the SRF state the same.<sup>6</sup> And just last summer, in a memorandum recommending that City Council approve an amendment to the land use category of a homeless shelter, the Development Services Department said this in providing background on available shelter in the city:

City Council passed an emergency unauthorized encampment ban in May of 2022 and opened a temporary tent/modular facility at South Railroad for overnight shelter space. The temporary use permit that authorized the South Railroad Shelter was approved on April 12, 2023, and will expire on April 12, 2025. While the permit may be renewed for an additional 2 years, the need for a permanent shelter is growing in importance.<sup>7</sup>

Thus, contrary to the representations in the City Attorney’s email and on the city’s website, **the temporary use permit can be renewed, at the very least through April of 2026**, proving time for people forced to live outside to survive winter’s harshest months. Indeed, from the study session on

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<sup>2</sup> E-mail from Vince Junglas, Loveland City Attorney, to Loveland City Council at 1 (Aug. 7, 2025, 03:20 PM MT) (on file).

<sup>3</sup> *Supra* note 1.

<sup>4</sup> Loveland Current Planning Div., Temp. Use Findings and Determination (Apr. 12, 2023) (“2023 Permit”).

<sup>5</sup> Loveland UDC § 18.02.05.04 (emphasis added).

<sup>6</sup> 2023 Permit at 3 (“The temporary use permit shall be valid for a period of one (1) year. After the issuance of the issuance of the first temporary use permit, renewal of the temporary use permit for the same applicant is valid for a period of two years, provided that the temporary use operation is not substantively altered from that of the previous years.”).

<sup>7</sup> Agenda Item 8.1, Memorandum from Development Services to City Council at 4-5 (June 4, 2024), <https://perma.cc/EQU7-63X8> (emphasis added).

the SRF closure question, an express option on the table for Council’s consideration was not to close the facility until June of 2026.<sup>8</sup>

Moreover, whatever the UDC, the permit, or staff say, the City Charter expressly confers upon the City authority to “grant a permit or license at any time for the temporary use or occupation of any street, alley, other public way, or City-owned place.”<sup>9</sup> And the SRF is located on City-owned property—the Fairgrounds First Subdivision.<sup>10</sup>

In sum, the City’s hands are not tied. As its leaders, you are empowered—and morally obligated—to act.

## II. Overnight Shelter in Loveland Should Not Be Eliminated Without Council Authorization.

City Council has not voted on the decision to end the provision of overnight shelter in Loveland. Instead, after an inconclusive February 25, 2025, study session and no further noticed public hearings on the matter, the City Manager made the “operational decision[]” to close the SRF—along with overnight services at the LRC—by September 30<sup>th</sup>.<sup>11</sup> That plan should not move forward without the approval of Council.

### A. The City created the expectation that timing of the shelters’ closure would be subject to Council vote.

Whether or not a City Council vote was required to authorize the September 30<sup>th</sup> shelter shutdown,<sup>12</sup> the City created the impression—and legitimate public expectation—that a vote would occur. The agenda for the February 25, 2025, study session stated explicitly that the session’s purpose was to solicit Council guidance on a closure plan and date that would later be subject to Council vote:

Staff requests that guidance is given about continuing or discontinuing City-operated shelter services that results in a date certain, which would be brought to Council in a resolution in March.<sup>13</sup>

Community Partnership Office Administrator Alison Hade repeatedly echoed that intention in her presentation to Council. She stated, for example, “I plan on bringing back an extension to the South Railroad facility permit. For a vote. It expires April 11<sup>th</sup>.” She explained that the options available

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<sup>8</sup> Agenda Item 2.1, Alison Hade, Administrator, Community Partnership Office, Presentation on Homeless Services & Other Considerations to City Council at 15 (Feb. 25, 2025), <https://perma.cc/Q854-MTBU>.

<sup>9</sup> Loveland City Charter § 14-2.

