

ORDINANCE NO. 035, 2019  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING LAND USE CODE SECTIONS 3.4.7 AND 5.1.2  
PERTAINING TO HISTORIC AND CULTURAL RESOURCES

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, City historic preservation staff has completed a two-year review to identify changes to the City's historic preservation regulations that will promote greater clarity, effectiveness, and predictability in the administration of historic preservation within the City; and

WHEREAS, as a result of the review, City staff is recommending changes to Land Use Code Section 3.4.7 to City Council; and

WHEREAS, on December 20, 2018, and January 17, 2019, the Planning and Zoning Board unanimously recommended that City Council adopt the proposed changes to Land Use Code Section 3.4.7; and

WHEREAS, on December 19, 2018, the Landmark Preservation Commission unanimously recommended that City Council adopt the proposed changes to Land Use Code Section 3.4.7; 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 That Section 3.4.7 of the Land Use Code is hereby repealed in its entirety and reenacted as follows:

**3.4.7 Historic and Cultural Resources**

(A) *Purpose.*

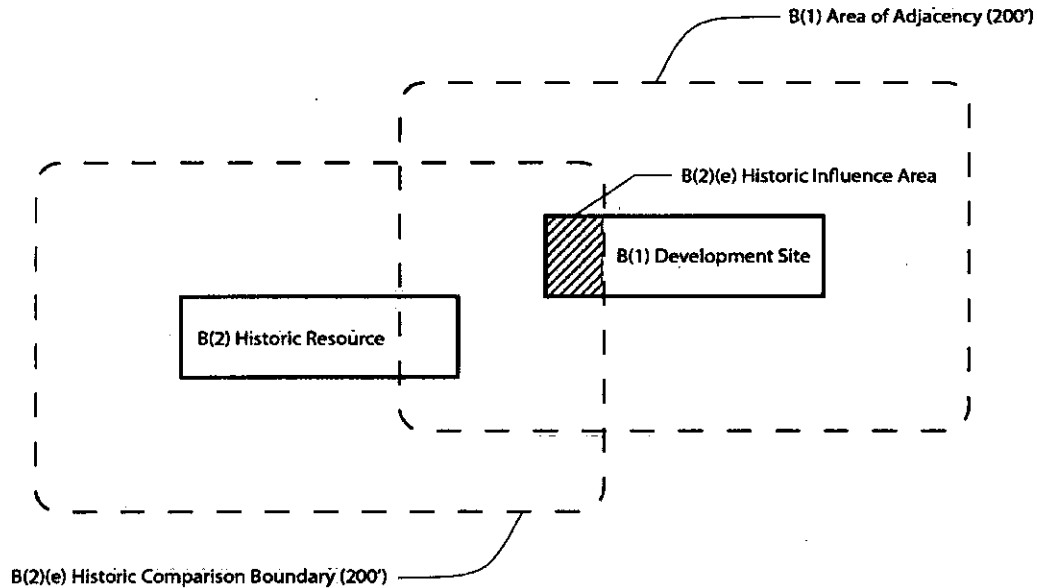
- (1) The purpose of this Section is to ensure that proposed development is compatible with and protects historic resources by ensuring that:
  - (a) Historic resources on a development site are preserved, adaptively reused, and incorporated into the proposed development;
  - (b) Development does not adversely affect the integrity of historic resources on nearby property within the area of adjacency surrounding a development site; and
  - (c) The design of new structures and site plans are compatible with and protect the integrity of historic resources located within a development site and within the area of adjacency surrounding a development site.
- (2) To accomplish its purpose, this Section provides:
  - (a) The requirements for the treatment of historic resources located on a development site; and
  - (b) The standards for design compatibility between proposed development and historic resources on a development site and within the delineated area of adjacency surrounding a development site.
  - (c) This Section is intended to work in conjunction with the standards for the treatment of historic resources set forth in Chapter 14 of the Fort Collins Municipal Code and any relevant adopted standards for historic resources.

