

SUBJECT

First Reading of Ordinance No. 092, 2013, Making Various Amendments to the Land Use Code.

EXECUTIVE SUMMARY

Staff has identified a variety of proposed changes, additions and clarifications in the 2013 annual update of the Land Use Code.

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 that have been identified since the last update. The proposed changes are offered in order to resolve implementation issues and to continuously improve both the overall quality and "user-friendliness" of the Code.

The proposed revisions were considered by the Planning and Zoning Board at its June 20, 2013 regular meeting. All of the proposed revisions included in the Ordinance have received unanimous approval from the Board.

FINANCIAL / ECONOMIC IMPACTS

Code revision number 933 provides for greater opportunities for Limited Indoor Recreation Establishments (under 5,000 square feet) by allowing these uses to now go into the L-M-N, Low Density Mixed-Use Neighborhood, but only if contained within a specifically defined Neighborhood Center. These uses include yoga studios, exercise clubs, dance studios, martial arts schools, and arts or crafts studios. This change allows the Land Use Code to respond to changing trends and conditions by providing for wider distribution of facilities that promote health and wellness.

ENVIRONMENTAL IMPACTS

There are no Code revisions that would have either a positive or negative an impact on the environment.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BOARD / COMMISSION RECOMMENDATION

All of the proposed changes have been discussed and refined in conjunction with the Planning and Zoning Board at various work sessions between February and June of this year. On June 20, 2013, the Planning and Zoning Board considered the proposed revisions to the Land Use Code and voted unanimously to recommend approval of all the changes.

ATTACHMENTS

1. List of Land Use Code Issues
2. Summary report of all the issues
3. Cross-reference of the issues to the Ordinance section numbers
4. Planning and Zoning Board minutes, June 20, 2013

Land Use Code Issues

Wednesday, June 19, 2013

Issue ID# Issue Name

- 903 Correct 2.2.11(D)(2) - Final Plan and Plat and Other Site Specific Development Plans - Publication - to delete incorrect references to the expiration of any right of appeal.
- 918 Amend 4.21(B)(2) - General Commercial Permitted Uses - by moving microbrewery/distillery/winery from the Institutional/Civic/Public land use category to the Commercial/Retail category.
- 919 Amend 4.5(B)(1)(e) and 4.5(B)(2)(a)7. - Extra Occupancy Rental Houses with More Than 4 Tenants in L-M-N - move from B.D.R. to Type One review.
- 921 Amend 3.7.1(B), 3.7.2(A)(3) and 3.7.2(B) - Compact Urban Growth Standards - to correct outdated references to the Urban Growth Area and Infill Area.
- 925 Correct 4.5(E)(4) - LMN Design Standards for Multi-Family Dwellings - to delete the reference to three "or more" stories in height as three stories is already the maximum allowed.
- 926 Revise 4.27(D)(2)(m) - Employment District - Secondary Uses - to clarify that the allowable "Public Facilities" should be further defined as "Minor Public Facilities" since Major Public Facilities are not a permitted use.
- 927 Amend 5.1.2 - Definition of Development - to exempt work done by the City associated with the restoration of land and streambanks to their more natural condition.
- 928 Add to 5.1.2 a new definition of "Existing Limited Permitted Use" as the definitions include Non-Conforming Use but no definition for an E.L.P.U.
- 930 Amend - 3.5.2(D) - Residential Building Setbacks and 3.8.30(E)(3) - Multi-Family Setbacks - to resolve conflicting setback standards for multi-family projects.
- 933 Amend 4.5(B)(2)(c)3. and 4.5(B)(3)(c)3. L-M-N Permitted Uses - to allow Limited Indoor Recreation Establishments as a permitted use in a Type One Neighborhood Center.
- 934 Clarify 3.2.2(L)(2) - Compact Vehicle Spaces in Long-term Parking Lots - to allow more than 40% compact spaces when no minimum parking is required and that compact stalls cannot be used for handicap parking.
- 935 Clarify 3.2.2(L)(3) - Long Term Parking Stalls - to allow compact car parking spaces in combination with reduced stall dimensions for long term parking areas.
- 937 Clarify 3.2.4(C) - Site Lighting Levels - so that the required lighting levels are averages and not maximum levels for the entire area or activity except for under-canopy fueling areas.
- 938 Add to 5.1.2 a new definition of "Vehicle" to clarify the term as it is used throughout the Code.
- 939 Delete from 3.10.4(E) - Transit Oriented Development Overlay Zone - Bicycle Parking - as the new minimum number of bicycle parking spaces has been established in 3.2.2(C)(4) adopted in 2012.
- 941 Clarify 4.9(D)(5) - N-C-B Floor Area Ratio - Rear 50% of Lot - by deleting "as it existed on October 25, 1991" and would match the standards for the N-C-L and N-C-M.
- 942 Amend 4.24(B)(2) - C-L Zone - Permitted Use List - by adding Accessory Uses and Accessory Buildings.
- 943 Revise 2.2.11(D)(9) - Post Denial Re-Submittal Delay - to replace the existing criteria by which the Director may shorten the delay period with new criteria.
- 944 Add to 2.2.10(A) - Step 10 - Minor Amendments - a new clause "to the extent reasonably feasible" to add a level of flexibility.

Issue ID# Issue Name

- 946 Clarify 3.8.30 - Multi-Family Dwelling Development Standards - so that the standards are applied at four-plex or larger.
- 947 Clarify 3.2.1(A) - Landscaping and Tree Protection - so that the standards do not apply to existing platted lots that are not the subject of a P.D.P. or Replat.
- 948 Amend 3.8.30(B)(3) and L-M-N, H-C and E zones to add two new dwelling unit types of 3-4 plex and 5-7 plex to enrich the choices for complying with the mix of housing types within a project.
- 949 Amend 2.2.7(C) - Order of Proceedings - so that at public hearings, first, the Director provides an overview, followed by the applicant's presentation, followed by Staff report and staff response to applicant presentation.
- 950 Amend 5.1.2 - Definitions of "Mixed-Use" and "Dwelling, Mixed-Use" - to clarify that accessory uses cannot be used as part of the required mix of housing types.
- 951 Amend 5.1.2 - Definitions - to define the term "Disabled Person" so as to be consistent with federal Fair Housing Act.
- 952 Amend 1.2.2(O) - Purpose - to add a statement that demonstrates the City's commitment to providing housing choices for all residents, at all abilities, that is coordinated with public transportation options.

Land Use Code Maintenance Process

Annotated Issue List

903 Correct 2.2.11(D)(2) - Final Plan and Plat and Other Site Specific Development Plans - Publication - to delete incorrect references to the expiration of any right of appeal.

Problem Statement

This section is a component of the common development review procedure, called Lapse, which specifies how long a Final Plan retains validity before it expires. This particular sub-section deals with published notice of a Final Plan in order to begin a three vested rights period. There are two references to the appeal of a Final Plan which are incorrect because there is no appeal process for a Final Plan.

Proposed Solution Overview

The proposed solution is to delete the two incorrect references.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
4	2.2.11(D)(2)	Corrects incorrect references.

918 Amend 4.21(B)(2) - General Commercial Permitted Uses - by moving microbrewery/distillery/winery from the Institutional/Civic/Public land use category to the Commercial/Retail category.

Problem Statement

The LUC was amended in 2012 by adding a new use, 'microbrewery/distillery/winery', as a permitted use in a number of zones. The code amendment was to be accomplished by adding the use to the 'Commercial/Retail' land use category in the permitted use lists in the affected zones. However, the use list for the C-G zone district was inadvertently changed by adding the use to the 'Institutional/Civic/Public' category instead of to the 'Commercial/Retail' category.

Proposed Solution Overview

In order to correct the error and to place the use in the proper category, staff recommends that Sections 4.21(B)(2)(B) and (C) be amended as follows:

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
24	4.21(B)(2)	Moves microbrewery/distillery/winery to the commercial/retail category.