<sup>10</sup> See Fairgrounds First Division Plat, City of Loveland Subdivision and Annexation Explorer (last visited Sept. 25, 2025), <https://perma.cc/8X64-P7D4>; see also 300 Railroad Avenue, Free Property Search, Larimer County (last visited Sept. 25, 2025), <https://perma.cc/FC52-UV5G>.

<sup>11</sup> *Supra* note 2.

<sup>12</sup> See Loveland Charter § 4-4(c) (“No formal action, no final policy decision, no rule, regulation, resolution, or ordinance, and no action approving a contract or calling for the payment of money, shall be adopted or approved except at a regular or special meeting.”); *Id.* § 4-5 (“Council shall act only by ordinance, resolution, or motion.”).

<sup>13</sup> Agenda, City Council Study Session, Item 2.1 (Feb. 25, 2025), <https://perma.cc/4VXL-DD4V>.

included “to not extend it—by vote. Which shuts down the SRF completely.”<sup>14</sup> Later, she told Council, “[w]hat I need to hear . . . [is] a date to eventually discontinue city-managed sheltering. And I will bring back an extension to the SRF permit in March. Preferably March 18<sup>th</sup>.”<sup>15</sup> Repeatedly, Hade indicated that it would not make sense for staff to spend significant time putting together a plan *before* a Council vote could take place, explaining, “the first part of the plan is what happens with that vote.”<sup>16</sup>

Council members’ remarks at the study session confirm that they too expected that staff would come back with a plan, and that there would then be further discussion, further public comment, and a Council vote. Councilor Samson said so expressly:

I am willing to entertain a plan for September 30<sup>th</sup> and maybe we see, maybe we’ll know enough, you know, within the next couple months when we talk about this again, when we actually can make a vote and do all the things we need to do. . .

But I assume all this is going to come back. We’re not making a final decision tonight, because we still need to hear from our public on this. We still need to have a little bit more conversation.<sup>17</sup>

Councilor Light-Kovacs, too, stated, “It’s time for us to have a frank conversation tonight and to provide real guidance that we are prepared to vote on when it comes back to council.”<sup>18</sup> And then-Councilmember Black expressed worry about the outcome of the Council vote: “You will come with a viable plan, backed with all of your partners and all of the subject matter experts, and they will vote it down.”<sup>19</sup>

- B. The overnight shelter facilities are part of a larger policy scheme regarding encampments that should be subject to public engagement and a Council vote.

The expectation that timing of the SRF’s closure would be subject to Council vote makes sense. Because the overnight shelter currently available at the SRF and LRC are the *only* options in Loveland, their closure with no alternative shelter space is not everyday facilities management; it amounts to policymaking on matters of crucial public importance.

The opening of the SRF to make shelter available in the City followed from Council’s passage of Emergency Ordinance 6554B on May 17, 2022, which conditioned enforcement of the city’s camping ban and civil abatement of unauthorized encampments on the provision of shelter.<sup>20</sup> The understanding that shelter would be provided was part and parcel of the Council’s vote on 6554B. At the meeting, councilors were presented three potential routes to address unauthorized

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<sup>14</sup> City Council Study Session, Loveland TV (Feb. 25, 2025), <https://reflect-cityofloveland-co.cablecast.tv/CablecastPublicSite/show/543?site=1>.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* (emphasis added).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Loveland Municipal Code §§ 7.29.030 (civil abatement) & 9.47.020 (criminal enforcement).

encampments—each included the “the need to immediately begin a shelter program” and was premised on shelter availability.<sup>21</sup>

Last month, staff presented Council with a proposal to amend the City Code to sever the link between enforcement and available shelter. The Council voted no.<sup>22</sup> That means the impending closure will necessarily reshape the way the City enforces its civil and criminal laws. Changing enforcement that profoundly, with no alternative shelter will flout the Council’s legislative determinations, both in 2022 and 2025, concerning the appropriate scheme for addressing unauthorized encampments in Loveland. Indeed, the decision—and the way it was made—suggest the troubling possibility that there are those who believe forcing people to set up unauthorized encampments, increasing the visibility of homelessness in Loveland, will pressure adoption of the punitive changes to the City Code that the Council has previously rejected.

