

ORDINANCE NO. 048, 2021
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, City staff and the Planning and Zoning Board have reviewed the Land Use Code and identified and explored various issues related to the Land Use Code and have made recommendations to the Council regarding such issues; 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 2.2.10(A)(5) of the Land Use Code is hereby amended to read as follows:

2.2.10 Step 10: Amendments and Changes of Use

- (A) ***Minor Amendments and Changes of Use.*** (1) Minor amendments to any approved development plan, including any Overall Development Plan, Project Development Plan, or PUD Master Plan, any site specific development plan, or the existing condition of a platted property; and (2) Changes of use, either of which meet the applicable criteria of below subsections 2.2.10(A)(1) or 2.2.10(A)(2), may be approved, approved with conditions, or denied administratively by the Director and may be authorized without additional public hearings. With the exception of PUD Master Plans, such minor amendments and changes of use may be authorized by the Director as long as the development plan, as so amended, continues to comply with the standards of this Code to the extent reasonably feasible. PUD Master Plan Minor amendments may be authorized by the Director as long as the PUD Master Plan, as so amended, continues to comply with the standards of this Code, as such standards may have been modified in the existing PUD Master Plan, and so long as the amendments are consistent with the existing PUD Master Plan. Minor amendments and changes of use shall only consist of any or all of the following:

...

- (5) *Notification.* Written notice must be mailed to the owners of record of all real property abutting the property that is the subject of the minor amendment application at least fourteen (14) calendar days prior to the Director's decision.
- (6) *Appeals.* Applicable pursuant to Section 2.2.12(C).

Section 3. That Section 2.2.12 of the Land Use Code is hereby amended to read as follows:

2.2.12 Step 12: Appeals/Alternate Review

- (A) *Appeals.* Appeals of any final decision of a decision maker under this Code shall be only in accordance with Chapter 2, Article II, Division 3 of the City Code, unless otherwise provided in this Section or Division 2.

...

- (C) *Appeal of Minor Amendment, Changes of Use, and Basic Development Review Decisions by the Director.* The Director's final decision on a minor amendment or change of use application pursuant to Section 2.2.10(A) or basic development review application pursuant to Division 2.18 may be appealed to the Planning and Zoning Board as follows:

- (1) *Parties Eligible to File Appeal.* The following parties are eligible to appeal the Director's final decision on a minor amendment, change of use, or basic development review application:
 - (a) The applicant that submitted the application subject to the Director's final decision;
 - (b) Any party holding an ownership or possessory interest in the real or personal property that was the subject of the final decision;
 - (c) Any person to whom or organization to which the City mailed notice of the final decision;
 - (d) Any person or organization that provided written comments to the appropriate City staff for delivery to the Director prior to the final decision; and
 - (e) Any person or organization that provided written comments to the appropriate City staff for delivery to the decision maker prior to the final decision on the project development plan or final plan being amended or provided spoken comments to the decision maker at the public hearing where such final decision was made.
- (2) *Filing Notice of Appeal.* An appeal shall be commenced by filing a notice of appeal with the Director within fourteen (14) calendar days after the date the written final decision is made that is the subject of the appeal. Such notice of appeal shall be on

a form provided by the Director, shall be signed by each person joining the appeal (“appellant”), and shall include the following:

- (a) A copy of the Director’s final decision being appealed;
 - (b) The name, address, email address, and telephone number of each appellant and a description why each appellant is eligible to appeal the final decision pursuant to Subsection (C)(1) above;
 - (c) The specific Land Use Code provision(s) the Director failed to properly interpret and apply and the specific allegation(s) of error and/or the specific Land Use Code procedure(s) not followed that harmed the appellant(s) and the nature of the harm; and
 - (d) In the case of an appeal filed by more than one (1) person, the name, address, email address and telephone number of one (1) such person who shall be authorized to receive, on behalf of all persons joining the appeal, any notice required to be mailed by the City to the appellant.
- (3) *Scheduling of Appeal.* A public hearing shall be scheduled before the Planning and Zoning Board within sixty (60) calendar days of a notice of appeal being deemed complete unless the Planning and Zoning Board adopts a motion granting an extension of such time period.
- (4) *Notice.* Once a hearing date before the Planning and Zoning Board has been determined, the Director shall mail written notice pursuant to Section 2.2.6(A). Notice requirements set forth in Section 2.2.6(B)-(D) shall not apply. The mailed notice shall inform recipients of:
- (a) The subject of the appeal;
 - (b) The date, time, and place of the appeal hearing;
 - (c) The opportunity of the recipient and members of the public to appear at the hearing and address the Planning and Zoning Board; and
 - (d) How the notice of appeal can be viewed on the City’s website.
- (5) *Planning and Zoning Board Hearing and Decision.*
- (a) The Planning and Zoning Board shall hold a public hearing pursuant to Section 2.2.7 to decide the appeal, and City staff shall prepare a staff report for the Planning and Zoning Board. The notice of appeal, copy of the Director’s final decision, and the application and all application materials submitted to the Director shall be provided to the Planning and Zoning Board for its consideration at the hearing.
 - (b) The hearing shall be considered a new, or *de novo*, hearing at which the Planning and Zoning Board shall not be restricted to reviewing only the allegations of error listed in the notice of appeal, the Planning and Zoning Board shall not give deference to the Director’s final decision being appealed, and the applicant shall have the burden of establishing that the application complies with all relevant Land Use Code provisions and should be granted. The applicant, appellant or appellants, members of the public,