919 Amend 4.5(B)(1)(e) and 4.5(B)(2)(a)7. - Extra Occupancy Rental Houses with More Than 4 Tenants in L-M-N - move from B.D.R. to Type One review.

Problem Statement

In the L-M-N zone, Extra Occupancy Rental Houses permit four tenants through the Basic Development Review process. This process does not allow for notification of affected property owners. Since an increase in tenants may have an impact on the existing neighborhood, an appropriate permitting process should be utilized to encourage public input. An Administrative Hearing provides notice to area property owners allowing for input to be considered.

Proposed Solution Overview

Move Extra Occupancy Rental House, with four or more tenants, in the L-M-N Zone from B.D.R. Administrative Review (Type 1).

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
18	4.5(B)(1)(e)	Deletes Extra Occupancy Rental House from Basic Development Review process.
19	4.5(B)(2)(a)7.	Adds Extra Occupancy Rental House to Administrative Review.

921 Amend 3.7.1(B), 3.7.2(A)(3) and 3.7.2(B) - Compact Urban Growth Standards - to correct outdated references to the Urban Growth Area and Infill Area.

Problem Statement

There are outdated references to the Urban Growth Area and Infill Area. With regard to the former, the name has been changed to the Growth Management Area. With regard to the later, it has been deleted.

Proposed Solution Overview

The solution is to delete the outdated references and add the new reference.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
11	3.7.1(B)	Updates the reference.
12	3.7.2(A)(3)(4)	Updates the reference.
13	3.7.2(B)	Updates the reference.

925 Correct 4.5(E)(4) - LMN Design Standards for Multi-Family Dwellings - to delete the reference to three "or more" stories in height as three stories is already the maximum allowed.

Problem Statement

In the LMN, the maximum height of multi-family buildings is three stories. The reference to three "or more" stories, therefore, causes confusion for the public and applicants.

Proposed Solution Overview

The proposed solution is to delete the reference to "or more" so that it is clear that three stories is the maximum.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
22	4.5(E)(4)	Clarifies the standard.

926 Revise 4.27(D)(2)(m) - Employment District - Secondary Uses - to clarify that the allowable "Public Facilities" should be further defined as "Minor Public Facilities" since Major Public Facilities are not a permitted use.

Problem Statement

The term "public facilities" was a broadly defined term that allowed a wide range of uses in practically every zone. This created ambiguity for neighborhoods and applicants. In a previous code revision, the term was further refined to be divided between "Minor" and "Major" and the original definition was deleted and the two new definitions were added. The Permitted Use List in each zone was then adjusted to include either Minor or Major Public Facilities. In the Employment zone, Minor Public Facilities are permitted but Major Public Facilities are not. The Secondary Uses list, however, was not updated and

does not reflect the Permitted Use List.

Proposed Solution Overview

The proposed solution is to further clarify the Secondary Uses List by adding "Minor."

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
27	4.27(D)(2)(m)	Clarifies that only Minor Public Facilities are permitted in E zone.

927 Amend 5.1.2 - Definition of Development - to exempt work done by the City associated with the restoration of land and streambanks to their more natural condition.

Problem Statement

The Land Use Code currently exempts work by any public utility in a right-of-way or easement for inspecting, repairing, renewing or construction utility-related work, e.g., power lines, utility tunnels, etc. for the public good. As the City Utilities and other departments evolve to include restorative work within their scopes, e.g., the stream restoration work by the Stormwater Department in Utilities, so should the exemptions related to what is considered to be public works.

Proposed Solution Overview

The solution is to amend the definition of development so that the public utility exemption also includes other City departments, e.g., Natural Areas which are doing restoration work.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
29	5.1.2	Exempts City from "development" for restoration work.

928 Add to 5.1.2 a new definition of "Existing Limited Permitted Use" as the definitions include Non-Conforming Use but no definition for an E.L.P.U.

Problem Statement

The term existing limited permitted use is found a number of times in the LUC. In fact, Section 1.6 of the code is entitled "Existing Limited Permitted Uses". However, the term is not defined in the definition section of the code.

Proposed Solution Overview

To add clarity to the code, staff recommends amending 5.1.2 by adding a new definition:

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
32	5.1.2	Adds a definition for "Existing Limited Permitted Use."

930 Amend - 3.5.2(D) - Residential Building Setbacks and 3.8.30(E)(3) - Multi-Family Setbacks - to resolve conflicting setback standards for multi-family projects.

Problem Statement

Section 3.5.2(D) requires a residential structure to be setback a minimum of 30 feet along an arterial street and a minimum of 15 feet along a non-arterial street. This section also allows for a reduced setback through Alternative Compliance along a non-arterial street if the development meets certain criteria.

Section 3.8.30 was adopted on September 18, 2012 by Ordinance No. 092, 2012. This

section establishes the Land Use and Development Standards for multi-family housing. Prior to adoption, the standards were found only in the Medium Density Mixed-Use Neighborhood regulations in Article 4, but the standards were moved to the General Development Standards in Article 3 because most were routinely being applied to all multi-family housing projects in all zone districts.

Section 3.8.30(E)(3) of the multi-family dwelling standards reads “the minimum setback from a street right-of-way: none.” This zero setback was carried over directly from the multi-family standards as they previously existed in the MMN zone district regulations.

Section 3.1.2 states that when two ordinances conflict between standards in Article 3 and Article 4 than those in Article 4 shall prevail. Since the multi-family standard concerning setbacks was moved to section 3.8.30(E)(3) there is no longer an Article 4 standard to conflict with 3.5.2.

Section 1.7.2 further states if there is an internal conflict with the code then the more specific standard prevails and if neither are more specific than the more stringent standard shall govern. Requiring a minimum setback of 15 feet or 30 feet per Sec. 3.5.2 is a more stringent standard than allowing a zero setback per Sec. 3.8.30(E)(3). This does not allow for the flexibility in site design and the opportunity to create an enhanced pedestrian environment that the multi-family setback standard was aimed to do.

Further, when the “none” setback standard was previously located in Article 4 we found the application did not necessarily result in allowing a structure to be built to a zero foot setback along a right-of-way since required easements took precedent. The standard required utility easement along an arterial street extends 15 feet from a property line and along a non-arterial street the utility easement extends 9 feet from the property line.

Proposed Solution Overview

In order to eliminate the multi-family setback conflict between Sec. 3.5.2(D) and 3.8.30(E)(3), clarifying language to Section 3.5.2(D) is recommended and the Alternative Compliance provision be added to 3.8.30(E)(3).

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
10	3.5.2(D)	Resolves a conflict between standards.
16	3.8.30(E)(3)	Resolves a conflict between standards and adds Alternative Compliance.

933 Amend 4.5(B)(2)(c)3. and 4.5(B)(3)(c)3. L-M-N Permitted Uses - to allow Limited Indoor Recreation Establishments as a permitted use in a Type One Neighborhood Center.

Problem Statement

In an L-M-N Neighborhood Center, Limited Indoor Recreation (under 5,000 square feet) uses are not permitted unless “located within 500 feet of East Vine Drive or of the railroad property abutting and parallel to East Vine Drive.” Otherwise, uses such as yoga studios, exercise clubs, dance studios, and the like are prohibited.

Limited Indoor Recreation uses are closely associated with convenience uses that serve residential areas and are found to be compatible with the uses already permitted in an L-M-N Neighborhood Center (neighborhood support/recreation facilities, schools, child care facilities, places of worship or assembly, convenience retail stores, retail stores, offices, financial services and clinics, personal or business service shops, galleries and restaurants). Adding such use in an L-M-N Neighborhood Center creates opportunities for a broader mix of potential uses that are found to be appropriate in neighborhood

settings. Adding a use would be effective in the L-M-N citywide and is preferable than either a re-zoning or an Addition of a Permitted Use process.

Proposed Solution Overview

Add Limited Indoor Recreation to 4.5(B)(2)(c)3. permitting it in an L-M-N Neighborhood Center subject to administrative review.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
20	4.5(B)(2)(c)3.	Adds Limited Indoor Recreation to a Type One L-M-N neighborhood center.

