

AGENDA ITEM SUMMARY

February 5, 2019

City Council

STAFF

Ted Shepard, Chief Planner
Judy Schmidt, Legal

SUBJECT

First Reading of Ordinance No. 019, 2019, Making Various Amendments to the City of Fort Collins Land Use Code.

EXECUTIVE SUMMARY

The purpose of this item is to adopt a variety of revisions, clarifications and additions to the Land Use Code that are generally routine in nature that have been identified since the last update in June 2018.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The Land Use Code was first adopted in March 1997. Subsequent revisions have been recommended on a regular basis to make changes, additions, deletions and clarifications. While most revisions are bundled and adopted on an annual basis, other changes may occur as needed so the Land Use Code retains maximum effectiveness. The proposed changes are offered to resolve implementation issues and to continuously improve both the overall quality and user friendliness of the Code.

BOARD / COMMISSION RECOMMENDATION

At its January 17, 2019, regular hearing, the Planning and Zoning Board unanimously adopted on the consent agenda the staff recommendation that City Council approve the revisions.

PUBLIC OUTREACH

The proposed changes were listed on "This Week in Development Review," a weekly online notice that is posted on the Planning Department's website and sent to approximately 435 subscribers.

ATTACHMENTS

1. List of Issues (PDF)
2. Description of Issues (PDF)
3. Ordinance Index of Issues (PDF)

Land Use Code Issues

Monday, January 28, 2019

Issue ID# Issue Name

- 1051 Placeholder for Ordinance formatting.
- 1085 Amend 1.3.4(C)(3)(b) - Addition of Permitted Use - City Council Approval - to resolve the discrepancy as to the length of time needed for published notice in the newspaper.
- 1086 Amend 2.2.3(C)(1) - Development Applications Contents - to change out City Manager with Director as to who establishes the master list of submittal requirements.
- 1087 Amend 2.18.3(F) - Basic Development Review and Minor Subdivision Procedures - to clarify that Step 6, Notice, is only applicable in cases where a Minor Subdivision results in the creation of a new lot, not for all BDR's.
- 1088 Amend 4.5(D) - LMN Land Use Standards - to limit the number of Extra Occupancy Rental Houses to a maximum of 25% of the project's total, amend 3.8.16 to add Neighborhood Centers and amend 3.8.28 for clarification.
- 1091 Amend 5.1.2 - Definition of Subdivision - to re-state to include the condition where only one lot is being platted and include a new definition for Plat.

Land Use Code Maintenance Process

Annotated Issue List

1051 Placeholder for Ordinance formatting.

Problem Statement

A placeholder is needed for Ordinance formatting purposes only.

Proposed Solution Overview

Not applicable.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
1	N.A.	

1085 Amend 1.3.4(C)(3)(b) - Addition of Permitted Use - City Council Approval - to resolve the discrepancy as to the length of time needed for published notice in the newspaper.

Problem Statement

There are eight residential zone districts wherein a request for an Addition of Permitted Use is forwarded to City Council as the final authority. This authority takes the form of an Ordinance which, in turn, requires 15 days published notice in a newspaper of general circulation within the City. The problem is that Section 1.3.4(C)(3)(b), which describes the notification procedure at the Council level, does not clearly state the actual notification requirement, but simply references the same notification as for zonings and rezonings of parcel(s) that are less than 640 acres as contained in Section 2.9.4. Within this reference, however, there are two competing notification requirements: one for the Planning and Zoning Board hearing (seven days) and one for City Council (15 days) which creates doubt as to which one prevails.

Proposed Solution Overview

The proposed solution is to resolve the discrepancy in the cross-reference by removing the cross-reference and then stating clearly that the notification at the City Council level is 15-days published notice which is consistent with standard procedures.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
2	1.3.4(C)(3)(b)	Clarifies that 15 days published notice is required.

1086 Amend 2.2.3(C)(1) - Development Applications Contents - to change out City Manager with Director as to who establishes the master list of submittal requirements.