(B) ***Historic Resources on the Development Site and within the Area of Adjacency.***

- (1) As used in this Section, the area of adjacency shall mean an area, the outer boundary of which is two hundred (200) feet in all directions from the perimeter of the development site. Any lot or parcel of property shall be considered within the area of adjacency if any portion of such lot or parcel is within the two hundred (200) foot outer boundary.
- (2) Historic preservation staff shall identify as expeditiously as possible the historic resources on the development site and within the area of adjacency to be used for application of the design standards contained in below Subsection (E), *Design Requirements for a Proposed Development*, and provide a list of such resources to the applicant. The procedure for identifying the relevant historic resources shall be as follows:
  - (a) The location of the following shall be identified within the area of adjacency:
    1. Any historic resource; and

2. Any building, site, structure, and object that requires evaluation as to whether it is eligible for Fort Collins landmark designation and, therefore, qualifies as a historic resource.
  - (b) All historic resources on the development site shall be identified and the procedure in below Subsection (C)(1) shall be completed if necessary.
  - (c) Any building, site, structure, or object requiring evaluation shall be reviewed for eligibility for Fort Collins landmark designation pursuant to below Subsection (C)(2).
  - (d) Any historic resource identified in above steps (a), (b), or (c) shall be the historic resources utilized as the basis for applying Subsection (E). Identified historic resources on the development site and within the area of adjacency shall be classified as follows for purposes of applying the design standards set forth in the below Subsection (E):
    1. Historic resources on the development site, or abutting or on the other side of a side alley that abuts the development site; and
    2. All other historic resources.
  - (e) The historic comparison boundary shall be established at two hundred (200) feet in all directions from the perimeter of each identified historic resource except those located on the development site. The historic influence area formed by the overlapping area between the outer boundary of the development site and the historic comparison boundary is the area within which the standards in below Subsection (E) apply to any new construction proposed within such area.
  - (f) The historic influence area for any historic resource located on the development site shall be the entire development site.

**Example of Area of Adjacency, Historic Comparison Boundary, and Historic Influence Area**



- (3) The historic preservation staff determination pursuant to this Section of the historic resources relevant to the application of the design standards set forth in below Subsection (E) is not subject to appeal. Notwithstanding, eligibility determinations pursuant to below Subsection (C)(1) are subject to appeal pursuant to Fort Collins Municipal Code Section 14-23.

**(C) Determination of Eligibility for Designation as Fort Collins Landmark.**

The review of proposed development pursuant to this Section may require the determination of the eligibility of buildings, sites, structures, and objects located both on the development site and in the area of adjacency for designation as Fort Collins landmarks. The determination of eligibility for designation as a Fort Collins landmark shall be made pursuant to the standards and procedures set forth in Sections 14-22 and 14-23 of the Fort Collins Municipal Code except as varied in below Subsections (C)(1) and (2).

- (1) *Buildings, Sites, Structure, and Objects on a Development Site.* If any buildings, sites, structures, or objects on a development site are fifty (50) years of age or older and lack an official determination of eligibility for Fort Collins landmark designation made within the last five (5) years, the applicant must request an official eligibility determination for each such building, site, structure, or object pursuant to Sections 14-22 and 14-23 of the Fort Collins Municipal Code. A current intensive-level Colorado Cultural Resource Survey Form is required for each building, site, structure, and object and the applicant is responsible for reimbursing the City for the cost of having such a property survey generated by a third-party expert selected by the City.

- (2) *Buildings, Sites, Structures, and Objects Within the Area of Adjacency.* If any buildings, sites, structures, or objects outside of a development site but within the area of adjacency are fifty (50) years of age or older and lack an official determination of eligibility for Fort Collins landmark designation established within the last five (5) years, the applicant must request a non-binding determination of eligibility for each such building, site, structure, or object pursuant to Sections 14-22 and 14-23 of the Fort Collins Municipal Code. Notwithstanding Sections 14-22 and 14-23, any such eligibility determination shall not be appealable pursuant to Section 14-23 and shall not be valid for any purpose other than the evaluation of the proposed development pursuant to this Section. A current architectural-level property survey is required for each building, site, structure, and object and the applicant is responsible for reimbursing the City for the cost of having such a property survey generated by a third-party expert selected by the City. The Director, in consultation with historic preservation staff, may waive the required eligibility determination for any building, site, structure, or object if the Director determines that such eligibility determination would be unnecessarily duplicative of information provided by existing historic resources or would not provide relevant information.

(D) ***Treatment of Historic Resources on Development Sites – Design Review.***

- (1) Proposed alterations, as such alterations are described in Fort Collins Municipal Code Chapter 14, Article III, to any Fort Collins landmark on a development site or to any portion of the development site located within a Fort Collins historic district must comply with the design review requirements in Chapter 14, Article III, of the Fort Collins Municipal Code. The applicant must obtain a certificate of appropriateness for all proposed alterations pursuant to Chapter 14 before receiving a Landmark Preservation Commission recommendation pursuant to below Subsection (F).
- (2) Proposed alterations to any building, site, structure, or object located on the development site that is not a Fort Collins landmark but is designated on the Colorado State Register of Historic Properties, either individually or contributing to a district, or the National Register of Historic Places, either individually or contributing to a district, must comply with the design review requirements in Chapter 14, Article III, of the Fort Collins Municipal Code. The applicant must obtain a report pursuant to Chapter 14 regarding all proposed alterations before receiving a Landmark Preservation Commission recommendation pursuant to below Subsection (F). Additionally, to the maximum extent feasible, the development plan and building design shall provide for the preservation and adaptive use of any such building, site, structure, or object.
- (3) To the maximum extent feasible, the development plan and building design shall provide for the preservation and adaptive use pursuant to the Secretary of the Interior *Standards for the Treatment of Historic Properties* of any building, site, structure, or object located on the development site and determined to be eligible