934 Clarify 3.2.2(L)(2) - Compact Vehicle Spaces in Long-term Parking Lots - to allow more than 40% compact spaces when no minimum parking is required and that compact stalls cannot be used for handicap parking.

Problem Statement

Section 3.2.2(L)(2) allows limited use of compact car stalls in long-term parking areas. The Code defines both parking lots and parking structures, but it is not clear if this section applies to both. Long-term parking areas are those portions of a parking lot or a structure that is designated for employee or residential parking where there is expected to be limited turnover.

The parking standards are intended to reduce the sizes of parking lots and structures, particularly by not requiring any parking for most non-residential uses throughout the city and for multi-family uses located within the TOD Overlay District. The problem is, for developments that are not required to provide any parking, is it appropriate to regulate the use of compact spaces when an applicant elects to provide off-street parking that is otherwise not required?

In addition, this section is silent about the possible use of compact spaces for handicap parking. In the section for handicap vehicle spaces, the stall width dimensions for such spaces are specified but the stall length isn't. Therefore, it's unclear if a compact parking stall, which has a shorter required length than a standard parking stall, can be designated as a handicap space just because it meets the handicap width requirement. Since handicap spaces are larger in size for health and safety, it seems inappropriate to diminish the stall length from the

Proposed Solution Overview

The solution is remove the cap of 40% compact spaces when no minimum parking is required and specifically prohibit compact spaces as handicap parking.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
7	3.2.2(L)(2)	Removes the cap on compact spaces in cases where there are no minimum required number of spaces.

935 Clarify 3.2.2(L)(3) - Long Term Parking Stalls - to allow compact car parking spaces in combination with reduced stall dimensions for long term parking areas.

Problem Statement

Long-term parking lots provide spaces where there is expected to be low turnover. As such, parking spaces within long-term lots may be striped with slightly reduced dimensions than a standard parking stall. As written, 3.2.2(L)(3) specifically prohibits the use of these spaces to be combined with compact car stalls which dimensions are more reduced than long-term spaces.

Staff has found that reduced stall dimensions, whether long-term or compact, help to decrease the size of parking lots and parking structures. But if a long-term parking lot includes any compact stalls, then all of the other stalls are currently required to comply with the standard size stall dimensions. This limits flexibility in designing parking lots or structures. Allowing compact car stalls in long-term parking areas, combined with the other reduced stall dimensions allowed per the standard, will contribute further to smaller parking lots and parking structures. This will also allow more flexibility in meeting landscape standards for parking lots.

Proposed Solution Overview

The solution is to allow both long-term and compact parking spaces in the same parking lot or structure.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
8	3.2.2(L)(3)	Adds flexibility in the design of parking lots and structures.

937 Clarify 3.2.4(C) - Site Lighting Levels - so that the required lighting levels are averages and not maximum levels for the entire area or activity except for under-canopy fueling areas.

Problem Statement

Section 3.2.4(C) establishes lighting levels for development excluding public and private streets. This section states these lighting levels are minimums for certain uses and maximums for under-canopy fueling areas.

The lighting levels found in the chart of this section are based on the Illuminating Engineers Society of North America (IES) Lighting Handbook. In this handbook, these levels are stated as averages and not minimums and maximums.

When the code was initially written, it was intended to adopt the IES Lighting Handbook lighting levels as the averages for each area. Therefore additional language to this section is necessary to clarify what was intended. The exception will be for under-canopy fueling areas where illumination levels must remain expressed as maximums due to the nature of the use, the concentration of light and the need to transition to roadway lighting.

Proposed Solution Overview

Staff recommends clarifying that the illumination levels are averages with the exception of under-canopy fueling areas.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
9	3.2.4[C]	Provides flexibility in lighting plans but retains maximums for under fuel canopies.

938 Add to 5.1.2 a new definition of "Vehicle" to clarify the term as it is used throughout the Code.

Problem Statement

The term 'vehicle' is used or referred to many times throughout the Land Use Code. However, the code doesn't contain a definition for the term.

Proposed Solution Overview

The solution is to add a definition for vehicle.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
34	5.1.2	Adds a definition for "Vehicle."

939 Delete from 3.10.4(E) - Transit Oriented Development Overlay Zone - Bicycle Parking - as the new minimum number of bicycle parking spaces has been established in 3.2.2(C)(4) adopted in 2012.

Problem Statement

Section 3.10.4(E) requires bicycle parking minimum in the Transit Oriented Development (TOD) Overlay district, based on the number of vehicle parking spaces being provided.

Ordinance No. 051, 2012 was adopted on July 17th, 2012. This ordinance established bicycle parking minimums for all uses in all zone districts per Section 3.2.2(C)(4). These minimums are not based on the number of vehicle spaces being provided.

The TOD is an overlay district and therefore the new bicycle parking standards are required for all properties in all zone districts within the TOD Overlay.

The new requirements in Section 3.2.2(C)(4) are more restrictive than the standard in section 3.10.4(E), and the TOD standard was intended to be deleted as part of Ordinance 051, 2012.

Proposed Solution Overview

The solution is to delete minimum bicycle parking requirements from the TOD Overlay zone.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
17	3.10.4(E)	Deletes a repetitive standard.

941 Clarify 4.9(D)(5) - N-C-B Floor Area Ratio - Rear 50% of Lot - by deleting "as it existed on October 25, 1991" and would match the standards for the N-C-L and N-C-M.

Problem Statement

The majority of the old town neighborhoods are located in the NCL, NCM or NCB zoning districts. The standards in the LUC for the three districts contain many similarities, including a provision that limits the amount of floor area allowed in the rear half of the lot. The NCL and NCM standards were recently amended by City Council as a result of the East Side/ West Side Character Study. One provision in each of the two zone district standards was revised in order to correct and clarify the previously existing, confusing language regarding the amount of floor area allowed in the rear half of a lot. The previous language in the NCL and NCM zones for this standard was identical to the current language in the NCB district regulations. However, since the Character Study did not include the NCB zone, the code amendments recently adopted did not address or correct the confusion wording of the rear 50% lot area standard in the NCB district.

Proposed Solution Overview

The solution is to delete the clause and replace with language consistent with N-C-L and N-C-M.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
23	4.9(D)(5)	Clarifies the standard for consistency.

942 Amend 4.24(B)(2) - C-L Zone - Permitted Use List - by adding Accessory Uses and Accessory Buildings.

Problem Statement

The permitted use lists in Article 4 for all zone districts, except for the C-L zone, contain 'accessory uses' and 'accessory buildings'. Such uses and buildings are commonly found in all areas of the city, and the uses were originally listed in the C-L use list at the time of the adoption of the Land Use Code in 1997. However, numerous amendments to the C-L standards in Article 4 have been adopted since then, and it appears that 'accessory uses' and 'accessory buildings' were inadvertently deleted from the use list.

Proposed Solution Overview

The solution is to reinstate Accessory Uses and Buildings into the permitted use list.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
25	4.24(B)(2)	Adds Accessory Uses and Buildings to the C-L zone.

943 Revise 2.2.11(D)(9) - Post Denial Re-Submittal Delay - to replace the existing criteria by which the Director may shorten the delay period with new criteria.

Problem Statement

The post denial delay re-submittal period is six months. This duration may be reduced by the Director but only for limited purposes where a project is found to substantially alleviate an existing, defined and described problem of City-wide concern; or result in a substantial benefit to the City by reason of the fact that the proposed project would substantially address an important community need specifically and expressly defined and described in the City's Comprehensive Plan or in an adopted policy, ordinance or resolution of the City Council.

The problem is that there is no consideration where the new proposed project is significantly different than the project that was denied. The original intent of the standard was to eliminate the potential of developer re-submitting a project soon after a withdrawal or denial, with only token revisions, thus causing potential burn-out and undue acrimony of those opposing the project. But the standard, as written, does not account for a re-submittal of a project that is clearly distinguished from the denied project by a change in use, substantial reduction in square footage or residential density. For such projects, they are lumped into the six month delay period perhaps unnecessarily.