Problem Statement

When the Code was written, the City Manager was designated as having the authority to establish the master list of development application submittal requirements. By so designating, the intention was for Staff to be able to amend the list administratively versus having to bring forward an Ordinance to City Council. Staff understood at the time that the City Manager would, in all likelihood, not literally amend the list but delegate accordingly. The problem is that this delegation relies on an inference and that the Code would be clearer and more precise by replacing City Manager with Director.

The Code is clear that the Director, in turn, may also delegate accordingly. In Section

1.4.9(E), the Code states:

“(E) Delegation of Authority. Whenever a provision appears requiring the Director or some other City officer or employee to do some act or perform some duty, such provision shall be construed as authorizing the Director or other officer or employee to designate, delegate and authorize professional-level subordinates to perform the required act or duty unless the terms of the provision specify otherwise.”

Proposed Solution Overview

The proposed solution is to change out City Manager for Director.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
3	2.2.3(C)(1)	Allows the Director to establish the submittal requirements.

1087 Amend 2.18.3(F) - Basic Development Review and Minor Subdivision Procedures - to clarify that Step 6, Notice, is only applicable in cases where a Minor Subdivision results in the creation of a new lot, not for all BDR's.

Problem Statement

The problem is that while adopting the new section to bring back the Minor Subdivision as a Basic Development Review (BDR), we cast too wide a net regarding notification and thereby inadvertently required all BDR,s, and not just Minor Subs that create one net new lot, to provide notice in the form of a mailing to affected property owners within 800 feet, posting of a sign and publishing in a newspaper of general circulation.

Proposed Solution Overview

The proposed solution is to amend the standard to clarify that Step 6, Notice, is not required for all BDR's but only in cases of Minor Subdivisions and only those in which the result is the creation of one new lot. Please note that in cases where an unplatted metes and bounds lot undergoing the Minor Subdivision process to create a platted lot with the same boundaries is already exempt from Step 6, Notice, per Section 2.18.2. This exemption does not change with this code revision.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
4	2.18.3(F)	Corrects the notification requirements for BDR's.

1088 Amend 4.5(D) - LMN Land Use Standards - to limit the number of Extra Occupancy Rental Houses to a maximum of 25% of the project's total, amend 3.8.16 to add Neighborhood Centers and amend 3.8.28 for clarification.

Problem Statement

Multi-family, and some single family attached, developers are increasingly turning to a trend to increase the number of bedrooms per unit. Since Fort Collins has an occupancy standard that caps the maximum number of unrelated persons at three (known as you-plus-two), any unit with more than three bedrooms is subject to special review per 3.8.16, Occupancy Limits, Increasing the Number of Persons Allowed or 3.8.28 Extra Occupancy Rental House Regulations whichever is applicable. These issues pertain to leasing models that are either by-the-unit or by-the-bedroom.

Most of the multi-family (and some single family attached) projects, where increasing the number of bedrooms per unit to greater than three, have been in zone districts where multi-family is permitted without restrictions.

The problem is that now we are seeing developments with more than three bedrooms per unit in the L-M-N zone district where multi-family is required to be more limited so that development in the L-M-N continues to be distinct from other zone district. These restrictions are as follows:

- No more than 12 units per building;
- No more than 14,000 square feet per building; and
- No more than 9.00 dwelling units per gross acre.

As a result, we are now seeing projects in the L-M-N that are more suited in:

M-M-N Medium Density Mixed-Use Neighborhood;
H-M-N High Density Mixed-Use Neighborhood;
D Downtown;
R-D-R River Downtown Redevelopment;
C-C Community Commercial; and
C-C-N Community Commercial – North College.

City Plan clearly envisions the L-M-N district to be distinctive from other zone districts where multi-family is permitted in a more unlimited fashion. (See Policies L-M-N LIV 28 versus M-M-N LIV 29). In order to preserve this distinctiveness, staff recommends capping the number of units that would be allowed to have more than three bedrooms at 25% of the project's total number of units.