Regardless of their intent, attempts to minimize the closures of both the SRF and LRC overnight services as mere “operational decisions”<sup>23</sup> belie the profound consequences they will bring for the people displaced, the wider community, and City policy.

Under Loveland’s City Charter, it is the Council’s prerogative to set policy for the City,<sup>24</sup> and the City Manager’s responsibility to “align operations with City Council’s policy direction.”<sup>25</sup> And both arms of government are ultimately responsible to Loveland’s residents. Where closing a facility not only eliminates the city’s only overnight shelter but also has the effect of redrawing civil and criminal enforcement of municipal law, it should not be treated like a routine permitting question. The closure should not move forward without the authorization of Council and without a meaningful opportunity for the people of Loveland to engage their representatives.<sup>26</sup>

### III. Eliminating the city’s only shelter will put already-vulnerable residents at risk.

As the City well knows, the SRF and LRC provide life-saving services in Loveland. Extensions of the SRF permit call it a “necessary allowance in providing sheltering and basic services to individuals in need who are coping with the challenges of homelessness.”<sup>27</sup> And the rules governing shelter uses at the two facilities acknowledge their “necessity to preserve human life” and the regulations’ adoption “to protect and preserve human life and effectuate the enforcement of Ordinance 6554B.”<sup>28</sup>

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<sup>21</sup> Agenda, Regular City Council Meeting, Item 7.1 (May 17, 2022), <https://perma.cc/NN63-6FQE>; see also Agenda Item 7.1, Memorandum from Community Partnership Office to City Council (May 17, 2022), <https://perma.cc/SC27-32VE>.

<sup>22</sup> Agenda Item 8.2, City Council Meeting, Loveland TV (Aug. 5, 2025), <https://reflect-cityofloveland-co.cablecast.tv/CablecastPublicSite/show/602?site=1>.

<sup>23</sup> *Supra* note 2.

<sup>24</sup> Email from City Attorney, *supra* note 2 (noting that “to be sure, it is well within the purview of the Council to initiate a general policy, which would require the City to lawfully maintain shelter services.”); see also Loveland City Charter §§ 3-1, 4-4 to 4-7.

<sup>25</sup> *Id.*; see also Loveland City Charter § 8-4.

<sup>26</sup> Loveland City Charter § 4-4(a) & (b).

<sup>27</sup> 2023 Permit at 3; Loveland Current Planning Div., Temp. Use Findings and Determination at 2 (Apr. 12, 2024).

<sup>28</sup> City of Loveland, 300 South Railroad Avenue Facility and 137 South Lincoln Avenue Life and Safety Site Regs. (Oct. 24, 2022), <https://perma.cc/DD7P-H7SM> (emphases added).

Even with both facilities running, the existing overnight shelter space in Loveland is insufficient to meet local need. The 2025 Point in Time Count (PIT) recorded 180 individuals experiencing homelessness in Loveland on a single night in January of this year, with almost half reporting a disability.<sup>29</sup> And city data show that in the month of July, there were 256 unduplicated individuals who utilized the LRC during the day, 163 unduplicated individuals who utilized either the SRF or the LRC at night, and 272 unduplicated individuals who used either of the locations in that month.<sup>30</sup> Meanwhile, LRC has space for about 20 beds, while the SRF holds about 50.<sup>31</sup> The shelters are frequently at capacity.<sup>32</sup> Last December, 61 individuals were turned away,<sup>33</sup> and the PIT counted 78 people living unsheltered in Loveland on a January night this year.<sup>34</sup>

Behind each of these numbers are people—each of whom deserves a safe place to sleep at night. As one councilor put it, “winter is coming.”<sup>35</sup> Human beings living through winter in Colorado require protection from the cold, the wind, and the snow.<sup>36</sup> In Loveland, minimum temperatures average below freezing in every month between October and April.<sup>37</sup> Without shelter in these conditions, residents are at much greater risk of frostbite, hypothermia, and death.<sup>38</sup> It is unacceptable that in a matter of days, the little bed space available in Loveland is being taken away with no plan for how to address the SRF closure’s aftermath, just before one of the most dangerous times of year for exposure to the elements. No one should be losing fingers because they have no warm place to go.