There is also a concern that a project that may have met the existing criteria by which to have their six-month delay period reduced, but did not make any significant changes, would not address the fundamental issue of causing unnecessary consternation among the project opponents.

Proposed Solution Overview

The proposed solution is to delete the existing criteria and replace it with a broader but more effective criterion that addresses the fundamental intent of the standard.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
5	2.2.11(D)(9)	Replaces existing criteria with one new criterion.

944 Add to 2.2.10(A) - Step 10 - Minor Amendments - a new clause "to the extent reasonably feasible" to add a level of flexibility.

Problem Statement

A proposal to significantly enlarge a building that was originally constructed as a use-by-

right under prior law, a proposal to re-occupy such a building after a 12 month abandonment period, or a proposal to change the use of such a building will trigger a requirement that the entire parcel of ground upon which the building is located shall be brought into compliance with all of the applicable standards in the LUC. However, for proposals to enlarge such a building or to re-occupy an abandoned building, the code requires that compliance be made only 'to the extent reasonably feasible'. This type of exception allows staff the flexibility to administratively waive or modify some requirements if it's determined that "...the costs of compliance clearly outweigh the potential benefits to the public or would unreasonably burden the project...".

Parking lot and landscape design standards are the types of standards that are most often waived or modified. For example, the code requires that a parking area be setback behind the right-of-way along an arterial street by a minimum 15 foot wide landscape strip. If strict compliance with this standard is required, then many existing parking lots serving use-by-right developments would need to be completely eliminated or drastically reduced in size. Such a change would unreasonably burden the project, but perhaps requiring a 5 foot wide landscape strip could be accommodated instead.

If a change-of-use is proposed for a use-by-right building, the 'extent reasonably feasible' standard currently doesn't apply and staff has no flexibility to consider options. This means, for instance, that if an office building is proposed to be changed to a hair salon, the 15 foot wide landscape strip would be required, which could result in all the parking being eliminated. The only way to obtain relief currently would be to obtain a modification or variance through a public hearing process.

Proposed Solution Overview

Staff believes that the 'extent reasonably feasible' standard should apply to a change of use of a property that was originally developed as a use-by-right just as it currently applies to building enlargements and re-occupations by revising the minor amendment process.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
3	2.2.10(A)	Adds flexibility for minor amendments for properties developed under prior codes.

946 Clarify 3.8.30 - Multi-Family Dwelling Development Standards - so that the standards are applied at four-plex or larger.

Problem Statement

Section 3.8.30 was adopted on Sept 18, 2012 per Ordinance No. 092, 2012. This section establishes the Land Use and Development Standards for multi-family housing. Prior to adoption, the standards were found only in the Medium Density Mixed-Use Neighborhood standards. This section states that the standards apply to Multi-Family Dwelling Development. These multi-family standards were intended for development projects which have a larger impact to the neighborhood than the two-to-three unit developments.

Proposed Solution Overview

The proposed solution is to exempt three-plexes from multi-family standards.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
14	3.8.30(A)	Exempts three-plexes from multi-family standards.

947 Clarify 3.2.1(A) - Landscaping and Tree Protection - so that the standards do not apply to existing platted lots that are not the subject of a P.D.P. or Replat.

Problem Statement

Section 3.2.1(A) – Applicability – indicates that the section shall apply to all development except lots for single-family detached dwellings. Staff has applied this standard such that tree protection applies to any development, including those subdivisions that include lots for single-family detached dwellings, but not to existing, platted lots. This revision clarifies this section by making that intent more explicit and ensures that tree protection and mitigation on single-family detached dwelling developments.

Proposed Solution Overview

The solution is to clarify the applicability of 3.2.1(A) to include an explicit exemption only to previously platted lots or to any lot that isn't being proposed to be replatted.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
6	3.2.1(A)	Clarifies that the standard does not apply to existing lots.

948 Amend 3.8.30(B)(3) and L-M-N, H-C and E zones to add two new dwelling unit types of 3-4 plex and 5-7 plex to enrich the choices for complying with the mix of housing types within a project.

Problem Statement

Currently, the Land Use Code defines any structure with 3 or more units as a multi-family dwelling. Multi-family development projects greater than 16 acres requires 2 housing types, and greater than 30 acres requires 3 housing types. The permitted housing types (in addition to multi-family) to fulfill this requirement are single-family, two-family, mixed-use, and group homes. Some projects have had problems complying with this standard and have tried to define a manager unit in a clubhouse as mixed-use which does not meet the definition of mixed-use dwelling. Additionally, recent conversations regarding compatibility have recognized that smaller structures adjacent to existing single-family neighborhoods enhances the compatibility of proposed multi-family developments. 3-4 plex dwelling units and 5-6-plex dwelling units provide more development options to meet existing mix of housing types standards and compatibility standards.

Proposed Solution Overview

The solution is to refine multi-family as a land use by creating two new housing types at a smaller scale than apartment buildings.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
15	3.8.30(B)(3)	Adds two new multi-family housing types to the General Development Standards.
21	4.5(D)(2)[c]	Adds two new multi-family housing types to L-M-N.
26	4.26(D)(5)(a)	Adds two new multi-family housing types to H-C.
28	4.27(D)(6)(a)	Adds two new multi-family housing types to E.

949 Amend 2.2.7(C) - Order of Proceedings - so that at public hearings, first, the Director provides an overview, followed by the applicant's presentation, followed by Staff report and staff response to applicant presentation.

Problem Statement

Presently, there are six steps in the order of proceedings at a public hearing. The Planning and Zoning Board has requested that to gain optimum efficiency and fairness, the order of proceedings at their public hearings be revised to add a new first step for the Director followed by the Applicant Presentation, then followed by the Staff Report. Since the Staff

Report would follow the Applicant Presentation, the Staff Report would be combined to include Staff Response to Applicant Presentation

Proposed Solution Overview

The solution is to re-order the sequence of proceedings at the public hearing.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
2	2.2.7[C]	Re-orders the steps of a public hearing.

950 Amend 5.1.2 - Definitions of "Mixed-Use" and "Dwelling, Mixed-Use" - to clarify that accessory uses cannot be used as part of the required mix of housing types.

Problem Statement

One of several Code amendments recently adopted by Council included moving the multi-family land use standards contained in the M-M-N zone to the General Development Standards of Article Three (Section 3.8.30). Now, all non-TOD multi-family developments are required (to the extent reasonably feasible) to provide a mix of housing of housing types under Section 3.8.30(B).

Under Section 3.8.30(B), two housing types are required for developments 16 acres or larger and 3 housing types on 30 acres or larger. Duplexes, small lot single family detached dwellings, two-family dwellings, single family attached dwellings, mixed-use dwelling units, group homes and multi-family dwellings all qualify as a housing type in terms of satisfying this requirement.

Many multi-family developments include one or two dwelling units in an accessory use of the development (clubhouse), utilizing mixed use dwelling as a housing type, fulfilling the housing type requirement. Clearly a clubhouse, with or without residential units, is an accessory use to the multi-family development and should not be used to satisfy the mix of housing types requirement.

Proposed Solution Overview

The proposed solution is to amend two definitions to add clarity.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
31	5.1.2	Clarifies definition for "Dwelling, Mixed-Use."
33	5.1.2	Clarifies the definition for "Mixed-use."

951 Amend 5.1.2 - Definitions - to define the term "Disabled Person" so as to be consistent with federal Fair Housing Act.

Problem Statement

There currently is no definition of the term "Disabled Person." There is a related term "Developmentally Disabled," but this term is somewhat narrowly defined and because other types of disabilities are not included or clearly defined in the existing definition, a new definition should be added that is consistent with the federal Fair Housing Act.

Proposed Solution Overview

The proposed solution is to add a new definition.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
30	5.1.2	Adds definition for "Disabled Person."

952 Amend 1.2.2(O) - Purpose - to add a statement that demonstrates the City's commitment to providing housing choices for all residents, at all abilities, that is coordinated with public transportation options.