For reference, the definition of EORH:

“Extra occupancy rental house shall mean a building or portion of which is used to accommodate, for compensation, four (4) or more tenants, boarders or roomers, not including members of the occupant's immediate family who might be occupying such building. The word compensation shall include compensation in money, services or other things of value.”

As can be seen by the definition, the EORH envisions two distinct types:

- Single Family Detached Dwellings. Typically, these are existing houses that were constructed or converted to include more than three bedrooms and are governed by Section 3.8.28.
- Dwelling Units Contained Within a Larger Structure. Typically, these are multi-family dwelling units that are proposed as part of development plan and are governed by Section 3.8.16.

The basis for capping the total number of EORH to at 25% in L-M-N zone is based on 3.8.28(A) which governs EORH in single family dwellings. This standard states:

“No more than 25% of parcels on a block face may be approved for extra occupancy rental house use.”

Staff contends that capping the number of EORH units at 25% within an L-M-N multi-family or single family attached project is roughly equivalent to the current cap of 25% of single family detached on a block face. Both address preserving the distinction between L-M-N and other zone districts which allow higher densities.

Staff also recommends taking the opportunity at this time to enrich the menu of extra features that are needed in order for an applicant to justify including EORH's within a multi-family or single family attached project by adding Neighborhood Centers. This

revision would be added to Section 3.8.16 which is a General Development Standard, but, per the definition, would only apply within the L-M-N district.

Proposed Solution Overview

The primary proposed solution is to amend the L-M-N zone district, Land Use Standards, to cap the number of units that include more than three bedrooms per unit to a maximum of 25% of the total number of units of any single P.D.P. application by adding a new subsection. Secondly, revisions are offered to enhance multi-family mitigation options and to clarify the distinction between EORH in multi-family dwelling units (governed by 3.8.16) and single family dwellings (governed by 3.8.28)

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
5	3.8.16(E)	Clarifies applicability to single family attached and multi-family and adds Neighborhood Center as an allowable mitigating amenity.
6	3.8.28(A)	Clarifies the difference between single family detached regulations and single family attached and multi-family regulations.
8	4.5(D)	Caps the number of Extra Occupancy Rental Houses in LMN to 25% of project total.

1091 Amend 5.1.2 - Definition of Subdivision - to re-state to include the condition where only one lot is being platted and include a new definition for Plat.

Problem Statement

The problem is that the current definition states that a subdivision means the platting of a lot or the division of a lot, tract or parcel of land into two (2) or more lots, plots or sites. This definition does not acknowledge that a subdivision may also include the creation of one lot and does not always result in two or more lots. For example, the City requires that in order to issue a building permit, the building must be on a platted lot. (There are exceptions for out-buildings on farms.) But we have seen cases where older parcels were created without a plat or were annexed into the City and simply legally described by a metes and bounds legal description and not by a subdivision of land via a plat. In these cases, the platting of a one-lot subdivision would be perfectly normal.

The current definition is not consistent with Section 2.18, Basic Development Review and Minor Subdivisions, which outlines the procedures for one-lot subdivisions.

Also proposed is a new definition for Plat since platting is referenced in the definition of Subdivision.

Proposed Solution Overview

The proposed solution is to amend the definition of Subdivision and add a new definition for Plat.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
9	5.1.2	Creates a new definition of Plat.
10	5.1.2	Amends the existing definition of Subdivision to allow for a one-lot subdivision.