for Fort Collins landmark designation either through a binding or non-binding determination pursuant to Land Use Code Section 3.4.7(C). This requirement shall apply to development applications including building permit applications for partial or total demolition of, or work that may have an adverse effect on, any building, site, structure, or object located on the development site and determined to be eligible for Fort Collins landmark designation.

(E) ***Design Requirements for a Proposed Development.***

(1) ***Design Compatibility.*** Proposed development may represent the architecture and construction standards of its own time but must also convey a standard of quality and durability appropriate for infill in a historic context and protect and complement the historic character of historic resources both on the development site and within the area of adjacency. The design of development on development sites containing historic resources or with historic resources located within the area of adjacency shall meet the requirements in below Table 1 in addition to applicable Land Use Code requirements. The Table 1 requirements shall apply to the development of buildings or structures, other than those addressed in above Subsection (D), on the development site located within a historic influence area, as such term is defined in above Subsection (B)(4), as follows:

- (a) If one (1) or more historic influence areas exist that are associated with historic resource(s) on the development site, or which abut or are on the other side of a side alley that abuts the development site, then all historic influence areas shall be considered to be associated with such historic resource(s) and the standards set forth in Table 1, Column A, shall apply. If two (2) or more historic influence areas exist that are associated with historic resources on the development site, or which abut or are on the other side of a side alley that abuts the development site, the applicant may satisfy the standards set forth in Table 1, Column A, by choosing characteristics from one (1) or more of such historic resources.
- (b) If no historic influence areas exist that are associated with historic resources on the development site, or which abut or are on the other side of a side alley that abuts the development site, the standards set forth in Table 1, Column B, shall apply to all historic influence areas.

Table 1: Requirements for New Construction Near Historic Resources

	Purpose	Column A Standards for Compatibility with Historic Resources on the Development Site, Abutting, Or Across a Side Alley	Column B Standards for Compatibility with Historic Properties Within the Area of Adjacency but Not On or Abutting the Development Site or Across a Side Alley
<i>Massing and Building Articulation</i>	Integrate new construction into existing context and use massing options that respect historic buildings.	<ol style="list-style-type: none"> <li>1. New construction shall be similar in width or, if larger, be articulated into massing reflective of the mass and scale of historic resources on the development site, abutting, or across a side alley.</li> <li>2. In all zone districts, setbacks must be located on new building(s) to create gradual massing transitions at the same height or one story above the height of historic resources on the development site, abutting, or across a side alley. Additionally, in the Downtown zone district, the widest portions of setbacks required by the Downtown zone district setback standard shall be on building portions closest to historic resources.</li> </ol>	
<i>Building Materials</i>	Create visual connection between modern building materials and historic building materials.	<ol style="list-style-type: none"> <li>3. The lower story facades until any setbacks (required or otherwise) must be constructed of authentic, durable, high-quality materials (brick, stone, glass, terra cotta, stucco (non EFIS), precast concrete, wood, cast iron, architectural metal) installed to industry standards.</li> <li>4. New construction shall reference one or more of the predominate material(s) on historic resources on the development site, abutting, or across a side alley, by using at least two of the following to select the primary material(s) for any one to three story building or the lower story facades until any setbacks (required or otherwise):               <ol style="list-style-type: none"> <li>1) Type</li> <li>2) Scale</li> <li>3) Color</li> <li>4) Three-dimensionality</li> <li>5) Pattern.</li> </ol> </li> </ol>	<p>Review the identified historic properties within the area of adjacency and identify any predominate typologies and primary character-defining design and architectural features.</p> <p>With those key buildings, features, or patterns in mind, apply at least two of the Standards for Compatibility with Historic Resources on the Development Site, Abutting, Or Across a Side Alley (those numbered 1 to 6).</p>
<i>Facade Details</i>	Create visual connection between modern building design and historic building design.	<ol style="list-style-type: none"> <li>5. Use at least one of the following:               <ol style="list-style-type: none"> <li>1) Similar window pattern</li> <li>2) Similar window proportion of height to width</li> <li>3) Similar solid-to-void pattern as found on historic resources on the development site, abutting, or across a side alley.</li> </ol> </li> <li>6. Use select horizontal or vertical reference lines or elements (such as rooflines, cornices, and belt courses) to relate the new construction to historic resources on the development site, abutting, or across a side alley.</li> </ol>	
<i>Visibility of Historic Features</i>	Protect visibility of historic architecture and details.	New construction shall not cover or obscure character-defining architectural elements, such as windows or primary design features, of historic resources on the development site, abutting, or across a side alley.	None