Problem Statement

The purpose statement of the Land Use Code contains 14 statements but does not currently reflect the City's commitment to provide housing choices for all residents, including the elderly and those with disabilities, and to comply with applicable federal and state law regarding housing choice and accessibility. Nor is there a statement that such housing choices should be coordinated with transportation options to address issues related to mobility

Proposed Solution Overview

The proposed solution is to add a new purpose statement to remedy this deficiency.

Related Code Revisions

<u>Ord. Section</u>	<u>Code Cite</u>	<u>Revision Effect</u>
1	1.2.2	Adds a new Purpose Statement.

Land Use Code Revisions

Annotated Ordinance Index

Ord. Section #	Code Cite	Revision Effect	Issue
1	1.2.2	Adds a new Purpose Statement.	952 Amend 1.2.2(O) - Purpose - to add a statement that demonstrates the City's commitment to providing housing choices for all residents, at all abilities, that is coordinated with public transportation options.
2	2.2.7[C]	Re-orders the steps of a public hearing.	949 Amend 2.2.7(C) - Order of Proceedings - so that at public hearings, first, the Director provides an overview, followed by the applicant's presentation, followed by Staff report and staff response to applicant presentation.
3	2.2.10(A)	Adds flexibility for minor amendments for properties developed under prior codes.	944 Add to 2.2.10(A) - Step 10 - Minor Amendments - a new clause "to the extent reasonably feasible" to add a level of flexibility.
4	2.2.11(D)(2)	Corrects incorrect references.	903 Correct 2.2.11(D)(2) - Final Plan and Plat and Other Site Specific Development Plans - Publication - to delete incorrect references to the expiration of any right of appeal.
5	2.2.11(D)(9)	Replaces existing criteria with one new criterion.	943 Revise 2.2.11(D)(9) - Post Denial Re-Submittal Delay - to replace the existing criteria by which the Director may shorten the delay period with new criteria.
6	3.2.1(A)	Clarifies that the standard does not apply to existing lots.	947 Clarify 3.2.1(A) - Landscaping and Tree Protection - so that the standards do not apply to existing platted lots that are not the subject of a P.D.P. or Replat.
7	3.2.2(L)(2)	Removes the cap on compact spaces in cases where there are no minimum required number of spaces.	934 Clarify 3.2.2(L)(2) - Compact Vehicle Spaces in Long-term Parking Lots - to allow more than 40% compact spaces when no minimum parking is required and that compact stalls cannot be used for handicap parking.
8	3.2.2(L)(3)	Adds flexibility in the design of parking lots and structures.	935 Clarify 3.2.2(L)(3) - Long Term Parking Stalls - to allow compact car parking spaces in combination with reduced stall dimensions for long term parking areas.
9	3.2.4[C]	Provides flexibility in lighting plans but retains maximums for under fuel canopies.	937 Clarify 3.2.4(C) - Site Lighting Levels - so that the required lighting levels are averages and not maximum levels for the entire area or activity except for under-canopy fueling areas.

Ord. Section #	Code Cite	Revision Effect	Issue
10	3.5.2(D)	Resolves a conflict between standards.	930 Amend - 3.5.2(D) - Residential Building Setbacks and 3.8.30(E)(3) - Multi-Family Setbacks - to resolve conflicting setback standards for multi-family projects.
11	3.7.1(B)	Updates the reference.	921 Amend 3.7.1(B), 3.7.2(A)(3) and 3.7.2(B) - Compact Urban Growth Standards - to correct outdated references to the Urban Growth Area and Infill Area.
12	3.7.2(A)(3)(4)	Updates the reference.	921 Amend 3.7.1(B), 3.7.2(A)(3) and 3.7.2(B) - Compact Urban Growth Standards - to correct outdated references to the Urban Growth Area and Infill Area.
13	3.7.2(B)	Updates the reference.	921 Amend 3.7.1(B), 3.7.2(A)(3) and 3.7.2(B) - Compact Urban Growth Standards - to correct outdated references to the Urban Growth Area and Infill Area.
14	3.8.30(A)	Exempts three-plexes from multi-family standards.	946 Clarify 3.8.30 - Multi-Family Dwelling Development Standards - so that the standards are applied at four-plex or larger.
15	3.8.30(B)(3)	Adds two new multi-family housing types to the General Development Standards.	948 Amend 3.8.30(B)(3) and L-M-N, H-C and E zones to add two new dwelling unit types of 3-4 plex and 5-7 plex to enrich the choices for complying with the mix of housing types within a project.
16	3.8.30(E)(3)	Resolves a conflict between standards and adds Alternative Compliance.	930 Amend - 3.5.2(D) - Residential Building Setbacks and 3.8.30(E)(3) - Multi-Family Setbacks - to resolve conflicting setback standards for multi-family projects.
17	3.10.4(E)	Deletes a repetitive standard.	939 Delete from 3.10.4(E) - Transit Oriented Development Overlay Zone - Bicycle Parking - as the new minimum number of bicycle parking spaces has been established in 3.2.2(C)(4) adopted in 2012.
18	4.5(B)(1)(e)	Deletes Extra Occupancy Rental House from Basic Development Review process.	919 Amend 4.5(B)(1)(e) and 4.5(B)(2)(a)7. - Extra Occupancy Rental Houses with More Than 4 Tenants in L-M-N - move from B.D.R. to Type One review.
19	4.5(B)(2)(a)7.	Adds Extra Occupancy Rental House to Administrative Review.	919 Amend 4.5(B)(1)(e) and 4.5(B)(2)(a)7. - Extra Occupancy Rental Houses with More Than 4 Tenants in L-M-N - move from B.D.R. to Type One review.
20	4.5(B)(2)[c]3.	Adds Limited Indoor Recreation to a Type One L-M-N neighborhood center.	933 Amend 4.5(B)(2)(c)3. and 4.5(B)(3)(c)3. L-M-N Permitted Uses - to allow Limited Indoor Recreation Establishments as a permitted use in a Type One Neighborhood Center.

Ord. Section #	Code Cite	Revision Effect	Issue
21	4.5(D)(2)[c]	Adds two new multi-family housing types to L-M-N.	948 Amend 3.8.30(B)(3) and L-M-N, H-C and E zones to add two new dwelling unit types of 3-4 plex and 5-7 plex to enrich the choices for complying with the mix of housing types within a project.
22	4.5(E)(4)	Clarifies the standard.	925 Correct 4.5(E)(4) - LMN Design Standards for Multi-Family Dwellings - to delete the reference to three "or more" stories in height as three stories is already the maximum allowed.
23	4.9(D)(5)	Clarifies the standard for consistency.	941 Clarify 4.9(D)(5) - N-C-B Floor Area Ratio - Rear 50% of Lot - by deleting "as it existed on October 25, 1991" and would match the standards for the N-C-L and N-C-M.
24	4.21(B)(2)	Moves microbrewery/distillery/winery to the commercial/retail category.	918 Amend 4.21(B)(2) - General Commercial Permitted Uses - by moving microbrewery/distillery/winery from the Institutional/Civic/Public land use category to the Commercial/Retail category.
25	4.24(B)(2)	Adds Accessory Uses and Buildings to the C-L zone.	942 Amend 4.24(B)(2) - C-L Zone - Permitted Use List - by adding Accessory Uses and Accessory Buildings.
26	4.26(D)(5)(a)	Adds two new multi-family housing types to H-C.	948 Amend 3.8.30(B)(3) and L-M-N, H-C and E zones to add two new dwelling unit types of 3-4 plex and 5-7 plex to enrich the choices for complying with the mix of housing types within a project.
27	4.27(D)(2)(m)	Clarifies that only Minor Public Facilities are permitted in E zone.	926 Revise 4.27(D)(2)(m) - Employment District - Secondary Uses - to clarify that the allowable "Public Facilities" should be further defined as "Minor Public Facilities" since Major Public Facilities are not a permitted use.
28	4.27(D)(6)(a)	Adds two new multi-family housing types to E.	948 Amend 3.8.30(B)(3) and L-M-N, H-C and E zones to add two new dwelling unit types of 3-4 plex and 5-7 plex to enrich the choices for complying with the mix of housing types within a project.
29	5.1.2	Exempts City from "development" for restoration work.	927 Amend 5.1.2 - Definition of Development - to exempt work done by the City associated with the restoration of land and streambanks to their more natural condition.
30	5.1.2	Adds definition for "Disabled Person."	951 Amend 5.1.2 - Definitions - to define the term "Disabled Person" so as to be consistent with federal Fair Housing Act.