Land Use Code Revisions

Annotated Ordinance Index

Ord. Section #	Code Cite	Revision Effect	Issue
			1088 Amend 4.5(D) - LMN Land Use Standards - to limit the number of Extra Occupancy Rental Houses to a maximum of 25% of the project's total, amend 3.8.16 to add Neighborhood Centers and amend 3.8.28 for clarification.
1	N.A.		1051 Placeholder for Ordinance formatting.
2	1.3.4(C)(3)(b)	Clarifies that 15 days published notice is required.	1085 Amend 1.3.4(C)(3)(b) - Addition of Permitted Use - City Council Approval - to resolve the discrepancy as to the length of time needed for published notice in the newspaper.
3	2.2.3(C)(1)	Allows the Director to establish the submittal requirements.	1086 Amend 2.2.3(C)(1) - Development Applications Contents - to change out City Manager with Director as to who establishes the master list of submittal requirements.
4	2.18.3(F)	Corrects the notification requirements for BDR's.	1087 Amend 2.18.3(F) - Basic Development Review and Minor Subdivision Procedures - to clarify that Step 6, Notice, is only applicable in cases where a Minor Subdivision results in the creation of a new lot, not for all BDR's.
5	3.8.16(E)	Clarifies applicability to single family attached and multi-family and adds Neighborhood Center as an allowable mitigating amenity.	1088 Amend 4.5(D) - LMN Land Use Standards - to limit the number of Extra Occupancy Rental Houses to a maximum of 25% of the project's total, amend 3.8.16 to add Neighborhood Centers and amend 3.8.28 for clarification.
6	3.8.28(A)	Clarifies the difference between single family detached regulations and single family attached and multi-family regulations.	1088 Amend 4.5(D) - LMN Land Use Standards - to limit the number of Extra Occupancy Rental Houses to a maximum of 25% of the project's total, amend 3.8.16 to add Neighborhood Centers and amend 3.8.28 for clarification.
8	4.5(D)	Caps the number of Extra Occupancy Rental Houses in LMN to 25% of project total.	1088 Amend 4.5(D) - LMN Land Use Standards - to limit the number of Extra Occupancy Rental Houses to a maximum of 25% of the project's total, amend 3.8.16 to add Neighborhood Centers and amend 3.8.28 for clarification.

Ord. Section #	Code Cite	Revision Effect	Issue
9	5.1.2	Creates a new definition of Plat.	1091 Amend 5.1.2 - Definition of Subdivision - to re-state to include the condition where only one lot is being platted and include a new definition for Plat.
10	5.1.2	Amends the existing definition of Subdivision to allow for a one-lot subdivision.	1091 Amend 5.1.2 - Definition of Subdivision - to re-state to include the condition where only one lot is being platted and include a new definition for Plat.

ORDINANCE NO. 019, 2019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING VARIOUS AMENDMENTS TO THE CITY OF
FORT COLLINS LAND USE CODE

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 certain issues that are ripe for updating and improvement; 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 Section 1.3.4(C)(3)(b) of the Land Use Code is hereby amended to read as follows:

1.3.4 Addition of Permitted Uses

...

(C) *Procedures and Required Findings*

...

- (b) In considering the recommendation of the Planning and Zoning Board and in determining whether a proposed use should be added, ~~the City Council shall follow the notice requirements for Council action that are established for zonings and rezonings of areas of no more than six hundred forty (640) acres in size as set forth in Section 2.9.4 of this Land Use Code~~ the City Clerk shall cause the hearing by the City Council to be placed on the

agenda for a future City Council meeting; and the public hearing before the City Council shall be held after at least fifteen (15) days' notice of the time, date and place of such hearing and the subject matter of the hearing and the nature of the proposed zoning change has been given by publication in a newspaper of general circulation within the City and City Council shall follow the applicable hearing procedures established by the City Council by resolution for such hearings. In determining the addition of permitted use, the City Council shall consider only the requirements set forth in subsection (c) below.

...

Section 3. That Section 2.2.3(C)(1) of the Land Use Code is hereby amended to read as follows:

2.2.3 Step 3: Development Application Submittal

...

(C) Development Application Contents.