and City staff may provide information to the Planning and Zoning Board for its consideration at the appeal hearing that was not provided to the Director for his or her consideration in making the final decision being appealed.

- (c) The Planning and Zoning Board shall review the application that is the subject of the appeal for compliance with all applicable Land Use Code standards and may uphold, overturn, or modify the decision being appealed at the conclusion of the hearing and may impose conditions in the same manner as the Director pursuant to Section 2.2.10(A) and Division 2.18. The Planning and Zoning Board decision shall constitute a final decision appealable to City Council pursuant to Section 2.2.12(A).

Section 4. That Section 2.11.1(A) of the Land Use Code is hereby amended to read as follows:

DIVISION 2.11 APPEAL FROM ADMINISTRATIVE DECISIONS TO THE ZONING BOARD OF APPEALS

2.11.1 Purpose and Applicability

- (A) *Purpose.* The purpose of this Division is to provide for appeals of certain administrative/city staff decisions to the Zoning Board of Appeals. Appeals to the Planning and Zoning Board of Minor Amendment and Change of Use and Basic Development Review decisions made by the Director are addressed in Section 2.2.12(C).

...

Section 5. That Section 2.18.3(L) of the Land Use Code is hereby amended to read as follows:

2.18.3 Basic Development Review and Minor Subdivision Review Procedures

An application for a Basic Development Review or Minor Subdivision shall be processed according to, in compliance with, and subject to the provisions contained in Division 2.1 and Steps (1) through (12) of the Common Development Review Procedures (Sections 2.2.1 through 2.2.12, inclusive), as follows:

...

- (L) *Step 12* (Appeals): Applicable pursuant to Section 2.2.12(C).

Section 6. That Section 3.5.2 of the Land Use Code is hereby amended by the addition of a new subparagraph (H) which reads in its entirety as follows:

3.5.2 Residential Building Standards

...

(H) **Second Kitchen.** A maximum of one additional kitchen may be established inside a dwelling unit without creating an additional dwelling unit if approved through a minor amendment pursuant to Section 2.2.10 and the following standards are met:

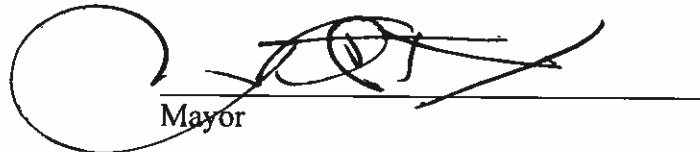
- (1) That both kitchens are accessible to all occupants of the dwelling unit;
- (2) That both kitchens have non-separated, continuous, and open access with no locked doors separating the kitchens from the rest of the dwelling unit; and
- (3) That neither kitchen is located in an accessory building.

The property owner of a dwelling unit in which a second kitchen is approved by the Director shall prior to issuance of a building permit sign and record with the Larimer County Clerk and Recorder a notarized affidavit stating that the second kitchen will not be used for a second dwelling unit and the property owner acknowledges and agrees that the dwelling shall only be used as a single-family dwelling.

Section 7. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition "Kitchen" which reads in its entirety as follows:

Kitchen shall mean a portion of a dwelling unit used, or designated to be used for, the purposes of cooking, preserving, or otherwise preparing food and contains a range or a combination of a cook-top and oven. An area of a dwelling unit with a cooking appliance that is not a range or combination of a cook-top and oven, such as a microwave or hot-plate, is not a kitchen.

Introduced, considered favorably on first reading, and ordered published this 16th day of March, A.D. 2021, and to be presented for final passage on the 20th day of April, A.D. 2021.


Mayor

ATTEST:

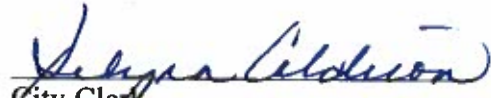

City Clerk



Passed and adopted on final reading on this 20th day of April, A.D. 2020.


Mayor

ATTEST:


City Clerk