Ord. Section #	Code Cite	Revision Effect	Issue
31	5.1.2	Clarifies definition for "Dwelling, Mixed-Use."	950 Amend 5.1.2 - Definitions of "Mixed-Use" and "Dwelling, Mixed-Use" - to clarify that accessory uses cannot be used as part of the required mix of housing types.
32	5.1.2	Adds a definition for "Existing Limited Permitted Use."	928 Add to 5.1.2 a new definition of "Existing Limited Permitted Use" as the definitions include Non-Conforming Use but no definition for an E.L.P.U.
33	5.1.2	Clarifies the definition for "Mixed-use."	950 Amend 5.1.2 - Definitions of "Mixed-Use" and "Dwelling, Mixed-Use" - to clarify that accessory uses cannot be used as part of the required mix of housing types.
34	5.1.2	Adds a definition for "Vehicle."	938 Add to 5.1.2 a new definition of "Vehicle" to clarify the term as it is used throughout the Code.

Citizen participation:

Brigitte Schmidt, 932 Inverness, said as a former member of the P&ZS Board, she'd like to speak to the topic of modification of standards. She said a modification can be approved if it is not detrimental to the public good and meets one of four criteria. At the orientation of new member Schneider, Deputy City Attorney Eckman said if that criterion is met then the doors are wide open. Thinking about it further, she does not believe that to be the case. She said we need to ask ourselves what is the modification. Is it a small or large adjustment—is there a significant difference (a statistics concept). There is no definition in the Land Use Code (LUC) of modification. Does that mean that once you meet those standards you throw out the LUC and anything goes? She would encourage the board to have a discussion at a work session to get a better idea before there is a project to be reviewed. She's working on the Committee for PDOD (Project Development Overlay District) and while there are not currently any applications maybe the consideration is more the use of modification of standards. There needs to be some predictability—if you are here, "x,y,z" happens. She thinks the time is right for the board to look at all kinds of things you can do with that.

Consent Agenda:

1. Minutes from the May 16, 2013 Hearing

Member Hart made a motion to approve the consent agenda which consists of the Minutes of the May 16, 2013 Hearing. Member Hatfield seconded the motion. The motion passed 7:0.

Discussion Agenda:

2. Ridgeview Classical School Expansion Site Plan Advisory Review, # SPA130002
3. Pateros Creek Project Development Plan, #PDP 130011
4. 2013 Annual Revisions, Clarifications and Additions to the Land Use Code
5. Addition of Permitted Use Policy Discussion

...

Project: 2013 Annual Revisions, Clarifications and Additions to the Land Use Code

Project Description: This is a request for a Recommendation to City Council regarding the annual update to the Land Use Code. There are proposed revisions, clarifications and additions to the Code that address a variety of subject areas that have arisen since the last annual update in 2012.

Recommendation: Approval

Hearing Testimony, Written Comments and Other Evidence

Chief City Planner Ted Shepard noted in this round of proposed revisions, clarifications and additions to the Land Use Code there are 26 proposed items that change, clarify or add to the Land Use Code. The revisions, by Article, are summarized as follows:

- Article One – Organization – one change;
- Article Two – Administration –four changes;
- Article Three - General Development Standards – nine changes;

- Article Four – Districts – seven changes;
- Article Five – Definitions – five changes.

Shepard said there was supporting material in the board's agenda packet (and posted on the City's website) and staff was available for any questions.

Member Hart said it might be helpful for the public to know the board has spent a great deal of reviewing the proposed changes in work sessions so they are quite familiar with the individual changes.

Member Schneider made a motion that the Planning and Zoning Board approve the 2013 Annual Revisions, Clarifications and Additions to the Land Use Code. Member Hart seconded the motion. The motion was approved 7:0.

Chair Smith thanked staff for their work.

DRAFT

ORDINANCE NO. 092, 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING VARIOUS AMENDMENTS
TO THE CITY OF FORT COLLINS LAND USE CODE

WHEREAS, on March 18, 1997, by its adoption of Ordinance No. 051, 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 Section 1.2.2 of the Land Use Code is hereby amended by the addition of a new subparagraph (O) which reads in its entirety as follows:

(O) encouraging a wide variety of housing opportunities at various densities that are well-served by public transportation for people of all ages and abilities.

Section 2. That Section 2.2.7(C) of the Land Use Code is hereby amended to read as follows:

(C) ***Order of Proceedings at Public Hearing.*** The order of the proceedings at the public hearing shall be as follows:

~~(1) *Staff Report Presented.* The Director shall present a narrative and/or graphic description of the development application. The Director shall present a Staff Report which includes a written recommendation. This recommendation shall address each standard required to be considered by this Land Use Code prior to approval of the development application.~~

(1) ***Director Overview.*** The Director shall provide an overview of the development application.

- (2) *Applicant Presentation.* The applicant may present information in support of its application, subject to the determination of the Chair as to relevance. Copies of all writings or other exhibits that the applicant wishes the decision maker to consider must be submitted to the Director no less than five (5) working days before the public hearing.
- (3) *Staff Report Presented.* The Director shall present a narrative and/or graphic description of the development application, as well as a staff report that includes a written recommendation. This recommendation shall address each standard required to be considered by this Land Use Code prior to approval of the development application.
- (34) *Staff Response to Applicant Presentation.* The Director, the City Attorney and any other City staff member may respond to any statement made or evidence presented by the applicant.
- (45) *Public Testimony.* Members of the public may comment on the application and present evidence, subject to the determination of the Chair as to relevance.
- (56) *Applicant Response.* The applicant may respond to any testimony or evidence presented by the public.
- (67) *Staff Response to Public Testimony or Applicant Response.* The Director, the City Attorney and any other City staff member may respond to any statement made or evidence presented by the public testimony or by the applicant's response to any such public testimony.

Section 3. That Section 2.2.10(A)(1) is hereby amended by the addition of a new subparagraph (g) which reads in its entirety as follows:

- (g) in the case of a change of use of any property that was developed pursuant to a basic development review or use-by-right review under prior law, the minor amendment results in the building and parcel of ground upon which the building is located being brought into compliance, to the extent reasonably feasible, with the applicable general development standards contained in Article 3 and the applicable district standards contained in Article 4 of this Land Use Code.

Section 4. That Section 2.2.11(D)(2) of the Land Use Code is hereby amended to read as follows:

- (2) *Publication.* A "notice of approval" describing generally the type and intensity of use approved and the specific parcel or parcels affected, and stating that a vested property right has been created or extended, shall be published by the City once, not later than fourteen (14) days after the

~~expiration of any right of appeal of the approval of any final plan or other site specific development plan, or, in the event of the filing of an appeal, after final resolution by the City of such appeal, in a newspaper of general circulation within the City. The period of time permitted by law for the exercise of any applicable right of referendum or judicial review shall not begin to run until the date of such publication, whether timely made within said fourteen-day period, or thereafter.~~

Section 5. That Section 2.2.11(D)(9) of the Land Use Code is hereby amended to read as follows:

- (9) *Post denial re-submittal delay.* Property that is the subject of an overall development plan or a project development plan that has been denied by the decision maker or denied by City Council upon appeal, or withdrawn by the applicant, shall be ineligible to serve, in whole or in part, as the subject of another overall development plan or project development plan application for a period of six (6) months from the date of the final decision of denial or the date of withdrawal (as applicable) of the plan unless the Director determines that ~~the granting of an exception to this requirement would not be detrimental to the public good and would: (a) substantially alleviate an existing, defined and described problem of City-wide concern; or (b) result in a substantial benefit to the City by reason of the fact that the proposed project would substantially address an important community need specifically and expressly defined and described in the City's Comprehensive Plan or in an adopted policy, ordinance or resolution of the City Council~~ the new plan includes substantial changes in land use, residential density and/or non-residential intensity.