Closing the SRF and eliminating LRC overnight services with no alternative shelter available will expose unhoused Loveland residents to known and obvious dangers, and to harm that is within the City’s power to prevent—simply by renewing a permit. Shutting down the services instead exposes the City to liability for placing its most vulnerable residents in heightened danger from the elements just as winter sets in.<sup>39</sup>

#### IV. There is still time to act.

The only public representation we are aware of evincing any City plan to mitigate these harms is an suggestion—with no readily available details—that the LRC or motel space might provide

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<sup>29</sup> 2025 Point in Time Count, Northern Colorado Continuum of Care (last visited Sept. 25, 2025), <https://perma.cc/DN69-ENJF>.

<sup>30</sup> E-mail from Brett Stewart, Assistant to the City Manager, to Loveland Resident (Aug. 25, 2025) (on file).

<sup>31</sup> See Hade Presentation, *supra* note 8; see also Rhea Jha, *Loveland’s Only Overnight Shelter Faces Closure at the End of the Month with no Clear Alternative*, 9News (Sept. 17, 2025), <https://perma.cc/Y3PC-F98L>.

<sup>32</sup> See *id.*

<sup>33</sup> See *id.*

<sup>34</sup> *Supra* note 29.

<sup>35</sup> February Study Session, *supra* note 14 (statement of Councilor Samson).

<sup>36</sup> See, e.g., John Daley, *Frostbite Danger Bites Again in Colorado. Look Out for the Vulnerable and Don’t Forget the Gloves*, CPR (Jan. 31, 2023), <https://perma.cc/7YM6-D8UZ>.

<sup>37</sup> See National Weather Service, Climate and Past Weather for Loveland, Colorado (last visited Sept. 25, 2025), <https://www.weather.gov/wrh/climate?wfo=bou>.

<sup>38</sup> *Id.*

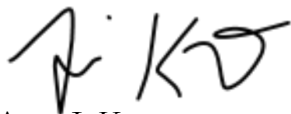
<sup>39</sup> See, e.g., *Legal Settlement Secures Rights for Sacramento’s Unhoused During Heat Waves*, Davis Vanguard (Aug. 7, 2025), <https://perma.cc/54CC-EGL4> (describing settlement of federal lawsuit over city encampment closure endangering unhoused residents).

overnight shelter during severe weather. But at full capacity, the LRC facility has a maximum of 40 beds.<sup>40</sup> And while the City (and caring neighbors) may pay for individual motel stays, City staff has indicated that motels are not a sustainable option. In any event, the City has never sheltered more than 78 people when the SRF has not been operative.<sup>41</sup>

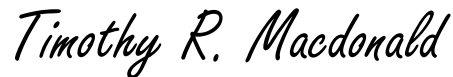
Loveland residents have voiced urgent, acute concern for their unhoused neighbors' health and safety in the face of the planned closure. At City Council meetings, they have named the closing of the SRF a "humanitarian crisis," stressed the coming cold, and urged Council to consider the increased risk of death that would follow a September 30<sup>th</sup> closure.<sup>42</sup> In emails and letters, they have pleaded with Council to extend the SRF permit to keep the shelter open through winter and come to a considered resolution through a transparent public process.

As discussed above, it is well within the City's power to pause the coming closure to engage meaningfully with these concerns. To protect human life, it should, at the very least, extend the permit to April of 2026.

Sincerely,



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<sup>40</sup> City of Loveland, 300 South Railroad Avenue Facility and 137 South Lincoln Avenue Life and Safety Site Regs. (Oct. 24, 2022).

<sup>41</sup> February Study Session, *supra* note 14 (testimony of CPO Administrator Alison Hade).

<sup>42</sup> *See, e.g.*, Public Comment, City Council Regular Session, Loveland TV (September 16, 2025), <https://reflect-cityofloveland-co.cablecast.tv/CablecastPublicSite/show/620?site=1>.