

ORDINANCE NO. 078, 2019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE CITY OF FORT COLLINS LAND USE CODE
REGARDING COMMUNITY DEVELOPMENT AND NEIGHBORHOOD
SERVICES DIRECTOR VARIANCES TO CERTAIN LAND USE CODE STANDARDS

WHEREAS, on December 2, 1997, by its adoption of Ordinance No. 190, 1997, the City Council enacted the Fort Collins Land Use Code (the "Land Use Code"); and

WHEREAS, at the time of the adoption of the Land Use Code, it was the understanding of staff and the City Council that the Land Use Code would most likely be subject to future amendments, not only for the purpose of clarification and correction of errors, but also for the purpose of ensuring that the Land Use Code remains a dynamic document capable of responding to issues identified by staff, other land use professionals and citizens of the City; and

WHEREAS, since its adoption, City staff and the Planning and Zoning Board have continued to review the Land Use Code and identify and explore various issues related to the Land Use Code and have now made new recommendations to the Council regarding the Community Development and Neighborhood Services Director determining certain variances to the Land Use Code; and

WHEREAS, on May 16, 2019, the Planning and Zoning Board unanimously recommended that City Council adopt the Land Use Code changes set forth herein; and

WHEREAS, the City Council has determined that the recommended Land Use Code amendments are in the best interests of the City and its citizens.

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

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Division 2.10 of the Land Use Code is hereby amended to read as follows:

DIVISION 2.10 - VARIANCES

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2.10.2 Variances By the Director

- (A) The Director shall be authorized to grant the following types of variances, subject to the variance review procedure in Section 2.10.4 below:

- (1) Setback encroachment of up to ten (10) percent.
 - (2) Fence height increase of up to one (1) foot.
 - (3) In the N-C-L, N-C-M, and N-C-B zone districts, the allowable floor area in the rear half of the lot increase of up to ten (10) percent, provided the amount of increase does not exceed the allowable floor area for the entire lot.
 - (4) Building height increase of up to one (1) foot.
- (B) The Director may refer any variance described in (A) above to the Zoning Board of Appeals for review and decision if the Director determines that the application under consideration raises questions as to compliance with the requirements for compatibility with the surrounding neighborhood that are appropriately addressed through a public hearing before the Zoning Board of Appeals that will allow the applicant or the public, or both, an opportunity to provide relevant information related to the application.

2.10.3 Variances By the Zoning Board of Appeals

The Zoning Board of Appeals shall be authorized to grant all variances not subject to the Director's review in Section 2.10.2(A) and those referred by the Director. The Zoning Board of Appeals shall follow the variance review procedure in Section 2.10.4 below.

2.10.4 Variance Review Procedures

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- (F) **Step 6 (Notice):** For variances reviewed by the Director or the Zoning Board of Appeals ~~Subsection 2.2.6(A)~~ only applies, except that a variance reviewed by the Director shall require mailed written notice fourteen (14) days prior to the decision instead of the hearing/meeting date and for variances reviewed by the Director or the Zoning Board of Appeals, "eight hundred (800) feet" shall be changed to "one hundred fifty (150) feet," and for single-family houses in the NCL and NCM zone districts, eight hundred (800) feet shall be changed to five hundred (500) feet for variance requests for:

...

- (G) **Step 7(A) (Decision Maker):** Not applicable, and in substitution for Section 2.2.7(A), the Director or Zoning Board of Appeals, pursuant to Chapter 2 of the City Code, shall review, consider and approve, approve with conditions, or deny applications for variance based on its compliance with all of the standards contained in Step 8.

Step 7(B)—(G)(1) Zoning Board of Appeals Review Only (Conduct of Public Hearing, Order of Proceedings at Public Hearing, Decision and Findings, Notification to Applicant, Record of Proceedings, Recording of Decisions and Plats, Filing with City Clerk): Applicable.

Step 7(B)—(C) and (E)—(G)(1) Director Review Only (Conduct of Public Hearing, Order of Proceedings as Public Hearing): Not applicable.

Step 7(D) Director Review Only (Decision and Findings): Applicable and in substitution thereof, the Director shall issue a written decision to approve, approve with conditions, or deny the variance request. The written decision shall be mailed to the applicant and to the property owners to whom notice was originally mailed and shall also be posted on the City's website at www.fcgov.com.

- (H) **Step 8 (Standards):** Applicable, and the Director or Zoning Board of Appeals may grant a variance from the standards of Articles 3 and 4 only if it finds that the granting of the variance would neither be detrimental to the public good nor authorize any change in use other than to a use that is allowed subject to basic development review; and that:

...

- (K) **Step 11 (Lapse):** Any variance that applies to the issuance of a Building Permit shall expire six (6) months after the date that such variance was granted, unless all necessary permits have been applied for; provided, however, that for good cause shown, the Director may authorize a longer term if such longer term is reasonable and necessary under the facts and circumstances of the case, but in no event shall the period of time for applying for all necessary permits under a variance exceed twelve (12) months in length. One (1) six-month extension may be granted by the Director.

- (L) **Step 12 (Appeals):**


(1) Applicable and in substitution thereof, variances decided by the Director are appealable to the Zoning Board of Appeals. Any such appeal must be initiated by filing a notice of appeal of the final decision of the Director within fourteen (14) days after the decision that is the subject of the appeal. The appeal hearing before the Zoning Board of Appeals shall be considered a new, or *de novo*, hearing. The decision of the Zoning Board of Appeals on such appeals shall constitute a final decision appealable to City Council pursuant to Section 2.2.12 (Step 12).

(2) Applicable to variances reviewed by the Zoning Board of Appeals.

Introduced, considered favorably on first reading, and ordered published this 2nd day of July, A.D. 2019, and to be presented for final passage on the 16th day of July, A.D. 2019.


Mayor

ATTEST:



City Clerk



Passed and adopted on final reading on the 16th day of July, A.D. 2019.


Mayor

ATTEST:


City Clerk