- (1) Development Application Submittal Requirements Master List. A master list of development application submittal requirements shall be established by the ~~City Manager~~ Director. The master list shall, at a minimum, include a list of all information, data, explanations, analysis, testing, reports, tables, graphics, maps, documents, forms or other items reasonably necessary, desirable or convenient to (1) determine whether or not the applicant, developer and/or owner have the requisite power, authority, clear title, good standing, qualifications and ability to submit and carry out the development and/or activities requested in the development application; and (2) determine whether or not the development activities and development application address and satisfy each and every applicable general development standard, district standard or other requirement or provisions of this Land Use Code.

Section 4. That Section 2.18.3(F) of the Land Use Code is hereby amended to read as follows:

2.18.3 Basic Development Review and Minor Subdivision Review Procedures

...

- (F) **Step 6** (Notice): Applicable only for Minor Subdivisions that result in the creation of no more than one (1) additional lot.

...

Section 5. That Section 3.8.16(E) of the Land Use Code is hereby amended to read as follows:

3.8.16 Occupancy Limits; Increasing the Number of Persons Allowed

...

(E) *Increasing the Occupancy Limit.*

...

- (2) With respect to multiple-family **and single family attached** dwellings, the decision maker (depending on the type of review, Type 1 or Type 2) may, upon receipt of a written request from the applicant and upon a finding that all applicable criteria of this Code have been satisfied, increase the number of unrelated persons who may reside in individual dwelling units. The decision maker shall not increase said number unless satisfied that the applicant has provided sufficient additional amenities, either public or private, to sustain the activities associated with multi-family residential development, to adequately serve the occupants of the development and to protect the adjacent neighborhood. Such amenities may include, without limitation, passive open space, buffer yards, on-site management, recreational areas, plazas, courtyards, outdoor cafes, **neighborhood centers**, limited mixed-use restaurants, parking areas, sidewalks, bikeways, bus shelters, shuttle services or other facilities and services.

...

Section 6. That Section 3.8.28 of the Land Use Code is hereby amended to read as follows:

3.8.28 Extra Occupancy Rental House Regulations

- (A) Extra occupancy rental houses, **not including multiple family and single family attached dwellings which shall be governed by Section 3.8.16(E)(2)**, shall conform to the occupancy limits and separation requirements specified in the following table:

...

Section 7. That section 3.8.32(D) of the Land Use Code is hereby amended to read as follow:

3.8.32 Solar Energy Systems.

...

(D) **Standards for Small, Medium and Large-scale Solar Energy Systems.** Solar energy systems shall conform to the applicable size-based regulations as set out in this subsection (D):

(1) Small-Scale Solar Energy Systems.

(a) ~~Maximum Lot Size.~~ **Covering less than One-half (0.5) acre.**

...

(2) *Medium-Scale Solar Energy Systems.*

(a) ~~Lot Size.~~ **Covering B**etween one-half (0.5) acre and five (5) acres.

...

(3) Large-Scale Solar Energy Systems.

(a) ~~Lot Size. Greater~~ **Covering more** than five (5) acres.

...

Section 8. That Section 4.5(D) of the Land Use Code is hereby amended by the addition of a new subparagraph (9) which reads in its entirety as follows:

(D) **Land Use Standards.**

(9) Maximum Number of Dwelling Units Defined As Extra Occupancy Rental House. The maximum number of dwelling units defined as Extra Occupancy Rental Houses shall be depicted on an application for a Project Development Plan and shall be limited to twenty-five (25) percent of the total number of dwelling units of said plan.

Section 9. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition “Plat” which reads in its entirety as follows:

Plat shall mean (1) a map of a subdivision; (2) a map of a parcel or parcels contained within an annexation; (3) a map representing a tract of land showing the boundaries and location of individual properties and streets;

Section 10. That the definition “*Subdivision*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Subdivision shall mean the platting of a lot or the division of a lot, tract or parcel of land into ~~two (2)~~ **one (1)** or more lots, plots or sites.

Introduced, considered favorably on first reading, and ordered published this 5th day of February, A.D. 2019, and to be presented for final passage on the 19th day of February, A.D. 2019.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on this 19th day of February, A.D. 2019.

Mayor

ATTEST:

City Clerk