Section 6. That Section 3.2.1(A) of the Land Use Code is hereby amended to read as follows:

- (A) *Applicability.* This Section shall apply to all development (except for development on existing lots for single-family detached dwellings) within the designated "limits of development" ("LOD") and natural area buffer zones established according to Section 3.4.1 (Natural Habitats and Features).

Section 7. That Section 3.2.2(L)(2) of the Land Use Code is hereby amended to read as follows:

- (2) *Compact Vehicle Spaces in Long-term Parking Lots and Parking Structures.* Those areas of a parking lot or parking structure that are approved as long-term parking have the option to include compact parking stalls. Such approved long-term parking areas may have up to forty (40) percent compact car stalls using the compact vehicle dimensions set forth in Table B, except when no minimum parking is required for a use pursuant to Section 3.2.2(K), in which event the number of compact car stalls allowed may be greater than

forty (40) percent. No compact spaces shall be designated as handicap parking spaces.

...

Section 8. That Section 3.2.2(L)(3) of the Land Use Code is hereby amended to read as follows:

- (3) *Long-Term Parking Stalls.* As an option in long-term parking areas, ~~if no compact car stalls are to be included,~~ all long-term parking stalls may be designated using the following stall dimensions:

...

Section 9. That Section 3.2.4(C) of the Land Use Code is hereby amended to read as follows:

- (C) *Lighting Levels.* With the exception of lighting for public streets and private streets, all other project lighting used to illuminate buildings, parking lots, walkways, plazas or the landscape shall be evaluated during the development review process. The following chart gives **the average** minimum and, for under-canopy fueling areas, maximum lighting levels for outdoor facilities used at night.

<i>Area/Activity*</i>	<i>Foot-candle</i>
Building surrounds (nonresidential)	1.0
Bikeways along roadside	
Commercial areas	0.9
Intermediate areas	0.6
Residential areas	0.2
Walkways along roadside	
Commercial areas	0.9
Intermediate areas	0.6
Residential areas	0.5
Park walkways	0.5
Pedestrian stairways	0.3
Loading and unloading platforms	5.0
Parking areas	1.0
Playgrounds	5.0
Under-canopy area (average-maintained maximum)	20.0
Under-canopy area (initial installation maximum)	26.0

* Illuminating Engineering Society (IES) Lighting Handbook

Section 10. That Section 3.5.2(D) of the Land Use Code is hereby amended to read as follows:

(D) ***Residential Building Setbacks, Lot Width and Size.***

- (1) *Setback from Arterial Streets.* The minimum setback of every residential building and of every detached accessory building that is incidental to the residential building shall be thirty (30) feet from any arterial street right-of-way shall be thirty (30) feet, except for those buildings regulated by Section 3.8.30 of this Land Use Code, which buildings must comply with the setback regulations set forth in Section 3.8.30.
- (2) *Setback from Nonarterial Streets.* The Minimum setback of every residential building and of every detached accessory building that is incidental to the residential building shall be fifteen (15) feet from any public street right-of-way other than an arterial street right-of-way shall be fifteen (15) feet, except for those buildings regulated by Section 3.8.30 of this Land Use Code, which buildings must comply with the setback regulations set forth in Section 3.8.30. Setbacks from garage doors to the nearest portion of any public sidewalk that intersects with the driveway shall be at least twenty (20) feet.

...

Section 11. That Section 3.7.1(B) of the Land Use Code is hereby amended to read as follows:

- (B) ***Establishment of Urban Growth Areas a Growth Management Area.*** The city has adopted a cooperative planning area policy in the City Plan that includes an urban growth area a growth management area as adopted by Intergovernmental Agreement with Larimer County.

Section 12. That Section 3.7.2(A)(3) and (4) of the Land Use Code is hereby amended to read as follows:

- ~~(3) *Exemption for Infill Areas.* A development application for the Infill Area need not comply with the requirements of this subsection (A).~~
- (4) *Exemption for Properties Located Within Certain Planned Subareas.* Development located within the following planned subareas need not comply with the requirements of this subsection (A):
 - (a) Fossil Creek Reservoir Area.
 - (b) Harmony Corridor.

Section 13. That Section 3.7.2(B) of the Land Use Code is hereby amended to read as follows:

- (B) *Developments Outside the ~~Urban Growth Area~~ Growth Management Area.* No development application shall be accepted or approved as part of an annexation petition if the proposed development is located outside the ~~Urban Growth Area~~ Growth Management Area.

Section 14. That Section 3.8.30(A) of the Land Use Code is hereby amended to read as follows:

- (A) *Purpose/Applicability.* The following standards apply to all multi-family developments **projects that contain at least four (4) dwelling units. These standards** and are intended to promote variety in building form and product, visual interest, access to parks, pedestrian-oriented streets and compatibility with surrounding neighborhoods. Multi-family developments in the Transit-Oriented Development (TOD) Overlay Zone are exempt from subsections ~~(B)~~, (C) and (E) of this Section.

Section 15. That Section 3.8.30(B)(3) of the Land Use Code is hereby amended to read as follows:

- (3) The following list of housing types shall be used to satisfy this requirement:
- (a) Small lot single-family detached dwellings on lots containing less than six thousand (6,000) square feet.
 - (b) Two-family dwellings.
 - (c) Single-family attached dwellings.
 - (d) Mixed-use dwelling units.
 - (e) Group homes.
 - (f) Multi-family dwellings containing three (3) to four (4) units per building.**
 - (g) Multi-family dwellings containing five (5) to seven (7) units per building.**
 - (fh) Multi-family dwellings containing more than seven (7) units per building.**

Section 16. That Section 3.8.30(E)(3) of the Land Use Code is hereby amended to read as follows:

- (3) Minimum setback from ~~street right of way: none.~~ **the right-of-way along an arterial street shall be fifteen (15) feet and along a non-arterial street shall be nine (9) feet.**

(a) Exceptions to the setback standards are permitted if one of the following is met:

1. Each unit side that faces the street has a porch and/or balcony that has a minimum depth of six (6) feet (as measured from the building facade to the far side posts, railings/spindles) and a minimum length of eight (8) feet. If more than one side of a unit faces the street, then only one side is required to comply.
2. An outdoor space such as a plaza, courtyard, patio or garden is located between a building and the sidewalk, provided such space shall have landscaping, low walls, fencing or railings, a tree canopy and/or other similar site improvements along the sidewalk designed for pedestrian interest, comfort and visual continuity.
3. All ground units that face a street are ADA compliant units that have street-facing porches that are directly and individually accessed from the public sidewalk by a connecting walkway that is at least six (6) feet in width.
4. All ground units that face a street with a transit stop that fronts the building are affordable housing units, each having a street-facing stoop that directly accesses the public sidewalk by a connecting walkway.

...

Section 17. That Section 3.10.4(E) of the Land Use Code is hereby amended by the deletion of subparagraph (e) as follows:

~~(E) ***Bicycle Parking.*** A minimum number of bicycle parking spaces shall be provided, equal in number to ten (10) percent of the total number of automobile parking spaces provided by the development, but not less than four (4) spaces.~~

Section 18. That Section 4.5(B)(1)(e) of the Land Use Code is hereby amended to read as follows:

(e) **Residential Uses:**

- ~~1. Extra occupancy rental houses with four (4) or fewer tenants.~~

21. Shelters for victims of domestic violence for up to fifteen (15) residents.

Section 19. That Section 4.5(B)(2)(a)7 of the Land Use Code is hereby amended to read as follows:

7. Extra occupancy rental houses with ~~more than four (4) tenants~~ **four or more tenants**.

Section 20. That Section 4.5(B)(2)(c)3 of the Land Use Code is hereby amended to read as follows:

3. Neighborhood centers consisting of at least two (2) of the following uses: mixed-use dwelling units; retail stores; convenience retail stores; personal and business service shops; small animal veterinary facilities; offices, financial services and clinics; community facilities; neighborhood support/ recreation facilities; schools; child care centers; **limited indoor recreation establishments**; and places of worship or assembly.