- (2) *Old Town Historic District.* Proposed development within the Old Town Historic District shall comply with the Old Town Historic District Standards adopted by Ordinance 094, 2014, Chapter 14 of the Fort Collins Municipal Code, and the U.S. Secretary of the Interior Standards for the Treatment of Historic Properties in lieu of the requirements set forth in this Section except Subsections (D) and (F).
- (3) *Plan of Protection.* A plan of protection shall be submitted prior to the Landmark Preservation Commission providing a recommendation pursuant to below Subsection (F) that details the particular considerations and protective measures that will be employed to prevent short-term and long-term material damage and avoidable impact to identified historic resources on the development site and within the area of adjacency from demolition, new construction, and operational activities.

**(F) Landmark Preservation Commission Recommendation.**

*Recommendation to Decision Maker for Development Proposal.* The Landmark Preservation Commission shall provide a written recommendation to the decision maker for development sites containing or adjacent to historic resources, or both. The written recommendation shall address compliance of the proposed development with this Section and applicable Municipal Code Chapter 14, Article III requirements and the decision maker shall consider such recommendation in making its final decision. Notwithstanding, the Director may waive the requirement for a Landmark Preservation Commission recommendation if the Director, after considering the recommendation of historic preservation staff, has issued a written determination that the development plan would not have an adverse effect on any historic resource on the development site or within the proposed development's area of adjacency and that the development plan is compatible with the existing character of such historic resources. A recommendation made under this Subsection is not appealable to the City Council under Chapter 2 of the Fort Collins Municipal Code.

Section 3. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of the following definitions:

*Adverse effect,* for purposes of Section 3.4.7 only, shall mean that a project or undertaking may alter, directly or indirectly, any of the characteristics that qualify a property for designation in a manner that would diminish the property's integrity. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be removed in distance, or be cumulative.

*Development site* shall mean the real property, whether consisting of one (1) or more lots or areas of land, that is the subject of any application allowed under the Land Use Code.

*Historic comparison boundary* shall mean the two hundred (200) foot boundary measured in all directions from the perimeter of each historic resource identified in Section 3.4.7(B)(2)(a), (b), or (c).



*Historic influence area* shall mean the overlapping area formed when the outer boundary of a development site and a historic comparison boundary overlap.

*Historic preservation staff* shall mean City Historic Preservation Division staff who meet the professional qualification standards provided in Code of Federal Regulations, 36 CFR Part 61.

*Historic resource* shall mean a building, site, structure, or object that is located on a lot, lots, or area of property and is (1) designated as a Fort Collins landmark or is contributing to a Fort Collins landmark district; (2) designated on the Colorado State Register of Historic Properties, either individually or contributing to a district, or the National Register of Historic Places, either individually or contributing to a district; or (3) determined to be eligible for designation as a Fort Collins landmark either through a binding or non-binding determination pursuant to Land Use Code Section 3.4.7(C).

*Massing* shall refer to the perception of the overall shape, form, and size of a building.

*Object*, for purposes of Section 3.4.7 only, shall mean a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable.

*Side alley*, for purposes of Section 3.4.7 only, shall mean a minor way used primarily for vehicular or pedestrian access to the side, rather than the rear, of a historic resource. On a corner where a historic resource and a development site are divided by a single alley that serves as a side alley for the historic resource and a rear alley for the development site, the alley shall be considered a side alley.


*Site*, for purposes of Section 3.4.7 only, shall mean the location of a significant event, a prehistoric or historic occupation or activity or a structure or object whether standing, ruined or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

*Solid-to-void pattern* shall mean the area of the façade covered by openings divided by the area of the solid wall, as a measure of the proportion of the area of fenestrations to that of the wall.

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


  
Mayor

ATTEST:

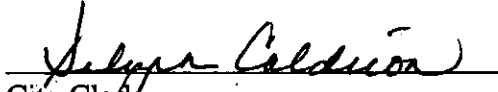
  
City Clerk



Passed and adopted on final reading on the 5th day of March, A.D. 2019.

  
Mayor

ATTEST:

  
City Clerk