Section 21. That Section 4.5(D)(2)(c) of the Land Use Code is hereby amended to read as follows:

- (c) The following list of housing types shall be used to satisfy this requirement:
 1. Single-family detached dwellings with rear loaded garages.
 2. Single-family detached dwellings with front or side loaded garages.
 3. Small lot single-family detached dwellings (lots containing less than four thousand [4,000] square feet or with lot frontages of forty [40] feet or less) if there is a difference of at least two thousand (2,000) square feet between the average lot size for small lot single-family detached dwellings and the average lot size for single-family detached dwellings with front or side loaded garages.
 4. Two-family dwellings.
 5. Single-family attached dwellings.
 6. Mixed-use dwelling units.
 7. **Multi-family dwellings containing more three (3) to four (4) units per building.**
 8. **Multi-family dwellings containing five (5) to seven (7) units per building.**

79. Multi-family dwellings containing more than seven (7) units per building (limited to twelve [12] dwelling units per building);

810. Mobile home parks.

Section 22. That Section 4.5(E)(4) of the Land Use Code is hereby amended to read as follows:

- (4) *Design Standards for Multi-Family Dwellings Containing More Than Eight (8) Dwelling Units and for Multi-Family Dwellings Containing between Four (4) and Eight (8) Dwelling Units When Three (3) or More Stories in Height.* Each multi-family dwelling containing more than eight (8) dwelling units and each multi-family dwelling containing between four (4) and eight (8) dwelling units, when located in a building of three (3) ~~or more~~ stories in height, shall feature a variety of massing proportions, wall plane proportions, roof proportions and other characteristics similar in scale to those of single-family detached dwelling units, so that such larger buildings can be aesthetically integrated into the low density neighborhood. The following specific standards shall also apply to such multi-family dwellings:

...

Section 23. That Section 4.9(D)(5) of the Land Use Code is hereby amended to read as follows:

- (5) *Floor Area Ratio (FAR).* ~~Lots are subject to a maximum FAR of thirty-three hundredths (0.33) on the rear fifty (50) percent of the lot as it existed on October 25, 1991. The lot area used as the basis for the FAR calculation shall be considered the minimum lot size within the zone district.~~ **Allowable Floor Area on Rear Half of Lots.** The allowable floor area on the rear half of a lot shall not exceed thirty-three (33) percent of the area of the rear fifty (50) percent of the lot.

Section 24. That the table contained in Section 4.21(B)(2) of the Land Use Code is hereby amended to read as follows:

<i>Land Use</i>	<i>I-25/SH 392 (CAC)</i>	<i>General Commercial District (C-G)</i>
A. RESIDENTIAL		
...
B. INSTITUTIONAL/CIVIC/PUBLIC		
...
Microbrewery/distillery/winery	Not permitted	Type 1
C. COMMERCIAL/RETAIL		

...
Microbrewery/distillery/winery	Not permitted	Type 1

Section 25. That the table contained in Section 4.24(B)(2) of the Land Use Code is hereby amended to read as follows:

<i>Land Use</i>	<i>Riverside Area</i>	<i>All Other Areas</i>
A. RESIDENTIAL		
...
E. ACCESSORY - MISC.		
Wireless telecommunication equipment	Type 1	Type 1
Wireless telecommunication facilities	Type 1	Type 1
Satellite dish antennas greater than thirty-nine (39) inches in diameter	BDR	BDR
Outdoor vendor	BDR	BDR
Accessory uses	BDR	BDR
Accessory buildings	BDR	BDR

Section 26. That Section 4.26(D)(5)(a) of the Land Use Code is hereby amended to read as follows:

- (a) A minimum of two (2) housing types shall be required on any residential portion of a development plan greater than ten (10) acres but less than thirty (30) acres in size, including parcels which are part of a phased development. A minimum of three (3) housing types shall be required on any residential portion of a development plan greater than thirty (30) acres in size, including parcels which are part of a phased development. The following list of housing types shall be used to satisfy this requirement:
1. single-family detached dwellings.
 2. single-family attached dwellings.
 3. two-family dwellings.
 4. multi-family dwellings containing three (3) to four (4) units per building.
 5. multi-family dwellings containing five (5) to seven (7) units per building.
 46. multi-family dwellings containing more than seven (7) units per building.
 57. group homes.

68. mixed-use dwellings.

Section 27. That Section 4.27(D)(2)(m) of the Land Use Code is hereby amended to read as follows:

(m) Minor Ppublic facilities.

...

Section 28. That Section 4.27(D)(6)(a) of the Land Use Code is hereby amended to read as follows:

(a) A minimum of two (2) housing types shall be required on any residential portion of a development plan greater than ten (10) acres but less than thirty (30) acres in size, including parcels which are part of a phased development. A minimum of three (3) housing types shall be required on any residential portion of a development plan greater than thirty (30) acres in size, including parcels which are part of a phased development. The following list of housing types shall be used to satisfy this requirement:

1. single-family detached dwellings located on lots containing no more than six thousand (6,000) square feet.
2. single-family attached dwellings.
3. two-family dwellings.
4. multi-family dwellings containing three (3) to four (4) units per building.
5. multi-family dwellings containing five (5) to seven (7) units per building.
46. multi-family dwellings containing more than seven (7) units per building.
57. group homes.
68. mixed-use dwellings.
79. mobile home parks.

Section 29. That the definition “*Development*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

...

(2) *Development* shall not include:

...

- (b) work by the City or any public utility for the purpose of restoring or stabilizing the ecology of a site, or for the purpose of inspecting, repairing, renewing or constructing, on public easements or rights-of-way, any mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks or the like; provided, however, that this exemption shall not include work by the City or a public utility in constructing or enlarging mass transit or railroad depots or terminals or any similar traffic-generating activity;

...

Section 30. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition “*Disabled person*” which reads in its entirety as follows:

Disabled person shall mean any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. A *physical or mental impairment* shall mean hearing, mobility and visual impairment, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex, and mental retardation that substantially limit one or more major life activities. *Major life activities* shall mean walking, talking, hearing, seeing, breathing, learning, performing manual tasks, and/or caring for oneself.

Section 31. That the definition “*Dwelling, mixed-use*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Dwelling, mixed-use shall mean a dwelling that is located ~~on the same lot or in the same building as a nonresidential use~~ (but not including an accessory use).

Section 32. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition “*Existing limited permitted use*” which reads in its entirety as follows:

Existing limited permitted use shall mean any use that was permitted for a specific parcel of property pursuant to the zone district regulations in effect for such parcel on March 27, 1997, which is not specifically listed as a permitted use under the zone district regulations of the zone district of this Code in which the parcel of property is located, and which physically existed upon such parcel on March 27, 1997. Such use is permitted in the various zone districts established in Division 4 under the limitation that such use shall constitute a permitted use only on such parcels of property.

Section 33. That the definition “*Mixed use*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Mixed use shall mean the development of a lot, tract or parcel of land, building or structure with two (2) or more different uses, including, but not limited to, residential, office, retail, public uses, personal service or entertainment uses; (but not including accessory uses), designed, planned and constructed as a unit.

Section 34. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of a new definition “*Vehicle*” which reads in its entirety as follows:

Vehicle shall mean a truck, bus, van, railroad car, automobile, tractor, trailer, motor home, recreational vehicle, semi-tractor or any other motorized transportation device, regardless of whether it is in operating condition.

Introduced, considered favorably on first reading, and ordered published this 2nd day of July, A.D. 2013, and to be presented for final passage on the 16th day of July, A.D. 2013.

Mayor

ATTEST:

Interim City Clerk

Passed and adopted on final reading on the 16th day of July, A.D. 2013.

Mayor

ATTEST:

City Clerk